

STATEMENTS OF POLICY

Title 37—LAW

JUVENILE COURT JUDGES' COMMISSION

[37 PA. CODE CH. 200]

Standards Governing the Collection and Disbursement of Restitution, the Inter-County Transfer of Delinquency Cases and the Release of Information Contained in Juvenile Court Files and Juvenile Probation Records and Reports

The Juvenile Court Judges' Commission (Commission) adopts Chapter 200, Subchapters G—I (relating to standards governing the collection and disbursement of restitution; standards governing the inter-county transfer of delinquency cases; and standards governing the release of information contained in juvenile court files and juvenile probation records and reports) as a statement of policy to read as set forth in Annex A.

Authority

This statement of policy is promulgated under the authority of the Commission under section 4 of the act of December 21, 1959 (11 P. S. § 270-4).

Purpose and Requirements

This statement of policy is intended to provide guidance to president judges of courts of common pleas regarding the collection and disbursement of restitution under 42 Pa.C.S. § 6352(a)(5) (relating to disposition of delinquent child), to courts and juvenile probation departments regarding the inter-county transfer of delinquency cases under 42 Pa.C.S. § 6321(b) (relating to commencement of proceedings) and the release of information contained in juvenile court files and juvenile probation records and reports under 42 Pa.C.S. Chapter 63 (relating to the Juvenile Act).

Affected Parties

This statement of policy affects courts of common pleas in this Commonwealth with respect to policies governing the collection and disbursement of restitution in delinquency cases, the inter-county transfer of delinquency cases and the release of information contained in juvenile court files and juvenile probation records and reports.

Cost and Paperwork Estimates

Although advisory in nature, this statement of policy recommends the development of written guidelines that may not currently exist in all jurisdictions.

Effective Date

This statement of policy will become effective upon publication in the *Pennsylvania Bulletin*.

Contact Person

For further information regarding this statement of policy, contact Keith B. Snyder, Deputy Director, Juvenile Court Judges' Commission, 401 Finance Building, Harrisburg, PA 17120-0018, (717) 787-5634.

Findings

The Commission finds that this statement of policy is necessary to facilitate the collection and disbursement of restitution, the inter-county transfer of delinquency cases

and the appropriate release of information contained in juvenile court files and juvenile probation records and reports.

Order

The Commission, acting under the authorizing statute, orders that:

(a) Title 37 of the Pa. Code is amended by adding a statement of policy in §§ 200.601 and 200.602, 200.701—200.704 and 200.801—200.804 to read as set forth in Annex A.

(b) The Executive Director of the Commission will certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) The order shall take effect upon publication in the *Pennsylvania Bulletin*.

JAMES E. ANDERSON,
Executive Director

Fiscal Note: 23-6. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 37. LAW

PART III. AGENCIES AND OFFICES

Subpart N. JUVENILE COURT JUDGES' COMMISSION

CHAPTER 200. JUVENILE COURT JUDGES' COMMISSION

Subchapter G. STANDARDS GOVERNING THE COLLECTION AND DISBURSEMENT OF RESTITUTION

Sec.

200.601. Written guidelines.

200.602. Elements of written guidelines.

§ 200.601. Written guidelines.

The president judge of the court of common pleas shall promulgate written guidelines governing the collection and disbursement of restitution in juvenile delinquency cases, under 42 Pa.C.S. § 6352(a)(5) (relating to disposition of delinquent child).

§ 200.602. Elements of written guidelines.

The written guidelines must, at a minimum, include the following elements:

(1) A policy that children under the jurisdiction of the court who owe restitution be required to make a reasonable amount of restitution, considering the nature of the acts committed and the earning capacity of the child.

(2) A policy that a dispositional order include a specific amount of restitution to be paid, to whom the restitution is to be paid, and a payment schedule if so determined by the court.

(3) A policy that the monetary limits of parental liability in juvenile delinquency cases conform to 23 Pa.C.S. § 5505 (relating to monetary limits of liability).

(4) A policy that where the court has ordered a delinquent child to pay fines, costs or restitution, the court shall retain jurisdiction until there has been full compliance with the order or until the delinquent child attains 21 years of age.

(5) A policy that judgments be filed at termination of juvenile court jurisdiction under 42 Pa.C.S. § 9728 (relating to collection of restitution, reparation, fees, costs, fines and penalties) in cases where orders for fines, costs or restitution remain unpaid.

(6) A policy that the juvenile probation department be responsible for developing private sector or subsidized employment opportunities, or both, to enable indigent children to pay restitution.

(7) Provisions governing the collection of moneys, the management and control of receipts, and disbursement of funds.

(8) A policy requiring an annual report detailing individual and aggregate data on the amount of restitution ordered and collected.

(9) A requirement for an annual audit of all restitution collected and disbursed in juvenile delinquency cases.

Subchapter H. STANDARDS GOVERNING THE INTER-COUNTY TRANSFER OF DELINQUENCY CASES

| | |
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| Sec. | |
| Preamble | |
| 200.701. | Venue. |
| 200.702. | Inter-county transfer. |
| 200.703. | Courtesy supervision. |
| 200.704. | Transmission of information. |

Preamble

The cases of children who commit delinquent acts in other than their county of residence present unique challenges to Pennsylvania's juvenile courts, as do the cases of children whose county of residence changes during the course of juvenile court proceedings. Early and ongoing communication between officials in the affected counties is the first essential step in successfully processing these cases.

Both Pa.R.J.C.P. 300 (venue) and the Juvenile Act, at 42 Pa.C.S. § 6321(b) (relating to commencement of proceedings) provide that proceedings may be commenced in either the county in which the alleged delinquent act occurred or the child's county of residence. However, this subchapter recommends that allegations of delinquency should normally be referred for juvenile court intake in the county in which the alleged delinquent act occurred because of its proximity to victims, witnesses, and law enforcement personnel.

When the court proceeds to an adjudicatory hearing for a nonresident child, both Pa.R.J.C.P. 302(A) (Adjudication of Delinquency) and this subchapter provide that the court shall hear the evidence on the petition or accept an admission, and rule on the offenses.

Upon finding that a nonresident child has committed a delinquent act, and specifying the grading and counts thereof, Pa.R.J.C.P. 302(A) provides that the court may then transfer the case to the child's county of residence for a hearing to determine if the juvenile is in need of treatment, supervision or rehabilitation. However, the transfer of such cases is not required by this rule.

This subchapter recommends that the court, upon determining that a nonresident child has committed a delinquent act, should transfer the case to the child's county of residence. The court in the county of residence can then conduct the hearing to determine if the child is in need of treatment, supervision or rehabilitation and make final disposition of the case. Normally, the county of residence is most familiar with the circumstances of the

family and will be providing supervision of the case if the child is found to be delinquent.

§ 200.701. Venue. (See Pa.R.J.C.P. 300)

(a) A delinquency proceeding must be commenced in either the county in which the delinquent act was allegedly committed or the child's county of residence. Allegations of delinquency should normally be brought through the submission of a written allegation to the juvenile probation department or an attorney for the Commonwealth, consistent with local practice, in the county in which the alleged delinquent act occurred.

(b) The child may file a motion for change of venue if there is substantial prejudice to the child. The court shall decide the motion.

§ 200.702. Inter-county transfer. (See Pa.R.J.C.P. 302(A))

(a) In cases where a child is alleged to be delinquent through the submission of a written allegation to a juvenile probation department in other than the child's county of residence, the juvenile probation department should promptly initiate contact with the juvenile probation department in the county of residence to discuss the matter and jointly determine the most appropriate manner for processing the case. For the purpose of this subsection, the county of residence is defined as that county in which the child's custodial parent, legal guardian or custodian reside, unless emancipation of the child has been established by court finding.

(b) Consistent with local practice, attorneys for the Commonwealth in both the county of residence and the county in which the alleged delinquent act occurred shall be provided notice of the submission of any such allegation by their respective juvenile probation departments to ensure a unified and coordinated effort.

(c) In certain cases, it may be appropriate to transfer a matter to the county of residence immediately following the intake conference. In such cases, the juvenile probation department in the county that received the written allegation should provide the attorney for the Commonwealth in that county with notice of the decision resulting from the intake conference.

(1) The decision to transfer a matter to the county of residence following an intake conference should be jointly determined by the juvenile probation departments and the attorneys for the Commonwealth of the respective jurisdictions.

(2) No transfer to the county of residence should occur over the objection of the attorney for the Commonwealth, unless the court orders the transfer following a hearing pursuant to Pa.R.J.C.P. 311 (relating to intake conference).

(d) If formal court action is required in a case where a child is alleged to have committed a delinquent act in other than the child's county of residence, adjudicatory proceedings should normally be conducted in the county in which the delinquent act occurred, unless a specific arrangement to the contrary has been agreed to by the attorneys for the Commonwealth in both jurisdictions. In certain cases, it may be appropriate for adjudicatory proceedings to occur in the county of residence, rather than the county in which the delinquent act occurred, including situations where the court in the county of residence is in closer proximity to the victim, law enforcement agency or others involved in the case.

(e) In adjudicatory proceedings involving a nonresident child, the court shall hear evidence on the petition or

accept an admission, and shall make and file its findings as to whether the delinquent acts ascribed to the child were committed by the child.

(f) If the court finds that the child committed the acts by reason of which the child was alleged to be delinquent, it shall enter the finding on the record and may then transfer the case to the county of residence for a hearing to determine the child's need for treatment, supervision or rehabilitation. Consistent with local practice in the county of residence, notice of this transfer for hearing and disposition, along with all relevant information, should be provided to the district attorney or juvenile probation department in the county of residence.

(1) While Pa.R.J.C.P. 302(A) (relating to inter-county transfer) permits the transfer of the case to the county of residence following a determination that a nonresident child committed a delinquent act, a transfer is not required.

(2) The recommended practice is that the case should be transferred to the court in the county of residence for a hearing to determine whether the child is in need of treatment, supervision or rehabilitation, and for that court to make final disposition of the case. Normally, the county of residence is most familiar with the circumstances of the family and will be providing supervision of the case if the child is found to be delinquent.

(3) If restitution is owed, the transferring court should enter a finding of the amount of restitution owed and to whom it should be paid, if ordered.

(g) The jurisdiction that makes final disposition of a delinquency matter under the 42 Pa.C.S. Chapter 63 (relating to the Juvenile Act) is responsible for implementing the disposition, including the costs of placement or treatment, and the collection of fines, costs and restitution.

(h) Except upon an agreement to the contrary, the responsibility for the return of a child to the child's county of residence should be that of the county of residence. In all cases, the return of a child to the child's county of residence should occur promptly.

(i) If transfer to criminal proceedings is considered an option in a particular case, officials from the county in which the alleged offenses occurred should immediately contact the appropriate officials in the county of residence to discuss the appropriateness of the various dispositional alternatives, toward the goal of reaching agreement on a course of action. In such a case, however, the ultimate decision regarding whether to seek transfer of the case to criminal proceedings rests with the attorney for the Commonwealth in the county in which the alleged delinquent acts occurred.

§ 200.703. Courtesy supervision. (See Pa.R.J.C.P. 302(B))

(a) If the court in the county in which the delinquent act occurred places the child on a consent decree or enters a dispositional order following an adjudication of delinquency, the court may transfer supervision of the child to the child's county of residence. Likewise, in cases where a child's county of residence changes following disposition, the court in the former county of residence may transfer supervision of the child to the new county of residence.

(b) A county providing courtesy supervision may, with cause, withdraw the supervision at any time and return the matter for further action to the county which entered the disposition order.

§ 200.704. Transmission of information. (See Pa.R.J.C.P. 302(C))

In proceedings involving courtesy supervision or the inter-county transfer of a delinquency case, the transferring court shall order the transfer of certified copies of all documents, reports and summaries to the receiving court.

Subchapter I. STANDARDS GOVERNING THE RELEASE OF INFORMATION CONTAINED IN JUVENILE COURT FILES AND JUVENILE PROBATION RECORDS AND REPORTS

GENERAL PROVISIONS

Sec.

200.801. Definitions.

200.802. Inspection of juvenile court files and juvenile probation records or reports.

200.803. Release of information to schools.

200.804. Public availability.

§ 200.801. Definitions. (See Pa.R.J.C.P. 166(A) and Comment to Pa.R.J.C.P. 160)

The following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise:

Juvenile court files—All original records, papers and orders filed, copies of all court notices, and docket entries.

Juvenile probation records or reports—The term includes, but is not limited to, social summaries, psychological and psychiatric evaluations, personal histories, school records and reports, mental health histories and reports, drug and alcohol evaluations, treatment facility records and reports, and copies of all original court records, papers, orders and notices.

§ 200.802. Inspection of juvenile court files and juvenile probation records or reports. (See Pa.R.J.C.P. 160 and 42 Pa.C.S. § 6307)

(a) No court authorization is required for the following persons or agencies to review and copy information contained in juvenile court files and juvenile probation records or reports:

(1) The judges, masters, juvenile probation officers and staff of the court.

(2) The attorney for the Commonwealth, the child's attorney, and the child, but the persons in this category are not permitted to see reports revealing the names of confidential sources of information, except in the discretion of the court.

(3) A public or private agency or institution providing supervision or having custody of the child under order of the court.

(4) A court and its probation officers and other officials or staff and the attorney for the defendant for use in preparing a pre-sentence report in a criminal case in which the defendant is convicted and the defendant previously was adjudicated delinquent.

(5) A judge or issuing authority for use in determining bail, provided that the inspection is limited to orders of delinquency adjudications and dispositions, orders resulting from dispositional review hearings and histories of bench warrants and escapes.

(6) The Administrative Office of the Pennsylvania Courts.

(7) Officials of the Department of Corrections or a State correctional institution or other penal institution to which an individual who was previously adjudicated delinquent in a proceeding under the Juvenile Act (42 Pa.C.S. Chapter 63) has been committed, but the persons in this category shall not be permitted to see reports revealing the names of confidential sources of information contained in social reports, except in the discretion of the court.

(8) A parole board, court or county probation official in considering an individual who was previously adjudicated delinquent in a proceeding under the 42 Pa.C.S. Chapter 63 (relating to the Juvenile Act), but the persons in this category are not permitted to see reports revealing the names of confidential sources of information contained in social reports, except in the discretion of the court.

(9) The judges, juvenile probation officers, and staff of courts of other jurisdictions when necessary for the discharge of their official duties.

(10) The State Sexual Offenders Assessment Board for use in completing assessments.

(11) With leave of court, any other person, agency or institution having a legitimate interest in the proceedings or in the work of the unified judicial system.

(b) A court order shall be required to release any information contained in juvenile court files or juvenile probation records or reports to any other person or agency not listed in subsection (a).

(1) A court order is required to release information to military recruiters, officials from the Immigration and Naturalization Service (INS), the Department of Homeland Security, and others.

(2) Requests for access to, or copies of, juvenile court or juvenile probation files and records should be in the form of a motion to the court that specifies the information being sought and the purpose for which the information will be used. In determining whether to grant the motion, the court should consider the purpose for which the information will be used, the nature of the information requested, administrative or legislative authority governing the release of the information, the nature of the offense, and the impact that the release of the information would have on the child and the community.

(3) Any court order granting the release of information should specify the information to be released and prohibit the further dissemination of the information.

(c) The president judge should adopt written policies and procedures, governing the dissemination of juvenile probation records and reports, to include the following:

(1) A policy that a representative from the juvenile probation department is to be present throughout the inspection of records, and be responsible for the duplication of records.

(2) A requirement that a case-specific written record be maintained by the juvenile probation department listing the names and addresses of individuals to whom copies of records are provided.

(3) A statement prohibiting the secondary dissemination of information should accompany records provided to individuals.

§ 200.803. Release of information to schools. (See Pa.R.J.C.P. 163 and 42 Pa.C.S. § 6341(b.1))

(a) Upon finding a child to be a delinquent child, the court shall, through the juvenile probation department,

provide the following information to the building principal, or a designee, of any public, private, or parochial school in which the child is enrolled:

(1) The name and address of the child.

(2) The delinquent acts that the child was found to have committed.

(3) A brief description of the delinquent acts.

(4) The disposition of the case.

(b) If the child is adjudicated delinquent of a felony offense, the court, through the juvenile probation department, shall provide to the building principal, or a designee, relevant information regarding the child contained in the juvenile probation or treatment reports pertaining to the adjudication, prior delinquent history and the supervision plan of the child.

(c) The court or the juvenile probation department has the authority to share additional information regarding the child under its jurisdiction with the building principal, or a designee, as deemed necessary to protect public safety or to enable appropriate treatment, supervision, or rehabilitation of the child.

(d) Information provided to or maintained by the building principal, or a designee, under this section shall be transferred to the building principal or a designee of any public, private or parochial school to which the child transfers enrollment.

(e) Information provided to the building principal, or a designee, under this section shall be maintained separately from the child's official school record.

(f) The delinquency information in the school record is to be used only by school officials and is not to be released to the general public or third parties unless ordered by the court.

§ 200.804. Public availability. (See 42 Pa.C.S. § 6308(b))

(a) The court shall disclose the name, age and address of the child, the offenses charged and the particular offenses and counts thereof which the child is found to have committed, and the disposition of the case if the conduct of the child meets the following requirements for disclosure:

(1) The child has been adjudicated delinquent by a court as a result of an act committed:

(i) When the child was 14 years of age or older and the conduct would be considered a felony if committed by an adult.

(ii) When the child was 12 or 13 years of age and the conduct would have constituted one or more of the following offenses if committed by an adult:

(A) Murder.

(B) Voluntary manslaughter.

(C) Aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2) (relating to aggravated assault).

(D) Arson as defined in 18 Pa.C.S. § 3301(a)(1) (relating to arson and related offenses).

(E) Involuntary deviate sexual intercourse.

(F) Kidnapping.

(G) Rape.

(H) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii) (relating to robbery).

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- (I) Robbery of motor vehicle.
- (J) Attempt or conspiracy to commit any of the aforementioned offenses.
- (2) A petition alleging delinquency has been filed alleging that the child has committed an act subject to a hearing under 42 Pa.C.S. § 6336(e) (relating to conduct of hearings) and the child previously has been adjudicated delinquent by a court as a result of an act committed:
 - (i) When the child was 14 years of age or older and the conduct would be considered a felony if committed by an adult.
 - (ii) When the child was 12 or 13 years of age and the conduct would have constituted one or more of the following offenses if committed by an adult:

(A) Murder.

- (B) Voluntary manslaughter.
- (C) Aggravated assault as defined in 18 Pa.C.S. § 2702(a)(1) or (2).
- (D) Arson as defined in 18 Pa.C.S. § 3301(a)(1).
- (E) Involuntary deviate sexual intercourse.
- (F) Kidnapping.
- (G) Rape.
- (H) Robbery as defined in 18 Pa.C.S. § 3701(a)(1)(i), (ii) or (iii).
- (I) Robbery of motor vehicle.
- (J) Attempt or conspiracy to commit any of the aforementioned offenses.

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