

RULE 160. INSPECTING, COPYING, AND DISSEMINATING THE OFFICIAL COURT RECORD

A. **Inspecting.** The official court record is only open to inspection by:

- 1) the **[judges, masters]court**, juvenile probation officers, and staff of the court;

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- 4) **[a court, its p]**Probation officers, other officials or professional 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;

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- 9) a parole board[, **court,**] or county probation official in considering an individual's **parole or in exercising supervision over any individual** who was previously adjudicated delinquent in a proceeding under the Juvenile Act, 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 at the discretion of the court;

- 10) the State Sexual Offenders Assessment Board for use in completing assessments; **[and]**

- 11) other persons authorized by the Court of Common Pleas when determining child custody;**

- 12) the Department of Public Welfare when determining whether the juvenile's name and related information as provided in 23 Pa.C.S. § 6336 should be expunged from the Statewide database; and**

- [11] 13)** 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.

* * *

COMMENT

Pursuant to paragraph (A)(11), other persons authorized by the court to assist in custody cases have access to the official court record when determining custody, as provided in 23 Pa.C.S. §§ 5328 and 5329.1.

Pursuant to paragraph (A)[(11)] (13),

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RULE 330. DELINQUENCY PETITION[: FILING, CONTENTS, FUNCTION]

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- 14) the name and address of the juvenile's guardian, or if unknown, the name and address of the nearest adult relative; **[and]**
- 15) an averment as to whether the case is eligible pursuant to 42 Pa.C.S. § 6307 (b)(1)(ii) for limited public information[.]; **and**
- 16) if the alleged victim of a child abuse report and the alleged act(s) establish that the juvenile is the perpetrator of the child abuse, as defined by the Child Protective Services Law, then the petition shall further contain:**
 - a) specific allegations of facts establishing the conditions in paragraph (C)(16);**
 - b) an allegation that the child abuse and the current delinquency proceeding concern the same factual circumstances; and**
 - c) a request for a special finding that the juvenile is the perpetrator of child abuse against the victim.**

COMMENT

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Pursuant to paragraph **(C)**(15), the petitioner is to designate whether the allegations in the juvenile's petition make the case eligible for limited public information. See 42 Pa.C.S. § 6307(b)(2). When the case is designated, the clerk of courts is to mark the file clearly. For information that is available to the public in those eligible cases, see Rule 160.

The Child Protective Services Law (CPSL) permits a founded report to be based upon an adjudication of delinquency or acceptance of a consent decree if the court has entered a finding that the victim of child abuse has been abused by the juvenile alleged to be delinquent, provided that the subject of the abuse report and the adjudication involved the same factual circumstances. 23 Pa.C.S. § 6303(a). Paragraph (C)(16) permits the allegation of abuse to be raised in the petition. The definitions of "perpetrator" and "child abuse" are defined by the CPSL. See *id.* § 6303(a) and (b.1).

RULE 370. CONSENT DECREE

A. **Entry of consent decree order.** At any time after the filing of a petition and before the entry of an adjudication order,

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B. **Duties of the court.** The court shall explain on the record or in writing:

* * *

C. Perpetrator of child abuse.

- 1) Prior to an entry of a consent decree, if it is alleged in the petition that the juvenile is the perpetrator of child abuse, an admission or a finding by the court on the delinquent act(s), which involve the same factual circumstances, shall be made.**
- 2) If an admission is made, the admission colloquy shall be completed pursuant to Rule 407(A).**
- 3) The juvenile probation officer shall transmit a copy of the consent decree order, including the juvenile's completed admission colloquy, to the county agency.**

COMMENT

* * *

The Child Protective Services Law (CPSL) permits a founded report to be based upon a consent decree if the court has accepted the decree and entered a finding that the victim of child abuse has been abused by the juvenile, provided that the subject of the abuse report and the consent decree involved the same factual circumstances. 23 Pa.C.S. § 6303(a). Paragraph (C) requires the juvenile to admit or have the court make a finding on the delinquent act(s), which can be determined to be child abuse. If there is an admission to the act(s), it is to be made in a manner that ensures that the admission is knowingly, intelligently, and voluntarily made. See Rule 407(A). The paragraph further requires the juvenile probation officer to transmit a copy of the order approving the consent decree, including the juvenile's completed admission colloquy, to the county agency. The definitions of "perpetrator" and "child abuse" are defined by the CPSL. See *id.* § 6303(a) and (b.1).

When entering into a consent decree, the CPSL mandates an admission, acknowledgement, or a finding by the court to be made when a juvenile is an alleged perpetrator of child abuse. Because an acknowledgement is not a formal admission, it is considered the equivalent to a *nolo contendere* plea, which is not permitted in juvenile court. *In re B.P.Y.*, 712 A.2d 769 (Pa. Super. Ct. 1998). This rule mandates either an admission or a finding by the court.

RULE 407. ADMISSIONS

A. **Admissions.** At any time after a petition is filed, the juvenile may tender an admission to some or all of the delinquent acts **[charged]petitioned.**

* * *

ADMISSION FORM

In re	:	_____ JD _____
(Juvenile)	:	Delinquent Act(s): _____
	:	_____
	:	_____
	:	_____

* * *

Possible Consequences of Adjudication of Delinquency:

* * *

14) Do you understand that if the court finds you broke the law by committing the crime(s), it may find you committed child abuse and your name will be placed on a list that some people can see and you may not be able to work with children forever?

1[4]5) * * *

1[5]6) * * *

1[6]7) * * *

1[7]8) * * *

Admission Agreements:

1[8]9) * * *

Appeals:

[19]20) * * *

Lawyer's Representation and Opportunity to Speak with Guardian

2[0]1) * * *

2[1]2) * * *

COMMENT

Pursuant to paragraph (A)(14), if the court makes a finding that the admitted delinquent act(s) meet the definition of child abuse pursuant to 23 Pa.C.S. § 6303(b.2), the juvenile's name is to be placed on the Statewide database that will prohibit the juvenile from working with children in the future.

* * *

RULE 409. ADJUDICATION OF DELINQUENCY

- A. **Adjudicating the juvenile delinquent.** Once the court has ruled on the offenses as provided in Rule 408, the court shall conduct a hearing to determine if the juvenile is in need of treatment, supervision, or rehabilitation.

* * *

2) *In need.*

* * *

- c) If the court determines that the juvenile was the perpetrator of child abuse against the victim, for the same factual circumstances as alleged in the petition, the court shall include this special finding in its order. Upon entry of the order, the juvenile probation officer shall transmit a copy of this order to the county agency.**

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COMMENT

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The Child Protective Services Law (CPSL) permits a founded report to be based upon an adjudication of delinquency if the court has entered a finding that the victim of child abuse has been abused by the juvenile, who has been found to be delinquent, provided that the subject of the abuse report and the adjudication involved the same factual circumstances. 23 Pa.C.S. § 6303(a). Paragraph (A)(2)(c) requires the juvenile probation officer to transmit a copy of the order, which specifically finds child abuse, to the county agency. The definitions of “perpetrator” and “child abuse” are defined by the CPSL. See *id.* § 6303(a) and (b.1).

A report on the disposition is to be sent to the Juvenile Court Judges' Commission. See 42 Pa.C.S. § 6309(d).

For dispositional hearing procedures, see Chapter Five.

RULE 1160. INSPECTION OF THE OFFICIAL COURT RECORD

A. Inspecting. The official court record is only open to inspection by:

1) The [**judges, officers,]court** and [**professional**]staff of the court;

* * *

4) [**A court, its p]**Probation officers, other officials or professional staff, and the attorney for the defendant for use in preparing a presentence report in a criminal case in which the defendant is convicted and who prior thereto had been a party to a proceeding under the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*;

* * *

8) A parole board[, **court,]** or county probation official in considering an individual's parole or in exercising supervision over any individual who was previously adjudicated delinquent in a proceeding under the Juvenile Act, 42 Pa.C.S. § 6301 *et seq.*, 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 at the discretion of the court[.];

9) The State Sexual Offenders Assessment Board for use in completing assessments; [**and]**

10) other persons authorized by the Court of Common Pleas when determining child custody;

11) the Department of Public Welfare when determining whether the party's name and related information as provided in 23 Pa.C.S. § 6336 should be expunged from the Statewide database; and

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

B. Copying. Any person, agency, or department permitted to inspect the record pursuant to paragraph (A) may copy or be provided with a copy of the record.

C. Disseminating. Unauthorized dissemination of any information contained in the official court record to a person, agency, or department not permitted to inspect or copy the record pursuant to this rule may result in a finding of contempt of court.

COMMENT

See the Juvenile Act, 42 Pa.C.S. § 6307, for the statutory provisions on inspection of all files and records of the court in a proceeding.

Persons specified in 23 Pa.C.S. § 6340 as having access to reports may qualify as persons having a legitimate interest in the proceedings under paragraph **(A)(10)**. See 23 Pa.C.S. § 6340.

Additionally, pursuant to paragraph (A)(10), other persons authorized by the court to assist in custody cases have access to the official court record when determining custody, as provided in 23 Pa.C.S. §§ 5328 and 5329.1.

Paragraph (C) protects the party from dissemination of information contained in the official court record to unauthorized sources. Nothing in this rule is intended to preclude the party or the party's attorney from discussing the case with others, such as, local newspaper reporters. However, specific information concerning the victim should not be disseminated by the party or the party's attorney.

This rule is meant to include the contents of the official court record as described in Rule 1166, which does not include **county** agency records.

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**RULE 1330. DEPENDENCY PETITION[: FILING, CONTENTS, FUNCTION,
AGGRAVATED CIRCUMSTANCES]**

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**D. Child Abuse. An allegation for a finding of child abuse may be brought
in the petition pursuant to Rule 1711(A).**

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COMMENT

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**A motion for a finding of child abuse may be brought in a dependency petition. See Rule
1711(A). If child abuse is determined to have occurred after the filing of a petition, a written
motion is to be filed pursuant to Rules 1711(B) and 1344.**

**The act(s) of child abuse, as defined by 23 Pa.C.S. § 6303(b.2), is to be specifically
identified in the motion for a finding of child abuse.**

CHAPTER 17

MOTIONS FOR SPECIAL FINDING

PART A. AGGRAVATED CIRCUMSTANCES

- 1701. Motion for Finding of Aggravated Circumstances
- 1702. Filing of Motion for Finding of Aggravated Circumstances
- 1705. Adjudication of Aggravated Circumstances

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PART B. CHILD ABUSE

- 1711. Motion for Finding of Child Abuse**
- 1712. Filing of Motion for Finding of Child Abuse**
- 1715. Adjudication of Child Abuse**

[This is an entirely new rule.]

RULE 1711. MOTION FOR FINDING OF CHILD ABUSE

- A. Dependency Petitions.** A motion for a finding of child abuse may be included in a dependency petition pursuant to Rule 1330 if the alleged perpetrator is a party to the dependency proceeding.
- B. Motion for Child Abuse.** If a party is seeking a finding of child abuse after the filing of the dependency petition, a request for a finding of child abuse shall be made by a written motion pursuant to Rule 1344 if the alleged perpetrator is a party to the dependency proceeding.
- C. Contents of Motion for Child Abuse.** A motion for a finding of child abuse shall allege or include:
- 1) that the child is the alleged victim of a child abuse report;
 - 2) the identity of the perpetrator, who is a party to the proceeding;
 - 3) that the subject of child abuse and the dependency proceeding concern the same factual circumstances;
 - 4) the specific act(s) of child abuse, as defined by the Child Protective Services Law; and
 - 5) any available reports substantiating the alleged act(s) of child abuse.

COMMENT

See 23 Pa.C.S. §§ 6303(a) (defining perpetrator) and (b.1) (defining child abuse).

The Child Protective Services Law (CPSL) permits a founded report to be based upon an adjudication of dependency if the court has entered a finding that the child has been abused, provided that the subject of the abuse report and the adjudication involved the same factual circumstances. 23 Pa.C.S. § 6303(a). Paragraph (A) permits the allegation of abuse to be raised in the petition. Paragraph (B) permits the allegation of abuse to be raised in a written motion after the filing of the dependency petition. Under either procedure, the alleged perpetrator must also be a party to the dependency proceeding. The definitions of “perpetrator” and “child abuse” are defined by the CPSL. See *id.* § 6303(a) and (b.1).

Under paragraph (B), all motions for a finding of child abuse are to be written. See *also* Rule 1345 (filing and service). Oral motions under Rule 1344 do not apply to motions for a finding of child abuse.

[This is an entirely new rule.]

RULE 1712. FILING OF MOTION FOR FINDING OF CHILD ABUSE

A motion for a finding of child abuse shall be filed by the party seeking the finding with the clerk of courts as soon as possible to prevent undue prejudice against the alleged perpetrator.

COMMENT

Motions are to be filed as timely as possible. When there is a delay in the filing of the motion, the party seeking the finding is to demonstrate that there were good reasons for the delay and the delay will not unduly prejudice the alleged perpetrator.

[This is an entirely new rule.]

RULE 1715. FINDING OF CHILD ABUSE

Upon notice and after a hearing, the court may determine whether child abuse occurred. If child abuse is found, the court shall include a statement in its order indicating there was child abuse and name the party as perpetrator of the act(s).

COMMENT

Because a finding of child abuse involves the same factual circumstances as the dependency matter, it is contemplated that such findings may be made at or after the adjudicatory hearing or in some situations, at a later hearing. It is important that the parties have adequate notice of the scope of the hearing and that a finding of child abuse is a potential outcome of the hearing.

If the court finds the child not to be dependent, then the court may, but is not required to, proceed with a finding concerning whether child abuse occurred. See 23 Pa.C.S. § 6370(b)(2)(ii) (court finding that child abuse has not occurred shall be considered by the county agency to be finding that the report of child abuse is unfounded).