In this issue

Read about new judicial education resources for judges, legislative updates, COVID-19 impacts on caseload stats, county court highlights and more.
The accidental upside of virtual hearings

Putting children and trauma victims at ease

While a number of courts have recently started to resume in-person hearings, some courts have found that conducting dependency proceedings via video conference continues to offer some advantages for children and families.

“What we’ve heard from judges is that children are generally very comfortable with the virtual forum – and courts are even seeing many more parents in attendance as transportation and child care are no longer an issue,” said Sandra Moore, Office of Children and Families in the Courts director.

This format has allowed children to participate, in what might normally be a confusing and stressful hearing, from where they are comfortable.

Additionally, the ease with which most children are able to use phones and tablets make it so that children are able to speak directly to the judge in a very casual and authentic manner (rather than in a formal, and sometimes intimidating courtroom setting).

Another unforeseen benefit of these virtual hearings has been that they can help spare victims of domestic violence from the stressful experience of having to be in the same room as their abuser. In New York, family courts are considering making virtual hearings available to litigants seeking protection orders even after the pandemic is over.

For all the inevitable glitches and technical issues that come with anything virtual, this solution seems to help make the court system more accessible for a group of traditionally vulnerable court users. While the future use of technology in the courts after the pandemic may vary by jurisdiction, many states have already begun discussing it as a permanent solution for some cases.
New benchcard and benchbooks distributed to Pa judges

Human-trafficking Benchcard

A new resource for judges, the Pennsylvania Human Trafficking Judicial Benchcard, was sent to Common Pleas and Magisterial District judges across the state at the end of July.

Developed by the AOPC and the Institute to Address Commercial Sexual Exploitation at The Villanova University Charles Widger School of Law, the benchcard highlights important definitions and sections of Pennsylvania’s anti-trafficking laws and reflects the recent changes in the law that went into effect on April 6, 2020.

As victims of human trafficking are frequently arrested and charged with crimes, the resource includes a list of the most common offenses victims have been charged with and indicates those crimes that are eligible to be vacated.

The benchcard also provides useful insight into the crimes of sex and labor trafficking by listing the locations and types of businesses where trafficking most often occurs, as well as victim indicators that can be observed in a court setting.

“We hope this benchcard will help identify potential victims of human trafficking and encourage using trauma-informed practices when presiding over human trafficking cases,” said Amy Kehner, Judicial District Operations and Programs administrator.

The new resource was created using STOP Grant funds – federal grant money annually administered through the Office of Violence against Women (OVW) to help enhance efforts to combat violence against women.

The benchcard was developed to serve as a companion piece to the continuing education session on human trafficking held by the Minor Judiciary Education Board (MJEB) last year, in addition to the series of four webinars recently offered to court staff.

To request copies of this benchcard at no charge to Pennsylvania judges and court staff, please email Amy.Kehner@pacourts.us.

Restitution Benchbook

Also to be distributed to all Common Pleas judges across the state, the first edition of the Pennsylvania Restitution Benchbook aims to provide best practices for judges to consider when imposing restitution.

The benchbook examines the basic principles and concepts when restitution must be addressed and includes procedural checklists for judges to reference at the various phases of prosecution – at sentencing, in juvenile court and as a condition of probation.

Superior Court President Judge Jack Panella was joined by fellow Superior Court Judges Alice Beck Dubow, Judith Ference Olson and Victor P. Stabile in writing and developing this comprehensive resource in coordination with the AOPC Judicial Education department.

Guardianship Benchbook

This month, the Advisory Council on Elder Justice in the Courts published the first edition of the Pennsylvania Guardianship Benchbook in an effort to help judges navigate the complex issues involved in guardianship cases.

“Determinations of whether a guardianship is appropriate, or how to arrive at the least restrictive form of guardianship, involves the striking of a balance between protection and autonomy, and has always been a challenging inquiry,” PA Supreme Court Justice Debra Todd explained.

This benchbook outlines the laws pertaining to guardianships, offers alternatives to guardianships and provides guidance on how to identify and appoint guardians. It reflects the accumulated wisdom of judges and practitioners who focus on guardianships and will serve as a valuable resource for Pennsylvania’s Orphans’ Court judges.
Cybersecurity reminders from IT

This content was assembled from the August and September IT Security Newsletters.

AOPC’s Network Security team has seen an increase of malicious emails directed toward users. While our layered security will eliminate most of these attempts, some will inevitably manage to get through.

Detecting a malicious email

• A malicious email can appear nearly identical to that of a financial institution, an e-commerce site, a government agency or any other service or business.

• It may urge you to act quickly claiming an urgent issue that needs to be addressed (i.e. your account has been compromised, your order cannot be fulfilled etc.).

As always, please report any suspicious or unusual emails to ITSecurity@pacourts.us. Even if you are unsure, the AOPC’s IT Security team can validate it for you.

Spam, phishing attacks and other scams aren’t limited to email – they’re also becoming increasingly prevalent on social-networking sites.

Social media

While social media offers many advantages in both our professional and personal lives, it also opens the floodgates for misuse, privacy concerns and phishing or posting attacks.

As a refresher, the AOPC IT security team suggests some basic tips that everyone should be aware of when on social media:

• Safeguard personal info – There is always the potential that the information you share online could be used maliciously. Don’t overshare personal information on social media and never publish detailed personal information such as your street address, telephone number or where you work.

• Use privacy settings – Understand and use social media privacy settings wisely.

• Check website legitimacy – Before sending or entering sensitive information online, check the security or legitimacy of the website. Be cautious of websites with similar URLs.

Call for Entries

AOPConnected is always looking for stories. Do you know of a court-related community project or award? Contact the AOPC Communications Office with the scoop! Email: CommunicationsOffice@pacourts.us

Miss an issue?

Check out our newsletter archive online at http://www.pacourts.us/judicial-administration/office-of-communications-and-intergovernmental-relations
Budget

As noted in the prior roundup, a five-month budget was adopted in May to fund state operations, including those of the Judiciary. The legislature must pass legislation funding the remaining seven months of the 2020-21 fiscal year by November 30. This day represents not only the end of the stop-gap budget timeframe, but it is also the day the legislature will adjourn marking the end of the current session.

Probation reform

It is likely that some reform measures will pass and be enacted into law before the end of the session. House Bill 1555 and Senate Bill 14 and similar reform proposals. Elements of the bills include modification of probation conditions, parameters for total confinement upon revocation, probation review conferences and administrative probation for failure to pay restitution. The Senate unanimously passed SB 14, and it has been referred to the House Judiciary Committee. House Bill 1555 was moved from the House Judiciary Committee and is pending on second consideration.

COLA suspension

House Bill 2487 was passed unanimously by the House and the Senate. As of this writing, it is expected to be signed by the governor. The bill precludes a COLA of compensation in 2021 for public officials in the executive, legislative and judicial branches. The legislation was passed in light of the budget shortfall facing the state because of the pandemic.

Expungement and Clean Slate

House Bill 440 expands the expungement statute to include judicial determinations of full acquittals, and the Clean Slate limited access provisions to include pardons. The legislation passed the House unanimously and is pending in the Senate, where it is likely to pass in the coming weeks. The bill also ensures that restitution and automation fees are fully paid before a defendant is eligible for either limited access or clean slate limited access.

Custody

Senate Bill 868 makes several substantive changes to the custody statute, with a focus on the health and safety of the child. The changes include modifying the custody factors and adding offenses to the list of crimes that, when committed by a party or a member of the household, must be considered by the court before it issues a custody order. Further, the legislation allows the AOPC to develop training for judges, court personnel, guardians ad litem, counsel for children, masters and meditators, focusing on abuse, bias, trauma and neglect. The legislation was unanimously passed by the Senate Judiciary Committee – its long-term prospects for passage are not yet known.

District attorney vacancies

Act 78 of 2020 was signed by the governor on Sept. 28. The act amends the County Code to modify how vacancies in the office of district attorney are filled in fourth through eighth class counties. Under the act, when a vacancy occurs the judges of the Court of Common
Pleas must appoint the first assistant district attorney (ADA) to fill the vacancy upon a showing that he/she satisfies the county residency, age, citizenship and bar admittance requirements for district attorneys outlined in the County Code. If the first ADA is unwilling or unable to serve, or does not satisfy the requirements under law, the judges of the Court of Common Pleas must appoint a competent person who does.

**Expert testimony**

House Bill 2175 and Senate Bill 1170 expand the list of sexual offenses for which experts may testify in sexual assault cases to assist the trier of fact in understanding the dynamics of sexual violence, victim responses to sexual violence and the impact of sexual violence on victims during and after the assault. The bills passed their respective chambers unanimously and are pending in the other chamber. One of the bills will likely receive a final floor vote and be sent to the governor before the end of session.

**Veterans and commerce courts**

Senate Bill 976 specifically enumerates Veterans Courts within the current law governing problem-solving courts. The bill allows for participation by out-of-county defendants in established Veterans Courts and the establishment of multi-county Veterans Courts. It also allows for the use of veterans tracks – programs within other treatment courts that utilize components of a Veterans Court such as treatment and mentors in judicial districts that otherwise do not have the population and/or resources to sustain a full Veterans court. The bill passed the Senate unanimously. It was amended in House Judiciary with the provisions of House Bill 332, a bill that allows the Superior Court and Courts of Common Pleas to establish commerce court programs. The legislation is expected to receive a final vote in the House when it returns, after which the Senate will have to concur in the House amendments.

**Appellate judicial districts**

House Bill 196 is a proposed constitutional amendment changing the way appellate court jurists are selected from statewide elections to district elections. Under the proposed amendment, the Supreme Court shall be elected from seven judicial districts and the Superior and Commonwealth Courts shall be elected from judicial districts. The districts would be established by law and the number of jurists elected from districts “shall provide every resident … with approximately equal representation on a court … [and] shall be composed of compact and contiguous territory as nearly equal in population as practicable.” Additionally, the General Assembly by law must establish a transition to an appellate court judiciary elected from judicial districts, the effect of set judicial districts upon eligibility to seek retention, the order in which judicial districts shall elect appellate court jurists and the decennial realignment of the appellate judicial districts beginning in 2021. Unlike the constitutional amendment, any processes that must be established by law require the assent of the governor.

Late last year the House passed the bill by a vote of 102-95. On July 15 this year, the Senate passed the bill 26-24. This was the first of two required legislative passages. The proposal must pass in the same form in the next legislative session, which commences on Jan. 5, 2021. The earliest a question can be on the ballot is the municipal primary on May 18, 2021.

**Coming Up:**

It is expected between now and Nov. 30 the legislature will:

Pass a 2020-21 General Appropriations Act and the required mechanical bills – i.e., Fiscal and Administrative Codes – for the remaining seven months of the fiscal year. This could include further disbursement of Coronavirus Aid, Relief and Economic Security (CARES) Act funding

Debate current proposals and amendments to the probation reform bills

Address other pending legislation discussed herein that is part of the end-of-session bill trade list negotiated between the legislative chambers **AOPC**

(Damian Wachter, Esq. is the assistant director of Legislative Affairs.)
During the month of August, Allegheny County courts reviewed over 250 cases of homeowners facing mortgage foreclosure while in the midst of a pandemic.

A result of a collaboration with the county executive, sheriff, Department of Court Records and the Fifth Judicial District, the ‘Save Your Home’ Program has allowed them to do so remotely and without subjecting court users to an over-crowded courtroom.

Because of this program, Allegheny County residents in danger of losing their homes and being evicted now have a way to remotely attend remote conciliations and conferences with their lenders using any electronic device available—iPhone, landline, tablet etc.

This program was first established as a specialty court within the Civil Court Division during the Great Recession and mortgage crisis of 2007-2009.

Allegheny County Judge Jack McVay Jr., who presides over the program, explained its importance and effectiveness.

He estimates that the program has saved at least 100 homes per year since it started.

The new convenience of the program has also reduced the need to take off work or arrange child care, and may relieve elderly borrowers from the stress of traveling to an in-person appearance.

Additionally, most defendants do not have attorneys and are of limited financial resources and appreciate their cases being reviewed safely, inexpensively and remotely.

“We as a court are prioritizing public safety, but simultaneously serving the public constitutionally by holding court,” Judge McVay said.
Resources to help your court during and after the pandemic

The National Center for State Courts (NCSC) Pandemic Rapid Response Team (RRT), a group of chief justices and state court administrators established in March, has been working for months to give state courts information to help them operate more efficiently during – and after – the pandemic.

RRT and its six working groups have produced an enormous amount of work. Here’s some examples of what a few of the groups have done to help courts:

- Civil – This working group tackled the problem of backlogs and an anticipated surge in civil filings due to the economic impact of the coronavirus pandemic. This document describes 12 practical steps to make civil case processing more efficient and fairer to litigants.

- Appellate – As the pandemic began, state appellate courts almost immediately adapted to conducting oral arguments remotely. This resource provides guidance on what courts have done that has worked well.

- Children, Families and Elders – In response to stay-at-home orders in the spring, courthouses in most states were closed for in-person proceedings – creating a huge backlog of cases. This group has produced a document that offers creative solutions to help courts stay on top of backlogs and the anticipated surge in filings.

- Technology – RRT has adopted six principles to guide decisions for court leaders as they integrate technology into their courts.

[live webinar]

Court Management of Guardianships & Conservatorships During the Pandemic

NCSC recently held a webinar on Sept. 23 focusing on good case management of guardianships and conservatorships during the pandemic.

Speakers included judges - including Montgomery County Orphans’ Court Judge Lois Murphy - along with both an experienced guardian and attorney, who discussed how to effectively monitor guardianship cases.

Also discussed during the webinar was how to decide whether a hearing should be held virtually vs. in-person, and speakers outlined best practices for judges, guardians and attorneys to follow during such virtual hearings.

To see more of the RRT’s work, go here. AOPC

[excerpt from the Aug. & Sept. issues of the National Center for State Courts’ newsletter – @ the Center]

For Pa-specific orders and filings related to COVID-19 visit http://www.pacourts.us/ujs-coronavirus-information
The disruption we needed’ can lead to better court services, says CCJ/COSCA

The coronavirus pandemic has led to inconvenience, unprecedented case backlogs and issues that the nation’s state courts haven’t faced since the influenza pandemic of 1918-19. It has also led to opportunity.

The Conference of Chief Justices (CCJ) and Conference of State Court Administrators (COSCA) urge state court officials to view the pandemic with a glass-half-full perspective, and they recommend that state courts consider six principles related to their use of technology going forward.

Here are the six principles and some steps court officials can take to implement them:

- **Ensure principles of due process, procedural fairness, transparency, and equal access are satisfied when adopting new technologies.** Make sure litigants receive proper notice of hearings. Use plain language to present legal information. Design systems that connect litigants with legal help. Review online dispute resolution agreements prior to hearings.

- **Focus on the user experience.** Make it easier for people to use court services by expanding online opportunities and communication channels with users, including under-served communities and people who are less than proficient in English.

- **Prioritize court-user driven technology.** Identify problems in order to select the best technological solutions and get input from all stakeholders, including lawyers and litigants.

- **Embrace flexibility and willingness to adapt.** Test and adapt, try and fail, and move on from technology that isn’t solving problems. Start with a viable product that doesn’t impact fundamental due process. Examine and re-examine the product. Be open to public-private partnerships to refine it.

- **Adopt remote-first (or at least remote-friendly) planning, where practicable, to move court processes forward.** Move as many court processes as possible online. Allow for remote attendance at hearings using telephone or video. Ensure that staffers and users have the training and resources they need to participate. Figure out how to involve users with no or limited access to the internet.

- **Take an open, data-driven, and transparent approach to implementing and maintaining court processes and supporting technologies.** Collect data at frequent intervals and ensure it helps court leaders accurately assess the technology’s impact. Protect personal identifying information.

Read more about the CCJ and COSCA’s RRT Technology workgroup’s work [here](https://aopc.org). AOPC

[excerpt from the Aug. & Sept. issues of the National Center for State Courts' newsletter – @ the Center]

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Courtroom to classroom

The Pennsylvania Supreme Court’s Commission on Judicial Independence (PACJI) is launching a new initiative later this fall to get elementary and secondary aged students excited about civics education.

As the 2020 school year presents unique challenges to teachers, students and parents alike, many schools are opting to return using virtual instruction – either completely or blending with in-person.

As a way to continue on with their mission of promoting civics education, the Commission will be working with local judges to virtually visit classrooms and talk to students about the role of the courts and the work they do as a jurist.

AOPC/Communications is partnering with the Commission to develop materials for teachers to use as they teach their classes about the three branches of government – specifically emphasizing meaningful information about the work, role and importance of the judiciary.

In partnering with legislators and other civics-focused groups, the Commission has reached out to civics and government teachers across the state to aid in developing materials.

The goal is for these materials to become accessible for widespread use across the state by working with those school districts and the PA Department of Education (PDE) – who will be able to upload the resources on a statewide teacher portal. AOPC
Reaching survivors during Domestic Violence Awareness Month

Funded by the STOP Grant, AOPC will again create and run a digital ad campaign on Facebook and Google beginning in the month of October.

The ads target survivors of domestic violence using a positive message that help is available, and pointing them to the pacourts.us/learn webpage for information and videos on how to file for a protection order.

View the campaign soon on our PA Courts Facebook page and follow @PACourts for organizational updates and county court news.

Delco juror donation program hits $1 million mark

Back in 2000, Delaware County District Court Administrator Jerry Montella first had the idea to bring a juror donation program to the county after reading about similar programs.

“We were having an issue with jurors who would often forget about the check they received and not cash it,” Montella explained. “We thought jurors might be willing to simply donate their minimal stipend.”

Montella said he was hoping that the first year of the program would yield around $1,000 in donations, but one year after the program launched in 2003, results immediately exceeded expectations with jurors donating over $50,000.

Nearly 16 years later, around 100,000 jurors have donated their stipend of $9.00 plus mileage, totaling over $1 million.

The donations are allocated to efforts supporting at-risk and/or special-needs children in the county, and have expanded to support UNICEF and Red Cross for Hurricane Relief.

Some of the most popular organizations jurors donate to include Children and Youth Services (40%), Hero Scholarship Fund (20%), Domestic Abuse (24%), Operation Warm (6%), Court Appointed Special Advisors (CASA) (8%) and the YMCA (2%).

“I would like to thank the thousands of Delaware County jurors for their generosity and service over the years in which they have assisted children with special needs across our county neighborhoods,” Montella said.

“On this recognition of the Delaware County juror donation program reaching the $1 million contribution benchmark, the board of judges gratefully acknowledges and wholeheartedly commends District Court Administrator Jerry Montella for conceiving of such an idea and shepherding the program to its current, most impressive and highly successful status,” Delaware County President Judge Kevin Kelly said.
Every business, institution and organization has been notably affected by the COVID-19 pandemic in one way or another – and the justice system has not been immune. The figures below represent preliminary data assembled from judicial case management systems, and other state agencies.

The AOPC examined the filings and dispositions for the three years prior to the 2020 judicial emergency and calculated a baseline average of an expected volume of cases. This baseline was compared to the actual filings in the months of the judicial emergency. The difference shows the significant impact of the pandemic on court operations.

Crime and Court Filings

In late June, PA State Police reported that total calls for service were 14 percent higher than pre-COVID baseline levels (in late Feb.) – a leveling of the sharp increases of up to 84 percent in the early months of the pandemic.

According to PA State Police COVID-19 Statistics, total arrests in late June were 70 percent lower than pre-COVID levels. Like arrests, traffic citations also decreased.

The number of citations filed this past July were 35 percent fewer than in past years. At the beginning of the pandemic, citation filings were at their lowest, showing a decrease of 86 percent (April 2020).

As expected, fewer arrests and citations translate into fewer case filings. Year-to-date criminal filings in Magisterial District Courts are down 19 percent as compared to recent years, and Philadelphia Municipal Court is down 39 percent.

Children, Families and Elders

Preliminary Common Pleas data show that petitions for child custody, Protection from Abuse orders, guardianships and adoptions all decreased significantly.

Custody filings decreased 34 percent compared to baseline years, and Protection from Abuse petitions decreased 28 percent.

Compared to baseline years, guardianship filings have decreased 19 percent and adoptions have decreased 41 percent.

Troublingly, PA Dept. of Human Services Statistics show that calls to ChildLine to report potential abuse or neglect had decreased by 40 percent in May 2020 compared to May 2019. This has been a concern among experts who say this decrease in calls likely doesn’t mean a decrease in child abuse – only in its reporting. AOPC
Dauphin County President Judge John Cherry (PJ Cherry) and Clearfield County Judge Paul Cherry (Judge Cherry) both followed in the footsteps of their father, Judge John A. Cherry – the former president judge of Clearfield County from 1964–’74.

The humble, hard-working son of a first-generation immigrant from Italy, their father instilled in his six children a deep respect and appreciation for the law from a young age.

PJ Cherry was 13 years old when he vividly remembers his father being sworn in as a judge, and it was around that same time that his younger brother Paul, just six years old, first knew he wanted to be a judge.

“I was in the first grade and my teacher wanted us to do an art project on what we wanted to be when we grew up,” Judge Cherry said. “I remember cutting out a robe in construction paper and putting that on the person, and I actually kept that and 40 years later brought it with me to my swearing in.”

He recalled one piece of advice from his father that has stuck with him throughout his career – to “be firm, but fair.”

Reflecting on his own path to the bench, PJ Cherry explained that it was an opportunity given to their father back in the 1930’s that would shape the course of the Cherry family for generations to come.

After their father asked former Dickinson Law Dean Harrison Hitchler for a part-time janitorial job to help put himself through school, the dean instead invited him to come live and work in his home.

It was in the coming months and years that Dean Hitchler became one of the greatest influences on their father’s life and a close family friend.

Since then, nine Cherrys have attended Dickinson Law – including PJ Cherry’s son (also named John), and Judge Cherry’s son (Nick) – who is currently studying there with plans to become the 18th lawyer in the Cherry family.

“Frankly, my father was the greatest man I’ve ever known,” said PJ Cherry. “All we had to do was watch my father to see how he lived-filled with honor and compassion. He taught us that it’s all about the opportunities you are given and making the most of them.”

In 2004 and again in 2014, PJ Cherry swore in his brother Paul as a judge in the same Clearfield County courtroom that their father presided in over 50 years ago.

“Every time I’m presiding in Courtroom #1, I see the picture of my father hanging on the wall directly in front of the bench and it’s a constant reminder to treat everyone fairly,” Judge Cherry said. “And every day I try to duplicate my father’s values.”

Their roles reversed in the beginning of this year when Judge Cherry was the one swearing his brother John in for his third term, this time as president judge – taking on the same role that their father was once a great exemplar.

“I’ve learned that it’s not being a lawyer or a judge that makes you like your dad, it’s being the person he was, and I’m working on that every day,” PJ Cherry said.
Aiding access to justice

Berks County received nearly 7,000 requests for court interpreters in 2018 alone – more than any other county in the state that year.

In an effort to meet the significant demand for court interpreters in their community, the Berks County Bar Association partnered with the AOPC to develop a 14-week interpreter training program.

Patricia Luna-Heisse, a Spanish interpreter on the AOPC roster, is a clear-cut success story of the program.

Patricia’s husband, Lancaster County Magisterial District Judge Jonathan Heisse, encouraged her to first start the process after listening to AOPC Interpreter Certification Coordinator Natalia Petrova speak about the important role of court interpreters at MJEB’s New Judge School in 2018.

That summer, she attended the AOPC interpreter orientation where she learned that Berks County was offering a workshop to help participants prepare for all the examinations involved in the intensive certification process.

Tom Gran, another Spanish interpreter on the AOPC roster who just recently finished the certification process himself, led the program.

“It was not easy but it’s rewarding – not only personally but professionally. People are really thankful for what you do for them and the judges really respect the importance of your job and let you know that on a daily basis,” she said.

After graduating from the program in Nov. 2018, Patricia went on to successfully complete her examinations and officially became a certified court interpreter in July 2019.

“I am glad to be able to help people who aren't able to communicate in English when they are going through different situations that are really serious and important – it makes me happy to be their voice and it makes me proud of the job that I do,” Patricia said.

Berks County Bar Association is currently planning their third training for this fall.

“It is being involved with the Berks program that helped me make the decision to continue with the certification process and go forward with the examination - I am very thankful for this program.”

For more information about Pennsylvania’s courts, visit: www.pacourts.us

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Chief Justice of Pennsylvania

Max Baer
Justice

Debra Todd
Justice

Christine Donohue
Justice

Kevin M. Dougherty
Justice

David N. Wecht
Justice

Sallie Updyke Mundy
Justice