



**THE SUPREME COURT OF PENNSYLVANIA**

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**Final Report on Implementation on Recommendations of the Interbranch  
Commission on Juvenile Justice**

**April 8, 2013**

The Supreme Court has taken important action to address recommendations of the Interbranch Commission on Juvenile Justice ("ICJJ"). In August 2009, the Interbranch Commission on Juvenile Justice was created under the leadership of Chief Justice Ronald D. Castille and the Supreme Court and in cooperation with the Executive Branch and the Legislative Branch of Pennsylvania government with the task of reviewing the Luzerne County juvenile justice system. The Honorable John M. Cleland was appointed as the Chair of the Commission. After conducting a series of public hearings, with extensive testimony from juvenile justice experts and other witnesses, including parents of juveniles and victims of juvenile crime, the ICJJ in May 2010, developed a series of recommendations to address the situation that arose in Luzerne County's juvenile justice system. The Supreme Court has now completed its review of the ICJJ Report of May 2010 and has responded to the recommendations by implementing new rules and procedures that should prevent what occurred in Luzerne from ever occurring again in the juvenile justice system in Pennsylvania.

In consultation with the Supreme Court's Juvenile Court Procedural Rules Committee, the Supreme Court has adopted the following procedural Rule amendments:

- Rule 139 prohibits using restraints on a juvenile during court proceedings, except if necessary for the safety of the juvenile and for the safety of court personnel. Adopted April 26, 2011.
- Rules 151, 362 and 512 mandate the presumption that every juvenile is indigent and therefore is eligible for appointed legal representation. Adopted May 16, 2011.
- Rules 241, 242, 311, 312, 360, 406, 408, 409, 500, 512, 600, 610, 631 & 632 address the specific legal rights in the courts for victims of juvenile criminal conduct. Adopted May 26, 2011.
- Rules 120, 195, 1120, 1202 and 1800 address the authority, duties and training requirements for juvenile probation officers. Adopted May 20, 2011.

- Rules 512 and 515 require a juvenile court judge to place on the record findings of fact and conclusions of law following an adjudication which places a juvenile out of the home as a disposition and also requires the judge to consider the least restrictive out-of-home placement of a juvenile adjudicated delinquent, consistent with the protection of the public and the best interests of the juvenile. The commentary to Rule 512 reinforces that the juvenile must be advised of the right to file a post-dispositional motion, the right to appeal, and the time limits for such a motion and appeal. These Rules were adopted in conjunction with several other Rules addressing the educational, health care and disability needs of a juvenile or child. Adopted April 29, 2011.
- Rule 152 mandates an extensive colloquy of the juvenile before the juvenile is allowed to waive representation by legal counsel. Adopted January 11, 2012.
- Rule 407 mandates an extensive written and oral colloquy of a juvenile who wishes to admit to the delinquent acts charged by authorities. Adopted January 18, 2012.
- Rules 120, 160, 161, 163, 166, 300, 302 and 340 address the inspection, copying and dissemination of the official juvenile court record and juvenile probation files. Adopted May 21, 2012.
- Rules 200, 337 and 404, adopted in conjunction with related criminal rules that address the transfer of "direct file" cases from adult criminal court proceedings to juvenile court proceedings. Adopted July 31, 2012.
- Rule 161 gives the Juvenile Court Judges' Commission ("JCJC") access to juvenile probation files in order to assist the JCJC in compiling and publishing statistical data; to assist in evaluating judicial districts for annual juvenile court grant allocations; and for review of juvenile probation personnel practices, employment standards and administrative procedures affecting juvenile justice. Adopted August 23, 2012.
- Rules of Appellate Procedure 901, 1501, 1512, 1516, 1517, 1541 and 1770 establish an expedited appeal process for judicial orders of disposition following an adjudication of delinquency where a juvenile is removed from his or her home. Adopted December 10, 2012.
- Rules 622, 625 and 628 outline procedures for motions seeking *nunc pro tunc* relief for claims of error filed "out of time" (late filings). Adopted February 23, 2012.
- Rules 242, 394, 406, 512 and 800 formally strengthen special ethical obligations of juvenile court prosecutors and address the prosecutors' role in prosecuting cases in juvenile court. Adopted July 18, 2012.

- Rules of Judicial Administration 1920-22, requiring judges who receive notice that they are the target of an investigation by law enforcement to notify the Chief Justice of such investigation within five days in order for the Supreme Court to take appropriate action to prevent further misconduct or to remove a judicial officer from his or her position. Adopted June 23, 2011.

In addition to the aforementioned rule changes, the Court promulgated a Code of Conduct for Judicial Employees, which includes a provision similar to the Pennsylvania Whistleblower Law that protects employees from retaliation for good faith reporting of wrongdoing at any level of the court system and mandates protection for the employee's participation in any ensuing investigation, and explicitly mandates judicial employees to report any violation of the Code of Conduct or any policy of the court system without fear of retaliation.

The Court is presently considering proposed rule amendments relating to mandatory continuing legal education for juvenile court masters and hearing officers. The Court has also directed a review of the existing canons of judicial conduct and the 2007 Model Code of Judicial Conduct promulgated by the American Bar Association.

Further action ordered by the Supreme Court resulted in the review of every juvenile delinquency case handled by Luzerne County Common Pleas Judges Michael Conahan and Mark Ciavarella. The review was assigned by the Supreme Court to a Supreme Court Special Master, Berks County Senior Judge Arthur Grim. Judge Grim completed his lengthy review of these cases and recommended to this Court the expungement of the criminal records of 2,401 adjudicated juveniles, in other words, every juvenile delinquency case handled by the two judges. Following Supreme Court review, Judge Grim's recommendations were adopted unanimously and the Supreme Court ordered the expungement of 2,401 juveniles' criminal records.

The Supreme Court also assigned Judge Grim to review all victim restitution claims by those individuals affected by the delinquent conduct of the juveniles. That process has now been completed and victims have now been compensated by means of a special fund appropriated by the state legislature for this purpose.

The Supreme Court ordered monthly progress reports from Luzerne Common Pleas Court President Judge Chester Muroski (now a Senior Judge) and President Judge Thomas Burke. The Court has recently commended those two judges (especially President Judge Burke) for their efforts in addressing this tragedy and its consequences at the local level. Those efforts are catalogued in the October 14, 2010 report of the Luzerne County Juvenile Justice Task Force. The report addresses the extensive efforts undertaken in Luzerne County by all stakeholders in the juvenile justice system in order to prevent future occurrences of the travesty of juvenile justice perpetrated in Luzerne County. The report stands as a model for positively addressing almost every aspect of the treatment of juvenile offenders by each agency in Luzerne

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<sup>1</sup> An earlier release by the Court indicated that 2,251 juvenile records had been expunged, but an additional 150 juvenile records had inadvertently been overlooked. The Supreme Court ordered these records expunged.

County having responsibility in this area. The Supreme Court has since released Luzerne courts from filing further progress reports and has expressed confidence in President Judge Burke's efforts in reexamining the juvenile justice system in Luzerne County.

The Court has declined to mandate two of the recommendations of the ICJJ: mandatory judicial education for judges assigned to juvenile delinquency cases and expedited appeals for certain orders relating to transfers of a juvenile case to and from criminal court. With regard to mandatory judicial education, there presently exist meaningful opportunities for judicial education sponsored by the Pennsylvania Conference of State Trial Judges, by the JCJC, and by the Administrative Office of Pennsylvania Courts. Many juvenile court judges avail themselves voluntarily of the opportunity presented by these groups for further education in handling juvenile delinquency cases. With regard to transfer orders, the Court was not persuaded that special rules should be adopted because of the small volume of such appeals, the arguable availability of other vehicles of review, and the opposition registered in response to a proposed procedure that was published for public comment.

Lastly, despite the tragedy in Luzerne County, Pennsylvania's juvenile justice system has long been considered one of the best systems in the United States. There are many individuals in the system at every level who have been dedicated to the effective treatment and reform of those juveniles who unfortunately become involved in criminal conduct. These dedicated judges, lawyers, social workers and administrators have worked diligently over the years to make Pennsylvania's juvenile justice system the success that it is. Unfortunately, two judges in Luzerne County have caused unimaginable taint to the laudable efforts of many dedicated individuals, conduct for which those two judges presently are paying dearly. While other recommendations made by the ICJJ are beyond the jurisdiction of this Court and involve actions specific to the executive or legislative branches, the Supreme Court and the judicial branch will continue to improve Pennsylvania's juvenile justice system in order to insure that its reputation is restored and that justice is dispensed fairly and impartially.

The Court deeply appreciates the time, effort and expertise of the Commission members. We commend those members for their devotion to improving the juvenile justice system, and for their outstanding work on the Commission.

The Honorable John M. Cleland (McKean County)  
Tod C. Allen (Erie County)  
Valerie Bender (Allegheny County)  
Magisterial District Judge James A. Gibbons (Lackawanna County)  
Kenneth J. Horoho, Jr., Esquire (Allegheny County)  
Jason J. Legg, Esquire (Susquehanna County)  
Robert L. Listenbee, Jr., Esquire (Philadelphia County)  
George D. Mosee, Jr., Esquire (Philadelphia County)  
The Honorable John C. Uhler (York County)  
Ronald P. Williams (Wyoming County)  
The Honorable Dwayne Woodruff (Allegheny County)

We also wish to acknowledge the invaluable assistance of the staff of the Administrative Office of Pennsylvania Courts, who provided support to the Commission, and in particular, Darren Breslin, Esquire, who served as Commission Counsel, Stuart Ditzen, who edited the report and coordinated press relations, and Thomas B. Darr, who was the governmental liaison.

On Behalf of the Pennsylvania Supreme Court,  
RONALD D. CASTILLE  
Chief Justice of Pennsylvania