

INTRODUCTION

The Juvenile Court Procedural Rules Committee is planning to recommend to the Supreme Court of Pennsylvania that the modification of Rules 120, 160, 166, 220, 232, 330, 362, 408, 409, and 515 be adopted and prescribed. The proposed modifications define the official court record and require notations for fingerprinting and photographing of the juvenile. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory *Report* highlights the intent of the rules. Please note that the Committee's *Reports* should not be confused with the official Committee *Comments* to the rules. Also note that the Supreme Court does not adopt the Committee's *Comments* or the contents of the explanatory *Reports*.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel,

A. Christine Riscili, Esq.
Staff Counsel
Supreme Court of Pennsylvania
Juvenile Court Procedural Rules Committee
5035 Ritter Road, Suite 700 Mechanicsburg,
PA 17055

no later than Monday, January 12, 2009.

November 20, 2008

BY THE JUVENILE COURT PROCEDURAL RULES
COMMITTEE:

Francis Barry McCarthy, Chair

A. Christine Riscili, Esq.
Staff Counsel

EXPLANATORY REPORT

RULE 120 - DEFINITIONS

The Committee is proposing a new definition for "official court record." This will alleviate any confusion between the official court record and those records kept by the juvenile probation office. This definition also provides clarification that the clerk of courts is the keeper of the record. These clarifications are important so when an appeal is taken, the official court record is clearly defined.

The "official juvenile court file" in the definition of "clerk of courts" was relabeled "official court record" to correspond with its new definition.

RULE 160 - INSPECTION OF JUVENILE FILE/RECORDS

In paragraph (A), the "official court record" replaced "all files and records of the court in a proceeding, including the juvenile court file as provided in Rule 166" to correspond with the new definition.

The *Comment* was also modified to reflect that the official court record does not include the confidential files and records maintained by the juvenile probation office.

RULE 166 - MAINTAINING RECORDS IN THE CLERK OF COURTS

This rule was modified to reflect the new definition of "official court record."

RULE 220 - PROCEDURES IN CASES COMMENCED BY ARREST WITHOUT WARRANT

The *Comment* has been modified to include the Juvenile Act references for the taking of fingerprints and photographs and forwarding them to the Central Repository.

RULE 232 - CONTENTS OF WRITTEN ALLEGATION AND RULE 330 - PETITION: FILING, CONTENTS, FUNCTION

The written allegation and the petition were modified to include a reference as to whether fingerprints or photographs have been taken. This requirement will alert the juvenile probation officer or the court if they have been taken.

RULE 362 - REQUIREMENTS OF THE SUMMONS & RULE 409 - ADJUDICATION OF DELINQUENCY

If fingerprints or photographs have not been taken, the court must order them to be taken as required by the Juvenile Act. See 42 Pa.C.S. § 6308.

RULE 408 - RULING ON OFFENSES, RULE 409 - ADJUDICATION OF DELINQUENCY & RULE 515 - DISPOSITIONAL ORDER

If the courts find that the juvenile did not commit ALL of the alleged delinquent acts pursuant to Rule 408(B) or the juvenile is not in need of treatment, supervision, or rehabilitation pursuant to Rule 409(A), the court must order the destruction of the fingerprints and photographs pursuant to 42 Pa.C.S. § 6341(a) and the records pursuant to 18 Pa.C.S. § 9123(a)(1) and Rule 172.

If the court does find that the juvenile committed at least one of the offenses petitioned, there is no destruction of the fingerprints, photographs, or records.

If the court finds the juvenile is in need of treatment, supervision, or rehabilitation and fingerprints and photographs have not been taken, the court must order that they are taken and forwarded to the Central Repository pursuant to the statutory requirements.

RULE 120. DEFINITIONS

ADULT is any person, other than a juvenile, eighteen years old or older.

AFFIANT is any responsible person, capable of taking an oath, who signs, swears to, affirms, or when permitted by these rules, verifies a written allegation and appreciates the nature and quality of that person's act.

CLERK OF COURTS is that official in each judicial district who has the responsibility and function under state law and local practice to maintain the official **[juvenile court file] court record** and docket, without regard to that person's official title.

COURT is the Court of Common Pleas, a court of record, which is assigned to hear juvenile delinquency matters. Court shall include masters when they are permitted to hear cases under these rules and magisterial district judges when issuing an arrest warrant pursuant to Rule 210. Juvenile Court shall have the same meaning as Court.

DETENTION FACILITY is any facility, privately or publicly owned and operated, designated by the court and approved by the Department of Public Welfare to detain a juvenile temporarily. The term detention facility, when used in these rules, shall include shelter-care.

GUARDIAN is any parent, custodian, or other person who has legal custody of a juvenile, or person designated by the court to be a temporary guardian for purposes of a proceeding.

INTAKE STAFF is any responsible person taking custody of the juvenile on behalf of the court, detention facility, or medical facility.

ISSUING AUTHORITY is any public official having the power and authority of a magistrate, a Philadelphia bail commissioner, or a Magisterial District Judge.

JUVENILE is a person who has attained ten years of age and is not yet twenty-one years of age who is alleged to have committed a delinquent act before reaching eighteen years of age.

LAW ENFORCEMENT OFFICER is any person who is by law given the power to enforce the law when acting within the scope of that person's employment.

MASTER is an attorney with delegated authority to hear and make recommendations for juvenile delinquency matters. Master has the same meaning as hearing officer.

MEDICAL FACILITY is any hospital, urgent care facility, psychiatric or psychological ward, drug and alcohol detoxification or rehabilitation program, or any other similar facility designed to treat a juvenile medically or psychologically.

MINOR is any person, other than a juvenile, under the age of eighteen.

OFFICIAL COURT RECORD is the juvenile court file maintained by the clerk of courts which contains all filed original records, papers, orders, court notices, docket entries, other legal documents, and other court designated documents in each juvenile case.

ORDINANCE is a legislative enactment of a political subdivision.

PARTIES are the juvenile and the Commonwealth.

PENAL LAWS include all statutes and embodiments of the common law, which establish, create, or define crimes or offenses, including any ordinances that may provide for placement in a juvenile facility upon a finding of delinquency or upon failure to pay a fine or penalty.

PETITION is a formal document by which an attorney for the Commonwealth or the juvenile probation officer alleges a juvenile to be delinquent.

PETITIONER is an attorney for the Commonwealth or a juvenile probation officer, who signs, swears to, affirms, or verifies and files a petition.

PLACEMENT FACILITY is any facility, privately or publicly owned and operated, that identifies itself either by charter, articles of incorporation or program description, to receive delinquent juveniles as a case disposition. Placement facilities include, but are not limited to, residential facilities, group homes, after-school programs, and day programs, whether secure or non-secure.

POLICE OFFICER is any person, who is by law given the power to arrest when acting within the scope of the person's employment.

POLITICAL SUBDIVISION shall mean county, city, township, borough, or incorporated town or village having legislative authority.

PROCEEDING is any stage in the juvenile delinquency process occurring once a written allegation has been submitted.

RECORDING is the means to provide a verbatim account of a proceeding through the use of a court stenographer, audio recording, audio-visual recording, or other appropriate means.

VERIFICATION is a written statement made by a person that the information provided is true and correct to that person's personal knowledge, information, or belief and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

WRITTEN ALLEGATION is the document that is completed by a law enforcement officer or other person that is necessary to allege a juvenile has committed an act of delinquency.

COMMENT

"Clerk of courts" is the person given the power under state and local law to maintain the official court record. See Rule 166 for additional responsibilities of the clerk of courts.

Under the term "court," to determine if masters are permitted to hear cases, see Rule 187. See Rule 210 for the power of magisterial district judges to issue arrest warrants.

The "official court record" is to contain all filed legal documents, original records, papers, orders, court notices, and docket entries in each case. The court may also designate any document to be a part of the record. It does not include items contained in juvenile probation's reports and files unless they are made a part of the official record by being filed with the clerk of courts.

Neither the definition of "law enforcement officer" nor the definition of "police officer" gives the power of arrest to any person who is not otherwise given that power by law.

A "petition" and a "written allegation" are two separate documents and serve two distinct functions. A "written allegation" is the document that initiates juvenile delinquency proceedings. Usually, the "written allegation" will be filed by a law enforcement officer and will allege that the juvenile has committed a delinquent act that comes within the jurisdiction of the juvenile court. This document may have been formerly known as a "probable cause affidavit," "complaint," "police paper," "charge form," "allegation of delinquency," or the like. Once this document is submitted, a preliminary determination of the juvenile court's jurisdiction is to be made. Informal adjustment and other diversionary programs may be pursued. If the attorney for the Commonwealth or the juvenile probation officer determines that formal juvenile court action is necessary, a petition is then filed.

For definition of "delinquent act," see 42 Pa.C.S. § 6302.

Official Note: Rule 120 adopted April 1, 2005, effective October 1, 2005. Amended December 30, 2005, effective immediately. Amended March 23, 2007, effective August 1, 2007. Amended February 26, 2008, effective June 1, 2008.

Committee Explanatory Reports:

Final Report explaining the amendments to Rule 120 published with the Court's Order at 36 Pa.B. 187 (January 14, 2006). Final Report explaining the amendments to Rule 120 published with the Court's Order at 37 Pa.B. 1485 (April 7, 2007). Final Report explaining the amendments to Rule 120 published with the Court's Order at 38 Pa.B. 1142 (March 8, 2008).

RULE 160. INSPECTION OF JUVENILE FILE/RECORDS

A. General Rule. [All files and records of the court in a proceeding, including the juvenile court file as provided in Rule 166, are] The official court record is only open to inspection **[only] by:**

- 1) the judges, masters, juvenile probation officers, and staff of the court;
- 2) the attorney for the Commonwealth, the juvenile's attorney, and the juvenile, but the persons in this category shall not be 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 juvenile 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 such 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 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 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 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 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; and

- 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. Public availability. Upon request, a public document shall be created by the clerk of courts if the case is designated eligible for public inspection pursuant to Rule 330 or 515.

- 1) For cases deemed eligible pursuant to Rule 330, the public document shall contain only the following information:
 - a) the juvenile's name;
 - b) the juvenile's age;
 - c) the juvenile's address; and
 - d) the offenses alleged in the juvenile's petition.
- 2) For cases deemed eligible pursuant to Rule 515, the public document shall contain only the following information:
 - a) the juvenile's name;
 - b) the juvenile's age;
 - c) the juvenile's address;
 - d) the offenses alleged in the juvenile's petition;
 - e) the adjudication on each allegation; and
 - f) the disposition of the case.

COMMENT

See the Juvenile Act, 42 Pa.C.S. § 6307, for the statutory provisions on inspection of the juvenile's file and 42 Pa.C.S. § 6352.1 for disclosure of treatment records.

See Rule 120 for definition of the "official court record."

This rule is meant to include the contents of the juvenile court file as described in Rule 166 **[and the contents of the juvenile probation records or reports]. [Juvenile probation records or reports, include, but are not limited to, social summaries, psychological and psychiatric evaluations, personal histories, school records and reports, mental health histories and reports, drug and alcohol evaluations, and placement facility records and reports.]**

When delinquency proceedings are commenced pursuant to Rule 200(4), the entire criminal court file is to be transferred with the case to juvenile court. This criminal case file is now the juvenile court file and the disclosure requirements of this rule apply.

Under Paragraph (B), there is one document for each eligible case that is open for public inspection. The public document should be clearly marked for employees of the clerks of courts' office as

the only document available for inspection by the general public. All other information contained in the juvenile court file is not open for public inspection but only open to inspection to the persons enumerated in paragraph (A).

See Rule 330 for designation of public availability status in the juvenile petition. See Rule 515 for designation of public availability status in the dispositional order.

Official Note: Rule 160 adopted April 1, 2005, effective October 1, 2005; amended December 30, 2005, effective immediately. Amended August 20, 2007, effective December 1, 2007. Amended May 12, 2008, effective immediately.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 160 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005). Final Report explaining the revisions of Rule 160 published with the Court's Order at 36 Pa.B. 186 (January 14, 2006). Final Report explaining the amendments to Rule 160 published with the Court's Order at 37 Pa.B.4866 (September 8, 2007). Final Report explaining the amendments to Rule 160 published with the Court's Order at 38 Pa.B. 2360 (May 12, 2008).

RULE 166. MAINTAINING RECORDS IN THE CLERK OF COURTS

- A. **Generally.** The juvenile court file is the official court record and shall contain all **filed** original records, papers, **[and]** orders, **[filed, copies of all]** court notices, **[and]** docket entries, and other court designated documents. These records shall be maintained by the clerk of courts and shall not be taken from the custody of the clerk of courts without order of the court.
- B. **Docket entries.** The clerk of courts shall maintain a list of docket entries: a chronological list, in electronic or written form, of documents and entries in the juvenile court file and of all proceedings in the case. The clerk of courts shall make docket entries at the time the information is made known to the clerk.
- C. **Contents of docket entries.** The docket entries shall include, at a minimum, the following information:
- 1) the juvenile's name, last known address, date of birth, if known;
 - 2) the names and addresses of all attorneys who have appeared or entered an appearance, the date of the entry of appearance(s), and the date of any withdrawal of appearance(s);
 - 3) notations concerning all papers filed with the clerk, including all court notices, appearances, admissions, motions, orders, findings and adjudications, and dispositions, briefly showing the nature and title, if any, of each paper filed, writ issued, and motion made, and the substance of each order or disposition of the court and of the returns showing execution of process;
 - 4) notations concerning motions made orally or orders issued orally in the courtroom when directed by the court;
 - 5) a notation of every judicial proceeding, continuance, and disposition;
 - 6) the location of exhibits made part of the record during the proceedings; and
 - 7)
 - a) the date of receipt in the clerk's office of the order or court notice;
 - b) the date appearing on the order or court notice; and
 - c) the date and manner of service of the order or court notice; and
 - 8) all other information required by Rule 345.

COMMENT

This rule sets forth the mandatory contents of the list of docket entries and the juvenile court file. This is not intended to be an exhaustive list of what is required to be recorded in the docket entries. The judicial districts may require additional information to be recorded in a case or in all cases.

The list of docket entries is a running record of all information related to any action in a juvenile case in the court of common pleas of the clerk's county, such as dates of filings, of orders, and of court proceedings, including hearings conducted by masters. Nothing in this rule is intended to preclude the use of automated or other electronic means for time stamping or making docket entries.

This rule applies to all proceedings in the court of common pleas, including hearings conducted by masters, at any stage of the delinquency case.

This rule is not intended to include items contained in the juvenile probation records or reports. See Rule 160 (Inspection of Juvenile File/Records) and its *Comment* for items contained in juvenile probation records or reports.

The practice in some counties of creating the list of docket entries only if an appeal is taken is inconsistent with this rule.

The requirement of paragraph (C)(2) that all attorneys and their addresses be recorded makes certain there is a record of all attorneys who have appeared for any juvenile in the case. The requirement also ensures that attorneys are served as required by Rules 167 and 345. See also Rule 345(C) concerning certificates of service.

In those cases in which the attorney has authorized receiving service by facsimile transmission or electronic means, the docket entry required by paragraph (C)(2) is to include the facsimile number or electronic address.

Paragraph (C)(4) recognizes that occasionally disposition of oral motions presented in open court should be reflected in the docket, such as motions and orders related to omnibus motions as provided in Rule 346.

Official Note: Rule 166 adopted April 1, 2005, effective October 1, 2005.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 166 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005)

RULE 220. PROCEDURE IN CASES COMMENCED BY ARREST WITHOUT WARRANT

A. The person arresting a juvenile shall promptly:

1) notify the juvenile's guardian of:

- a) the arrest of the juvenile;
- b) the reason for the arrest; and
- c) the juvenile's whereabouts; and

2) either:

- a) release the juvenile to his or her guardian upon the guardian's promise to bring the juvenile before the court when requested by the court, unless detention of the juvenile is warranted; or
- b) deliver the juvenile before the court or to a detention facility designated by the court; or
- c) deliver the juvenile to a medical facility if the juvenile is believed to be suffering from a physical condition or illness that requires prompt treatment.

B. In all cases, the person arresting the juvenile promptly shall submit the written allegation, as required by Rule 231(A)(2).

COMMENT

The juvenile probation officer can accept juveniles for the court as described in paragraph (A)(2)(b).

The release of the juvenile does not eliminate the requirement of submission of a written allegation. For the general procedures governing written allegations, see Chapter Two, Part (C).

See 42 Pa.C.S. § 6326.

See 42 Pa.C.S. § 6308 for the taking of fingerprints and photographs by law enforcement officers. The arresting officer is to ensure that the fingerprints and photographs are forwarded to the central repository as required by the Pennsylvania State Police. 42 Pa.C.S. § 6309(c).

Official Note: Rule 220 adopted April 1, 2005, effective October 1, 2005.

Committee Explanatory Reports:

Final Report explaining the provisions of Chapter Two, Part B published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

RULE 232. CONTENTS OF WRITTEN ALLEGATION

Every written allegation shall contain:

- 1) the name of the person making the allegations;
- 2) the name, date of birth, and address, if known, of the juvenile, or if unknown, a description of the juvenile;
- 3) a statement that:
 - a) it is in the best interest of the juvenile and the public that the proceedings be brought; and
 - b) the juvenile is in need of treatment, supervision, or rehabilitation;
- 4) the date when the offense is alleged to have been committed; provided, however:
 - a) if the specific date is unknown, or if the offense is a continuing one, it shall be sufficient to state that it was committed on or about any date within the period of limitations; and
 - b) if the date or day of the week is an essential element of the offense alleged, such date or day shall be specifically set forth;
- 5) the place where the offense is alleged to have been committed;
- 6)
 - a)
 - i) a summary of the facts sufficient to advise the juvenile of the nature of the offense alleged; and
 - ii) the official or customary citation of the statute and section, or other provision of law which the juvenile is alleged to have violated, but an error in such citation shall not affect the validity or sufficiency of the written allegation; or
 - b) a certification that the juvenile has not complied with the sentence imposed for a conviction of a summary offense;
- 7) the name and age of any conspirators, if known;
- 8) a statement that the acts were against the peace and dignity of the Commonwealth of Pennsylvania or in violation of an ordinance of a political subdivision;

9) **a notation on whether the juvenile has or has not been fingerprinted and photographed;**

10) a notation if criminal laboratory services are requested in the case;

[10]11) a verification by the person making the allegation that the facts set forth in the written allegation are true and correct to the person's personal knowledge, information, or belief, and that any false statement made is subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities; and

[11]12) the signature of the person making the allegation and the date of execution of the written allegation.

COMMENT

This rule sets forth the required contents of all written allegations whether the person making the allegation is a law enforcement officer, a police officer, or a private citizen. See <http://www.courts.state.pa.us> for a copy of the written allegation form that is to be submitted.

See 42 Pa.C.S. § 6308 for the taking of fingerprints and photographs pursuant to paragraph (9).

Official Note: Rule 232 adopted April 1, 2005, effective October 1, 2005. Amended December 3, 2007, effective immediately.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 232 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005). Final Report explaining the amendments to Rule 232 published with the Court's Order at 37 Pa.B. 6743 (December 22, 2007).

RULE 330. PETITION: FILING, CONTENTS, FUNCTION

A. **Certification.** The District Attorney of any county may require that an attorney for the Commonwealth shall file all petitions. If the District Attorney elects to require an attorney for the Commonwealth to file the petition, the District Attorney shall file a certification with the court of common pleas. The certification shall:

- 1) state that an attorney for the Commonwealth shall file petitions; and
- 2) specify any limitations on the filing or classes of petitions.

B. **Filings.** In every delinquency proceeding, the attorney for the Commonwealth or the juvenile probation officer shall file a petition with the clerk of courts if it has been determined that informal adjustment or another diversionary program is inappropriate.

C. **Petition contents.** Every petition shall set forth plainly:

- 1) the name of the petitioner;
- 2) the name, date of birth, and address, if known, of the juvenile, or if unknown, a description of the juvenile;
- 3) a statement that:
 - a) it is in the best interest of the juvenile and the public that the proceedings be brought; and
 - b) the juvenile is in need of treatment, supervision, or rehabilitation;
- 4) the date when the offense is alleged to have been committed; provided, however:
 - a) if the specific date is unknown, or if the offense is a continuing one, it shall be sufficient to state that it was committed on or about any date within the period of limitations; and
 - b) if the date or day of the week is an essential element of the offense alleged, such date or day shall be specifically set forth;
- 5) the place where the offense is alleged to have been committed;
- 6)
 - a)
 - i) a summary of the facts sufficient to advise the juvenile of the nature of the offense alleged; and
 - ii) the official or customary citation of the statute and section, or other provision of law which the juvenile is alleged to have violated, but

an error in such citation shall not affect the validity or sufficiency of the written allegation; or

- b) a certification that the juvenile has not complied with the sentence imposed for a conviction of a summary offense.
- 7) the name and age of any conspirators, if known;
- 8) a statement that the acts were against the peace and dignity of the Commonwealth of Pennsylvania or in violation of an ordinance of a political subdivision;
- 9) **a notation on whether the juvenile has or has not been fingerprinted and photographed;**
- 10)** a notation if criminal laboratory services are requested in the case;
- [10]11)** a verification by the petitioner that the facts set forth in the petition are true and correct to the petitioner's personal knowledge, information, or belief, and that any false statements are subject to the penalties of the Crimes Code, 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities;
- [11]12)** the signature of the petitioner and the date of the execution of the petition;
- [12]13)** the whereabouts of the juvenile and if taken into custody, the date and time thereof;
- [13]14)** the name and address of the juvenile's guardian, or if unknown, the name and address of the nearest adult relative; and
- [14]15)** an averment as to whether the case is eligible pursuant to 42 Pa.C.S. § 6307 (b)(1)(ii) for limited public information.

COMMENT

Under paragraph (A), the District Attorney may file a certification with the court of common pleas stating that only an attorney for the Commonwealth may file a petition. If a certification has not been filed, then an attorney for the Commonwealth or a juvenile probation officer may file a petition.

A private citizen has the right to file a written allegation, not a petition. See Rule 800. The written allegation commences the proceedings in the juvenile system. See Rule 200. The case should progress in the same manner as any other case in the juvenile system. If the written allegation is disapproved, the private citizen may file a motion challenging the disapproval with the court of common pleas. See *Comment* to Rule 233.

Informal adjustment or other diversionary programs should be considered before a petition is filed. Once a petition is filed, informal adjustment is not permitted. See *Commonwealth v. J.H.B.*, 760 A.2d 27 (Pa. Super. Ct. 2000).

Petitions should be filed without unreasonable delay. See *Commonwealth v. Dallenbach*, 729 A.2d 1218 (Pa. Super. Ct. 1999).

See 42 Pa.C.S. § 6308 for the taking of fingerprints and photographs pursuant to paragraph (C)(9).

The contents of a petition are the same as a written allegation except for the additional requirements in paragraphs (C)(12), (13), and (14).

Pursuant to paragraph (14), 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.

Official Note: Rule 330 adopted April 1, 2005, effective October 1, 2005. Amended August 20, 2007, effective December 1, 2007.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 330 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005). Final Report explaining the amendments to Rule 330 published with the Court's Order at 37 Pa.B. 4866 (September 8, 2007).

RULE 362. REQUIREMENTS OF THE SUMMONS

The summons shall:

- 1) be in writing;
- 2) set forth the date, time, and place of the adjudicatory hearing;
- 3) instruct the juvenile about the juvenile's right to counsel, and if the juvenile is without financial resources or otherwise unable to employ counsel, the right to assigned counsel;
- 4) give a warning stating that the failure to appear for the hearing may result in arrest; **[and]**
- 5) include a copy of the juvenile petition; **and**
- 6) include an order directing the juvenile to submit to fingerprinting and photographing by a law enforcement agency in all cases in which the juvenile has not previously been fingerprinted or photographed.**

COMMENT

Section 6335(a) of the Juvenile Act requires a copy of the petition to accompany the summons. 42 Pa.C.S. § 6335(a).

See 42 Pa.C.S. § 6308 for the taking of fingerprints and photographs.

Official Note: Rule 362 adopted April 1, 2005, effective October 1, 2005.

RULE 408. RULING ON OFFENSES

- A. Within seven days of hearing the evidence on the petition or accepting an admission under Rule 407, the court shall enter a finding by specifying which, if any, offenses, including grading and counts, alleged in the petition were committed by the juvenile.
- B. If the court finds the juvenile did not commit **all of** the alleged delinquent acts, the court shall dismiss the allegations and release the juvenile, if detained, unless there are other grounds for the juvenile's detention. **The court shall also order the destruction of any fingerprints or photographs which have been taken and shall expunge the records pursuant to Rule 172.**
- C. If the court finds that the juvenile committed any delinquent act, the court shall proceed as provided in Rule 409.

COMMENT

Under paragraph (A), for any offense the court finds that the juvenile committed, the court is to specify the grading and count(s). See 42 Pa.C.S. § 6341(b). It is noted that some offenses have no specific grading, i.e., ungraded felony or misdemeanor of the Controlled Substance, Drug, Device and Cosmetic Act, 35 P.S. § 780-101 *et seq.*, or the ungraded delinquent act of failure to comply with a sentence for a summary offense, 42 Pa.C.S. § 6302 (definition of "delinquent act").

Under paragraph (B), if all the allegations are dismissed, the court is to order the destruction of fingerprints and photographs. See 42 Pa.C.S. § 6341(a). **The court also is to expunge the records pursuant to 18 Pa.C.S. § 9123(a)(1) and Rule 172. In its order, the court is to specify the case reference number or other identifying number so the order only applies to the specified case. See Comment to Rule 170 for further definition of a reference number.**

Official Note: Rule 408 adopted April 1, 2005, effective October 1, 2005.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 408 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

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.

1) If the court determines that the juvenile is not in need of treatment, supervision, or rehabilitation, **the court shall enter an order providing that:**

a) jurisdiction shall be terminated and the juvenile shall be released, if detained, unless there are other reasons for the juvenile's detention; **and**

b) **any fingerprints and photographs taken shall be destroyed.**

2) If the court determines that the juvenile is in need of treatment, supervision, or rehabilitation, the court shall enter an order adjudicating the juvenile delinquent and proceed in determining a proper disposition under Rule 512. **The court also shall order a law enforcement agency to take, or cause to be taken, the fingerprints and photographs of the juvenile if not previously taken pursuant to this case, and to ensure that these records are forwarded to the Central Repository maintained by the Pennsylvania State Police.**

B. **Timing.**

1) If the juvenile is in detention, the court shall make its finding within twenty days of the ruling on the offenses pursuant to Rule 408.

2) If the juvenile is not in detention, the court shall make its finding within sixty days of the ruling on the offenses pursuant to Rule 408.

C. **Extending Time by Agreement.** The time restrictions under paragraphs (B)(1) and (B)(2) may be extended if there is an agreement by both parties.

COMMENT

Under paragraph (A), absent evidence to the contrary, evidence of the commission of acts that constitute a felony is sufficient to sustain a finding that the juvenile is in need of treatment, supervision, or rehabilitation. See 42 Pa.C.S. § 6341(b).

This rule addresses adjudicating the juvenile delinquent or releasing the juvenile from the court's jurisdiction. This determination is different from finding the juvenile committed a delinquent act under Rule 408.

Pursuant to 42 Pa.C.S. § 6308(c)(3), all fingerprints and photographic records are to be destroyed upon order of the court if the juvenile is not adjudicated delinquent.

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.

Official Note: Rule 409 adopted April 1, 2005, effective October 1, 2005.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 409 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005).

RULE 515. DISPOSITIONAL ORDER

A. **Generally.** When the court enters a disposition **for a juvenile who is adjudicated delinquent pursuant to Rule 409**, the court shall issue a written order, which provides balanced attention to the protection of the community, accountability for the offenses committed, and development of the juvenile's competencies to enable the juvenile to become a responsible and productive member of the community. The order shall include:

- 1) the terms and conditions of the disposition;
- 2) the name of any agency or institution that is to provide care, treatment, supervision, or rehabilitation of the juvenile;
- 3) a designation whether the case is eligible pursuant to 42 Pa.C.S. § 6307 (b)(1)(i) for limited public information;
- 4) **a directive that the juvenile shall submit to fingerprinting and photographing in all cases in which the juvenile has not previously been fingerprinted or photographed;**
- 5) the date of the order; and
- [5]6) the signature and printed name of the judge entering the order.

B. **Restitution.** If restitution is ordered in a case, the dispositional order shall include:

- 1) a specific amount of restitution to be paid by the juvenile;
- 2) to whom the restitution is to be paid; and
- 3) a payment schedule, if so determined by the court.

C. **Guardian participation.** The court shall include any obligation in its dispositional order imposed upon the guardian.

D. Disposition reporting. The court shall forward the case disposition to the Juvenile Court Judges' Commission.

COMMENT

Pursuant to paragraph (A)(3), the court is to determine if the case is eligible for limited public information under the requirements of 42 Pa.C.S. § 6307 (b)(1)(i). 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.

See 23 Pa.C.S. § 5503 and 42 Pa.C.S. §§ **6308, 6309 &** 6310.

Dispositional orders should comport in substantial form and content to the Juvenile Court Judges' Commission model orders to receive funding under the federal Adoption and Safe Families Act (ASFA) of 1997 (P.L. 105-89). The model forms are also in compliance with Title IV-B and Title IV-E of the Social Security Act. For model orders, see <http://www.jcjc.state.pa.us> or <http://www.dpw.state.pa.us> or request a copy on diskette directly from the Juvenile Court Judges' Commission, Room 401, Finance Building, Harrisburg, PA 17120.

Official Note: Rule 515 adopted April 1, 2005, effective October 1, 2005. Amended August 20, 2007, effective December 1, 2007.

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 515 published with the Court's Order at 35 Pa.B. 2214 (April 16, 2005). Final Report explaining the amendments to Rule 515 published with the Court's Order at 37 Pa.B. 4866 (September 8, 2007).