

PENNSYLVANIA MANUAL OF COURT MANAGEMENT

**PENNSYLVANIA ASSOCIATION
OF COURT MANAGEMENT
PACM**

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INTRODUCTION: COURT ADMINISTRATION GENERALLY

§ 0.01 THE DISTRICT COURT ADMINISTRATOR

A. Duties and Responsibilities of District Court Administrators

Although the president judge has the ultimate responsibility for administering the courts of the judicial district, the district court administrator fills the role of chief executive officer, carrying out the strategic vision of the president judge and board of judges and overseeing the day-to-day operations of the courts. The district court administrator's deputies and assistants in turn help to perform the various aspects of his or her role. The exact nature of the division of responsibilities between president judge and district court administration will vary depending on the president judge and his or her preferences and leadership style. Communication and trust are essential elements of the president judge-district court administrator relationship.

Article 5, § 10 of the Pennsylvania Constitution gives the Supreme Court supervisory and administrative authority over the courts of the Commonwealth. This authority includes the power to appoint not only the Court Administrator of Pennsylvania but "such subordinate administrators and staff as may be necessary and proper for the prompt and proper disposition of the business of all courts" A president judge (or, in districts with administrative judges, the president judge and administrative judges), are empowered to recommend appointment of a district court administrator and state-employee deputy and assistant court administrators with the written approval of the Court Administrator of Pennsylvania. Pa.R.J.A. 503(b). After a six-month probationary period, these appointees cannot be removed without the prior written approval of the Court Administrator of Pennsylvania.

Under its Constitutional authority, the Supreme Court prescribes the duties and responsibilities of district court administrators. Pursuant to 204 Pa. Code § 29.6, these duties and responsibilities are--but are not limited to--as follows:

- Implementation of policies set by the Court Administrator of Pennsylvania.
- Providing assistance to the Court Administrator in setting statewide policies.
- Preparation, submission and management of the court's budget.
- Recruiting, hiring, training, evaluating and monitoring personnel the court.
- Management of space, equipment and facilities of the court.
- Dissemination of information concerning, or of interest to, the court.
- Procurement of supplies and services for the court.
- Custody and disbursement of funds for the court.
- Preparation of reports concerning the court.
- Jury management.
- Study and improvement of caseflow, time standards, and calendaring.
- Research and development of effective methods of court functioning, including in districts where feasible the mechanization and computerization of court operations.
- Preparation and administration of trial calendars for all civil and criminal cases, including daily trial lists.
- Responsibility for the assignment, listing and disposition of all arbitration matters.
- General supervision of the minor judiciary system of the judicial district (where administrative control and supervision of the minor judiciary is vested in the same person

serving as district court administrator, it is expected that the district court administrator give adequate time in pursuance of his or her duties with the court).

The many and varied duties and responsibilities of district court administrators and their deputies and assistants are dealt with in greater detail in the remainder of this manual. The manual is divided into the following chapters:

1. Judicial Resources Management, discussing issues such as president judges, reports judges must file under Pa.R.J.A. 703 and 704, Regional Administrative Units, and senior judge assignments.

2. Human Resources Management, covering issues related to hiring and compensation, discipline and termination, and general personnel management.

3. Budget and Fiscal Management, dealing with issues such as budgeting and court financial management.

4. Facilities and Security Management, which discusses facilities management, public access to court facilities, renovations and new construction and security issues.

5. Court Operations Management, covering issues related to the operational core of the court system such as caseflow management, jury management, supervision of magisterial district judge courts, Criminal Justice Advisory Boards, quasi-judicial officers, conflict counsel, problem-solving courts, fines, costs, fees, and restitution, interpreters, and local rules.

6. Information Management, dealing with court websites, court computer systems, statistical reports, community and media relations, and public access to information.

7. Miscellaneous Matters, discussing duties and responsibilities and issues that didn't fit into one of the previous six chapters.

B. History of Court Administration

The court administration profession is constantly evolving. The duties and responsibilities of a court administrator today versus 100, 50, 20, or even 10 years ago, have changed significantly. In general, court administration has become more complex and consequently the training, qualifications, and skillsets of those in the court administration profession have changed dramatically. For a good overview of how the profession has evolved, the reader is directed to two articles in the Appendices: *The Evolution of a Profession*, Charles H. Starrett, Jr., *The Court Manager*, Vol. 1, No. 2 - Summer 1986, National Association of Court Management (see Appendix 0.01-A) and *The Court Management Profession: Where Did It Come From? Where Is It Now? And Where Is It Going?* Edward C. Gallas and Geoff Gallas, *The Court Manager*, Vol. 6, No. 1 - Winter 1991, National Association of Court Management (see Appendix 0.01-B).

§ 0.02 ROLE OF THE COMMON PLEAS PRESIDENT JUDGE

This section addresses the role of the president judge in judicial districts other than the First (Philadelphia) and the Fifth (Allegheny). In the First and Fifth judicial districts many of the responsibilities outlined below are handled by administrative judges.

Although the Pennsylvania Constitution provides for the office of president judge, it is silent on the president judge's role and authority. Instead, the powers, duties, and responsibilities of president judges are set forth in various statutes, rules, codes and case law. This section presents a general overview of role and authority of the president judge, many aspects of which may be delegated, in whole or in part, to district court administration. Many of the specific duties are discussed in greater detail throughout the remainder of this manual.

A. Court Management

The president judge has general management responsibility over the court of common pleas and the minor courts of the judicial district. As such, a president judge's managerial powers, duties, and responsibilities fall into the following categories.

1. Judicial Resources Management

The president judge is responsible for supervising all of the judges in the district, not only commissioned common pleas judges but also magisterial district judges (MDJs) and senior common pleas judges and MDJs. As part of this responsibility, the president judge is responsible for handling issues such as managing senior judges, supervising Pa.R.J.A. 703 and 704 reporting, preparing the court calendar, and judicial assignments, among others.

2. Human Resources Management

President judges are responsible for human resource management of judicial district personnel including hiring and compensation, discipline and termination, and otherwise managing

the workplace. Managing the workplace includes issues such as employee evaluations, labor relations, and enforcement of the Unified Judicial System (UJS) Code of Conduct and Non-Discrimination and Equal Employment Opportunity policies. The departments over which a president judge may be responsible include, but are not limited to, adult and juvenile probation, pretrial services, domestic relations, district court administration, court reporters/recorders, arbitration boards, hearing masters, officers and conciliators.

3. Budgeting and Fiscal Affairs

President judges are also responsible for managing the finances of the judicial district. This responsibility includes, but is not limited to, preparing and submitting the budget, expending funds, creating or eliminating positions, and providing public access to court financial information in the manner, and to the extent required, by law.

4. Facilities Management and Security

The president judge is responsible for the facilities of the courts in the judicial district such as the courthouse or judicial center, the law library, MDJ facilities, and the assignment/reassignment of chambers and other physical facilities. This responsibility also includes ensuring public access to court facilities, overseeing security of court facilities, and Continuity of Operations (COOP) Planning.

5. Court Operations

In addition to the aforementioned administrative responsibilities, president judges are responsible for overseeing the operations of the courts of the judicial district. Operational issues that a president judge needs to be concerned with include court reporting, interaction with the court filing offices (i.e. clerks and prothonotaries), jury management, case flow management, implementation of local rules, the Criminal Justice Advisory Board (CJAB), Prison Board, etc.

President judges are also responsible for making sure that the district is following the applicable laws and regulations pertaining to providing interpreters.

6. Information Management

The president judge is also responsible for managing the informational resources of the courts including the supervision of the information technology (IT) systems of the courts and the generation of reports. In addition the president judge, as leader of the judicial district, may have cause to interact with the media and public from time to time. The president judge is also responsible for making sure that the public is given the proper access to court records information.

7. Miscellaneous Matters

In addition to the aforementioned duties, president judges may have to deal with other matters that may touch directly or indirectly on the courts (e.g. constables) or have little or nothing to do with the courts (e.g., filling vacancies in certain county offices). When filling a vacancy to an elected office under a statutory duty, the president judge should follow the procedures set forth in Pa.R.J.A. 1908. Rule 1908 requires that the court receive applications from interested candidates pursuant to a deadline established by the court. The names and written materials submitted by candidates are to be made available to the public upon request, with the exception of certain personal information such as Social Security number, home address, personal telephone number and email, and information pertaining to children under the age of 17. If the board of judges is to fill the vacancy, the selection is to be by a vote of all commissioned judges including the president judge. In the event of a tie the president judge casts the deciding vote.

B. President Judge's Relationship with the District Court Administrator

A president judge alone cannot discharge all of the foregoing duties and responsibilities, but relies upon the assistance of district court administration. The relationship between the president judge and the district court administrator is extremely important to the proper functioning of the district's courts.

If the president judge's role can be viewed as analogous to the chairman of the board of a corporation, the district court administrator fills the role of chief executive officer carrying out the strategic vision of the president judge and board of judges and overseeing the day-to-day operations of the courts. The exact nature of the division of responsibilities will vary depending on the leadership style of the president judge.

Regardless of the specific division of responsibilities, however, communication and trust are essential elements of the president judge-district court administrator relationship. In addition, while not required, a common vision and philosophy are helpful as are a strong respect and rapport between president judge and district court administrator.

Information on the president judge's role and authority also can be found in the Pennsylvania Court of Common Pleas President Judge Desk Book, a copy of which has been distributed to each president judge. A copy of the Desk Book can also be obtained at the [Judicial District Operations secure webpage](#) (login required).

§ 0.03 INTERAGENCY RELATIONSHIPS AND COURT SERVICES

A. Introduction

Interagency relationships are critical to effective court management at the judicial district level as upon them rests the allocation of resources and the manner in which they are applied to related areas of court management. Since these relationships can impact any of the specific areas of court management dealt with in the remainder of this manual, they are discussed in this Introduction chapter.

Fundamental to the understanding of interagency relationships is recognizing that at all levels of government there exists a basic interdependence. All components of the governmental organization are in a state of constant competition for the basic resources without which they cannot function; physical, human and financial. The perceived need for these resources drives the conduct of the seekers, i.e. the service providers.

To understand interagency relationships, it may be helpful to view the reservoir of resources as being like a pond and each of the competing agencies as pebbles of diverse dimensions. It is easy to what to visualize what would happen if the pebbles are thrown into the pond at the same time. Each ripple would impact on, and interact with, all of the others. When the surface settled down, the resources would have been allocated, only to be disturbed again when unforeseen external forces, such as legislative mandates, regulatory requirements or citizen demands, require a review and perhaps reallocation of resources. This section assumes a static environment insofar as the allocation of resources is concerned.

In most counties, the executive and legislative functions are combined in the elected county commissioners. In home rule counties, the legislative functions are by charter delegated to some form of city (in the case of Philadelphia) or county council and the executive functions are

delegated to the Mayor (Philadelphia) or county executive. In non-home rule counties, the nature and extent to which executive functions are performed is determined by available resources and the predilection of elected officials to provide governmental facilities, equipment, manpower and services, by means of both public and private providers.

B. Types of Interagency Relationships

It is fundamentally important that court managers recognize the nature of interagency relationships, the nature of the dependency of one upon the other, and the manner in which these relationships are carried out. Interagency relationships exist independently of our intentions and tend to control our conduct by the way they are defined.

The nature of interagency relationships may be divided into three types: (1) dependent; (2) interdependent; and (3) independent. For purposes of this manual, the definition of each type of relationship is made from the perspective of the court and not the particular agency.

1. Dependent Relationships

A dependent relationship exists where the court relies upon the agency to provide the resources necessary to the court's effective functioning. Examples of dependency include the county commissioners, the agencies managed by the county government such as personnel, purchasing, data processing, finance and budget, facilities management, and the controller (included here because of its responsibility for independent fiscal oversight of all governmental functions). Examples of governmental resources for which the court must compete and for which it is dependent upon the local government to provide include space, equipment, centralized data processing, services, and human resources. In addition, the court is dependent upon the Administrative Office of Pennsylvania Courts (AOPC) for certain funding.

2. Interdependent Relationships

An interdependent relationship exists where the agency has an independent existence, the purpose of which is essentially to serve the court and which in turn is subject to a certain degree of court control. The court's needs determine the manner and extent to which services are to be provided. These agencies include the prothonotary, clerk of courts, register of wills, clerk of the orphans' court, sheriff and law library.

3. Independent Relationships

An independent relationship exists when it is perceived that the court could, or in some cases, should exist without, or independently of, the existence of the agency. These agencies include the district attorney, public defender, county prison, local bar association, and public or private legal services provided for the indigent. In addition, state executive branch regulations impact court services and operations such as those of the Pennsylvania Department of Transportation, Department of Public Welfare, Board of Probation and Parole, Juvenile Court Judges Commissions, to name a few.

Any discussion of the concept of independent interagency relationships must be prefaced by divorcing this concept from that involving the turf battles that have been fought over the years (*see e.g. Leahy v. Farrell*, 66 A.2d 577 (Pa. 1949); *Carroll v. Tate*, 274 A.2d 193 (Pa. 1971); *Beckert v. Warren*, 439 A.2d 638 (Pa. 1981), etc.), embracing such ideas as "co-equal coordinate branch of government," "independence of the judiciary," and "inherent powers of the courts." The judicial recognition of these concepts has resulted in a fundamental shift in the relationship of the three branches of government and the changing nature of these relationships is still in the process of evolution. *See State Assn. of County Commissioners v. Commonwealth*, 52 A.3d 1213 (Pa. 2012).

Independent interagency relationships may be characterized by the fact that these agencies are users of court services. The district attorney and public defenders are essentially public supported law firms that, as a part of the basic discharge of their primary responsibilities, use the court as the forum for serving the needs of their clients. The organized bar may, and ideally does, serve as a liaison between its members and the court. Providers of legal services to the indigent are similar in nature to the public defender and district attorney in accessing the forum of the court on behalf of their clients. It is fair to conclude that in the independent interagency relationship the agency is frequently dependent on the court as an essential attribute to the agency function.

C. Court Services

Every court system should be described by an organizational chart which may be used to define the parameters within which court management functions are carried out. The services provided directly by the court and district court administration are differentiated from those provided through interagency relationships by the extent to which control is or may be exercised by the court. Control relates to issues such as: (1) policy making; (2) program definition; (3) delegation of authority and responsibility for overall policy and program implementation; and (4) "hands on" execution of the policies and programs on a weekly, daily or hourly basis. If control of these issues is exercised externally or is shared with others, then they are not properly part of the table of organization and should be addressed separately. Within this structure, there are four basic types of services provided to or for the court: personal, administrative, departmental, and contracted/appointed judicial services. In addition, the court provides a unique service as part of its oversight responsibilities: promulgation of local procedural and administrative rules.

1. Personal Services

Types of personal services available to courts are judicial secretaries, law clerks and, in some jurisdictions, minute clerks, tipstaves (otherwise called bailiffs), or court officers. The selection and oversight is often the responsibility of an individual judge. Court reporters at times may also serve under the immediate supervision of an individual judge, and in some courts, may be on the personal staff of a judge.

2. Administrative Services

Administrative services include many of the subjects of the remainder of this manual, e.g. human resources, fiscal affairs, facilities and security, etc.

3. Departmental Services

Departmental services are those provided to the clients of the system to whom the court maintains an ongoing responsibility for oversight. Adult probation, juvenile probation, and domestic relations departments are directly responsible to the court for providing services pursuant to programs authorized by the court, which may be designed either internally or externally, and which may be subject to review by the court for their adequacy or effectiveness on an individual basis. An individual's failure to comply with the requirements of adult probation and parole programs is subject to review by the sentencing judge. The success of the program may be measured by the extent to which the adult probation department exercises its supervisory responsibility over its clients. The court determines the types of externally supplied client services that may be required to meet the needs of the juvenile probation clients and determines who will be the service providers. The extent of the effort to be expended to enforce the obligation of support for families by the domestic relations department will be defined by the court, which then also determines the human, physical, technological, and human resources necessary to deliver these services and to assure that the clients are adequately served.

4. Appointive Judicial Officers

Appointive judicial officers are defined by 42 Pa.C.S. §102, and augment important services that are or may be used by courts to reduce the level of judicial effort to manage a large number of cases of a somewhat specialized nature. This enables the court to address the higher volume, generalized types of litigation, which may require more immediate attention. Depending on the individual judicial district and the local legal culture, these quasi-judicial services may include: masters in divorce, masters in juvenile probation, child custody conference officers, boards of view, trustees, guardians for children and incapacitated persons, to name a few.

5. Promulgation of Local Rules

An important judicial service that is rarely discussed involves the promulgation of local rules of procedure and judicial administration as well as administrative orders. In the preceding paragraph, the term "local legal culture" was used. Most attributes of any culture—being the totality of relationships of the culture's population in action—defy any clearly written definitions. In a legal or judicial culture, local rules relating to practice and procedure before the court and other rules relating to the administration of the business of the courts provide a concrete standard by which the culture may be defined. There exists in each county in Pennsylvania a sense of provincial pride that is frequently reflected in the manner in which the court conducts this business. This provincialism determines the nature of the programs, policies and procedures that are to be implemented to carry out the mission of the court and drive the prioritization given to the allocation of resources required to meet the needs of the court.

The participation of external agencies in the development of these rules will further define the nature of the total local culture. The local bar and affected public and private agencies may provide important insights and input into the appropriateness of the devices being proposed

to meet selected challenges. Procedural rules and rules of judicial administration are effective tools to be used in insuring that local rules are appropriately reviewed by the Supreme Court Procedural Rules Committees for consistency with state rules, and that prior to the local rules' effective date, they be published in the Pennsylvania Bulletin so that the necessary public notice is provided. *See* Pa.R.J.A. 103. Local rules are discussed in § 5.10.

**§ 0.04 PENNSYLVANIA ASSOCIATION OF COURT
MANAGEMENT (PACM)**

The Pennsylvania Association of Court Management (PACM) is an association of court professionals “who develop and implement effective court management techniques, policies, and standards to improve the efficient and effective administration of justice in the Unified Judicial System of the Commonwealth of Pennsylvania [(UJS)] and assist in maintaining the institutional independence and accountability of the courts.” *See* PACM website at: <http://www.pacm.org/>.

PACM was “established to provide a professional organization through which its members may communicate with peers, judges, legislators, and others who share an interest in the effective administration of justice, to provide a forum for education, training and fellowship of its members, and to promote the professionalization of court managers throughout the Commonwealth of Pennsylvania.”

The PACM Canon of Ethics requires all members to: (1) comply with all provisions of the UJS Code of Conduct for Employees of the Unified Judicial System, as it may be revised and amended from time to time; (2) respect, support, study, and when necessary, work to improve federal and state constitutions, and other laws which define the relationships among public agencies, employees, and all citizens; and (3) accept as a personal duty the responsibility to keep up to date on emerging issues and to administer the courts with professional excellence, competence, fairness, impartiality, efficiency, and effectiveness. The PACM Canon of Ethics as well as the PACM bylaws can be found at the PACM website. Persons interested in becoming PACM members should send an email of interest to pacm@pacm.org.

CHAPTER 1: JUDICIAL RESOURCES MANAGEMENT

§ 1.01 PRESIDENT JUDGES: SELECTION; TRANSITION; SWEARING-IN; TEMPORARY INABILITY TO PERFORM DUTIES; RESIGNATION

A. President Judge Selection Process

The Administrative Office of Pennsylvania Courts (AOPC) notifies the judges of a court of the approaching end of the incumbent president judge’s term at least 30 days before it is set to end. Pa.R.J.A. 706(g)(1). The process for determining the successor president judge depends on the size of the court.

1. Courts with Seven or Fewer Judges

The president judge of a court with seven or fewer judges is the judge “longest in continuous service” on the court. Pa. Const., Art. V, § 10(d); 42 Pa.C.S. § 325(a); Pa.R.J.A. 706(a). In the event of a president judge’s resignation from the position of president judge, the judge next longest in continuous service becomes president judge. *Id.*; *see also* Pa.R.J.A. 706(e).

The seniority of elected judges is determined by their date of election if their service is continuous on the same court. Pa.R.J.A. 705(b). Any service by appointment, however, is not to be considered in determining seniority among elected judges. *Id.* The seniority of appointed judges during the period of their appointment is to be calculated from the date of appointment if the service is continuous on the same court. Pa.R.J.A. 705(c). The date of appointment is the date the governor’s nomination is confirmed by the Senate. A judge may waive seniority in writing. Pa.R.J.A. 705(h).

The Constitution states that if two or more judges assume office at the same time they shall cast lots to determine seniority and the results of this process shall be certified to the Governor as

soon as possible who shall issue their commissions accordingly. Pa.Const. Art V., § 10(e); 42 Pa.C.S. § 325(a); Pa.R.J.A. 705(d). This provision, however, should not be interpreted to favor an appointed judge over an elected judge as elected judges are to take precedence over appointed judges. *In re Determination of Priority of Commission*, 427 A.2d 153 (Pa. 1981); *see also* Pa.R.J.A. 705(a). In addition to sending the certification of seniority to the Governor, a copy must also be sent to the AOPC. Pa.R.J.A. 705(g). *See also* § 1.01(F). The president judge chosen by seniority serves until resignation, removal, death, or retirement.

2. Courts with Eight or More Judges

In courts with eight or more judges, the president judge is selected to a five-year term by vote of the members of the court. Pa.Const. Art V, § 10(d); 42 Pa.C.S. § 325(b); Pa.R.J.A. 706(b). Senior judges are not eligible to vote on the selection of the president judge. *See* 42 Pa.C.S. § 102 (stating that senior judges are included in the definition of judge except with respect to the power to select a president judge). A court electing a president judge shall do so at a meeting held for this purpose. Pa.R.J.A. 706(f)(1). The election procedures set forth in this section are also applicable to the selection of an acting president judge.

a. Place, date, and time of selection meeting

The meeting shall be held either in the chambers of the most senior judge who is entitled to participate in the election, or in a courtroom designated by said judge. *Id.* The meeting shall be held either at noon on the tenth day (excluding Sundays) preceding the expiration of the incumbent president judge's term, or on the tenth day (excluding Sundays) next following the death, resignation, removal, retirement, or reassignment of the outgoing president judge. *Id.*

A majority of the judges entitled to participate in the selection process may choose another time and place for the selection after giving all other judges entitled to participate in the selection at least 72 hours prior written notice of the time and place fixed for the meeting. *Id.*

If the vacancy occurs in an odd-numbered year between February 1st and the first Monday in January of the following year the selection meeting shall not be held before noon of the first Monday in January. *Id.* This provision is designed to allow judges elected during the odd-numbered year to participate in the president judge selection. A meeting, however, may be held during this period for the purpose of selecting an acting president judge. *Id.*

b. Selection meeting procedures

The senior most judge under the age of 70 pursuant to Pa.R.J.A. 705 shall preside at the selection meeting. Pa.R.J.A. 706(f)(2). Ballots containing the names of all the judges on the court shall be distributed. *Id.* The voting is to be by secret ballot with the judge receiving a plurality of the votes cast being declared president judge. *Id.*

c. Certification of results

The presiding judge then immediately certifies the result of the balloting on a form provided by AOPC for this purpose. Pa.R.J.A. 706(f)(3). If the presiding judge does not certify the results, any two judges present at the meeting can do so. *Id.* The certifying judge or judges shall immediately file a copy of the form with the clerk or prothonotary of the court and transmit the original, showing evidence of said filing, to the AOPC. *Id.* The AOPC keeps a record of the selection of president judges, their term, and all other pertinent information. Pa.R.J.A. 706(g).

d. Tie votes

In the event of a tie vote, the Supreme Court appoints as president judge for a five-year term one of the judges receiving the highest number of votes. Pa.R.J.A. 706(b). Upon receiving a certificate indicating a tie vote the AOPC shall forward it to the Supreme Court which will indicate its selection on the form and the AOPC will send a copy to the appropriate clerk or prothonotary's office. Pa.R.J.A. 706(f)(4).

e. Term of office

A president judge selected by vote serves for a five-year term unless he or she reaches the constitutionally mandated retirement age before then. Pa.Const. Art. V, § 16(b); Pa.R.J.A. 706(b). A president judge may not succeed him or herself after a full elected term unless there has been an intervening full elected term. Pa.R.J.A. 706(b).

3. Change in Size of Court

If the General Assembly increases or decreases the size of a court, it may change the way the president judge is determined or selected.

a. Increase from seven or fewer judges to eight or more judges

If a court increases in size to eight or more judges, the incumbent president judge previously determined on the basis of seniority shall continue in office for five years from the date the increase becomes effective. Pa.R.J.A. 706(c)(1). When the incumbent president judge vacates the office, whether through expiration of his or her term or otherwise, the office shall be filled by selection as set forth in Pa.R.J.A. 706(b) above.

b. Decrease from eight or more judges to seven or fewer judges

If a court decreases in size from eight or more judges to seven or fewer judges the incumbent president judge selected pursuant to Pa.R.J.A. 706(b) shall continue in office for the remainder of his or her unexpired portion of his or her term. Pa.R.J.A. 706(c)(2). Thereafter the

position of president judge shall be filled by seniority pursuant to Pa.R.J.A. 706(a) as discussed above.

B. President Judge Transition

1. Former President Judge’s Personal Staff

Once the president judge’s office becomes vacant by death, resignation, end of term of office, or removal, all personal staff members of the former president judge shall be reassigned to a general pool for 60 days for reassignment to other judges or termination. Pa.R.J.A. 706(b). Personal staff members are private secretaries, law clerks, tipstaves, and other personnel as a judge may be authorized to select and remove subject to standards and classifications established by the Supreme Court. 42 Pa.C.S. § 102. The term “personal staff” does not include employees in the district court administrator’s office.

Employees retained by an outgoing president judge who continues to serve as a judge shall be compensated at a level commensurate with other trial court staff members, taking into consideration their total years of service, where applicable. Pa.R.J.A. 706(b)(1). Employees of the outgoing president judge chosen by other judges on the court may be retained and shall be compensated at a level appropriate/commensurate with that position, taking into consideration their total years of service, where applicable. Pa.R.J.A. 706(b)(2).

2. Transition Issues

It is advisable for the outgoing president judge and district court administrator to confer with the incoming president judge to brief him or her on the various matters within a president judge’s authority and to answer any questions.

Ideally, the outgoing president judge would be available to mentor the new president judge during the transition and beyond, but this may not always be possible. In the event an incoming

president judge needs guidance, he or she can contact the AOPC's Director of Judicial District Operations and Programs, who can answer questions and locate a mentor president judge, if desired.

**Administrative Office of Pennsylvania Courts
Judicial District Operations and Programs Department
1515 Market Street, Suite 1414
Philadelphia, PA 19102
215-560-6300**

C. President Judge Swearing In

Although there is no constitutional, statutory, or rule-based requirement that a president judge take a separate oath of office before assuming his or her office, traditionally most president judges have chosen to do so. The oath and proceedings can follow that of a new judge, with appropriate adaptations.

D. President Judge Temporarily Unable to Perform Duties

If a president judge of a court with seven or fewer judges is temporarily unable to perform his or her duties, such duties shall be performed by the next most senior judge of the court as determined under Pa.R.J.A. 705 (see above). Pa.R.J.A. 706(e). If a president judge of a court with eight or more judges and with three or more divisions is temporarily unable to perform his or her duties, such duties shall be performed by the most senior administrative judge. Pa.R.J.A. 706(e)(1). On all other courts with eight or more judges, the president judge's duties will be performed by an acting president judge, either designated for a period not to exceed 30 calendar days by the president judge or selected by the court using the same procedures for selecting a regular president judge. Pa.R.J.A. 706(e)(2). If a president judge designates an acting president judge he or she shall execute a statement of designation on the form provided by the AOPC, file a

copy with the clerk or prothonotary of the court, and send the original, showing evidence of filing, to the AOPC. *Id.*

E. Resignation of President Judge

A president judge may resign the position and remain a member of the court. Pa.Const. Art. V., § 10(d); 42 Pa.C.S. § 325(d); Pa.R.J.A. 706(e). When the resignation becomes effective a successor will be determined or selected as provided above.

F. Judicial Accession

1. Post-Election/Appointment Matters

For retained common pleas judges the primary issue of concern following election will be the installation to commence his or her new term. For new judges and magisterial district judges (MDJ), however, there will be additional issues that the president judge and district court administrator should discuss to get the judge or MDJ and his or her chambers/office up and running quickly. The president judge or district court administrator should contact the new judge or MDJ as soon as possible to allow maximum time for these transition items to be addressed. Below are examples of some issues the president judge and district court administrator may wish to address with the new judge(s) or MDJ(s).

Sample Transition Issues to Address with the New Judge(s) or MDJ(s):

- **Judicial Issues:** casting lots for seniority between judges elected on the same date or between judges appointed on the same date (common pleas judges only); completion of AOPC paperwork; New Judge School or MDJ training; judge's responsibilities under Pa.R.J.A. 703 and 704; whether the new judge/MDJ will shadow another judge; divisional assignment; written policy materials; parking space; and schedule of judges' meetings.
- **Installation Issues:** commission; oath; date and time of ceremony; public notice of ceremony; and reception.
- **Staff Issues:** hiring of new judge's staff; salary board paperwork; personnel manuals, keys/access cards, and parking; orientation; including use of technological resources, passwords and time-keeping.

- **Facilities & Supplies Issues:** assignment of chambers; chambers access to electronic research resources; furniture; stationary; office equipment; and supplies.

2. Installation

a. Commission; Priority of Commission

Following certification of the election results or Senate confirmation (for judges or MDJs appointed to fill a vacancy), the Pennsylvania Department of State's Bureau of Commissions, Elections and Legislation (BCEL) will issue a commission to the judge. 71 P.S. § 279; 25 P.S. § 3160(b). No commission will be issued, however, unless the Department certifies that all campaign finance reports have been filed and any late fees paid. 25 P.S. § 3252.

When two or more judges are elected or appointed at the same time, priority of commission must be determined before the commission can be issued. Therefore, the new judges must cast lots "forthwith" before the president judge for priority of commission and seniority. Pa.R.J.A. 705(d). The results of this determination shall be certified by the president judge to the BCEL. The certification may be by way of a list of priority of commission on the court's letterhead with the president judge's signature mailed to the BCEL, 210 North Office Building, 401 North Street, Harrisburg, PA 17120. The list may also be sent by email to RA-Elections@pa.gov to expedite the process, however, the original should still be sent by regular mail.

The commission is proof of the judge or MDJ's right to exercise the authority of office for the applicable term. The term of an elected, reelected, or retained judge or MDJ¹ begins the first Monday in January following the year of election. The commission is to be filed in the recorder of deeds office of the county where the judge or MDJ resides.

¹ Retention elections apply only to appellate and common pleas judges, MDJ's must stand for reelection when their term expires. Pa.Const. Art V., § 15.

If there is a question about, or error on a commission, the president judge or district court administrator, should instruct the judge or MDJ to contact the BCEL at 717-787-5280.

b. Oath

Before a judge or MDJ can enter into the duties of the office following appointment or election (including retention election), he or she must take the oath of office and the refusal to do so will result in forfeiture of office. 42 Pa.C.S. § 3151. The oath is to be taken “before a person authorized to administer oaths” and is to be filed in the prothonotary’s office of the county where the oath is taken.

The BCEL will mail the oath of office form with the commission. The oath set forth in both the Constitution and statute is as follows:

I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States and the Constitution of this Commonwealth and that I will discharge the duties of my office with fidelity.

A newly-elected or retained judge or MDJ can be sworn in any time following certification of the election results although he or she would be unable to exercise the duties of office until the commission is filed and the term commences. A retained judge or reelected MDJ would not have this concern as he or she continues to exercise judicial authority under the previous term’s commission until the commission for the new term commences.

If the judge wishes to have a public swearing-in ceremony on a date later than the first Monday in January but wants to be able to begin work as soon as his or her term commences, a private swearing could be conducted on an earlier date. Taking the oath no later than the commencement of the term ensures the judge will be eligible for salary and benefits, including credit for years of service in the state pension plan, as soon as the commencement of the term.

Appointed judges do not begin receiving salary and benefits, nor have the authority to perform the duties of the office, until the oath is taken and filed, regardless of the date of appointment.

c. Certification of non-attorney MDJs

In addition to the commission and the oath, before a non-attorney MDJ can assume the powers and duties of his or her office, the MDJ must first take a course training and instruction and pass an examination. Once the MDJ successfully completes the course and examination, the AOPC will issue a certificate which the MDJ shall file in the Clerk of Court's office.

§ 1.02 Pa.R.J.A. 703 REPORTS OF JUDGES

A. Rule 703 Reporting Q & A

1. Who has to Report?

All common pleas judges and Philadelphia Municipal Court judges, active or senior, commissioned for six months or more. MDJs do not file Rule 703 reports. Judges who left the bench during—or at the conclusion of—the relevant reporting period, which is either July 1st - December 31st (for January reports) or January 1st - June 30th (for July reports), are still required to file a Rule 703 report since they were active during the reporting period.

2. What has to be Reported?

The judge has to report any matter submitted to the judge for decision that remained undecided for 90 days or more as of the last day of the relevant reporting period, either December 31st (January reports) or June 30th (July reports). A matter is not the case or proceeding itself but rather something within the proceeding that is awaiting decision by the judge (e.g. a motion, petition, nonjury decision, sentencing, opinion, etc.).

3. Where are Reports to be Filed?

The original report is to be filed with the AOPC's Department of Judicial District Operations and Programs, 1515 Market St., Suite 1414, Philadelphia, PA 19102. Judges are also required to send a copy of the report to their president judge and district court administrator. Judges serving in more than one district are required to file a consolidated report with the AOPC and send copies of the consolidated report to the president judge and district court administrator of each district in which the judge had matters submitted for decision during the reporting period.

4. When do the Reports have to be Filed?

Rule 703 requires reports be filed twice a year (January and July). The deadlines for filing the reports are January 20th and July 20th unless the deadline falls on a weekend or holiday, in which case it is the next business day.

5. How are Judges to Report?

Judges should use the Rule 703 report form provided by the AOPC. A copy of the report form is emailed to the judges with a reminder memo in December and June. The form is also available at <http://www.pacourts.us/forms/for-the-judiciary/703Reports@pacourts.us> or by email request to 703Reports@pacourts.us.

B. District Court Administrator's Role in the 703 Reporting Process

There are things a district court administrator can do to further the goals of Rule 703 by assisting in the reporting process and by using the process to aid in running the court.

1. Remind Judges that the Rule 703 Cut-off Date is Approaching

Although most judges are aware that the cut-off day for reporting (June 30th/December 31st) is approaching, a timely reminder will help judges, especially newer ones, organize their work in anticipation of the filing requirement.

2. Remind Judges that Rule 703 Reports are Due

The AOPC emails 703 reporting reminders to judges with in December and June. Nevertheless, an additional reminder by the district court administrator would be helpful.

3. Notify AOPC of Judges who are Unable to Submit a Report

If the district court administrator is aware that a judge will be unable to file a report due to illness, military deployment, death, retirement or other reason, he or she should contact the Department of Judicial District Operations and Programs. In the case of retired or deceased judges,

AOPC typically asks the president judge to supply a letter explaining the situation and stating that all matters assigned to the judge as of his or her retirement or death have been reassigned.

4. Track Compliance with Rule 703

Since Rule 703 requires judges to file copies of their reports with the president judge and district court administrator, compliance can be easily tracked. An additional reminder as the deadline approaches would help judges avoid late filing. An informal inquiry from the district court administrator prior to the deadline would likely be more appreciated by a judge than a letter from the AOPC after the deadline has passed.

In addition, the district court administrator should ensure that out-of-county judges who served in the district during the reporting period have filed a copy of their consolidated report with the president judge and district court administrator. It is helpful for someone in district court administration to be delegated to keep a record of senior judge usage so as to ensure that out-of-county judges comply with this requirement.

5. Use 703 Reports to Identify and Address Decisional Delay

The Note to Rule 703 explains that the purpose of requiring that copies of the report be filed with the president judge and the district court administrator is to better enable them to monitor their dockets to address problem areas promptly. The Note further states that if decisional delay continues, the president judge should take "strong corrective action" which may include: providing the judge with additional support or educational resources (as are reasonably available); restructuring judicial case assignments, non-decisional assignments or work schedules; or any other supervisory action designed to assist the judge in becoming current. Rule 703 can be a valuable tool for district court administrators to identify when decisional delay is occurring and take appropriate steps—in conjunction with the president judge—to address it.

C. Public Inspection of Filed Rule 703 Reports

Rule 703(F) requires that copies of all Rule 703 reports and any supplemental statements be made available by the Court Administrator of Pennsylvania and the district court administrator for public inspection and copying. Any request received by a district court administrator for a copy of a Rule 703 report can be forwarded to the AOPC's Department of Judicial District Operations and Programs for processing.

Questions about Rule 703 Reporting?

**Administrative Office of Pennsylvania Courts
Judicial District Operations and Programs Department
1515 Market Street, Suite 1414
Philadelphia, PA 19102
215-560-6300
703Reports@pacourts.us**

§ 1.03 Pa.R.J.A. 704 REPORTING OF JUDICIAL LEAVE

A. Overview

Rule 704 requires any commissioned common pleas judge or magisterial district judge (MDJ) who is unable to substantially perform his or her duties for 15 days or more in a 30 day period due to illness or physical or mental disability to provide a written report to the president judge of the judicial district and to the Court Administrator of Pennsylvania. The judge has a continuing obligation to report every 30 days while the condition persists and to report when he or she returns to work. Reporting is to be done on a standard form supplied by the AOPC's Department of Human Resources. Senior judges are not required to report under Rule 704.

The Chief Justice and Court Administrator of Pennsylvania receive a list of all judges on Rule 704 leave each month. When a judge is out for 90 days or more in a 12-month period the Court Administrator sends a memorandum to the Supreme Court for any appropriate action.

Rule 704 places certain responsibilities on the president judge of the judicial district. Since in reality some, if not all, of these duties may be delegated to the district court administrator they are discussed below. It is important to note that reports submitted pursuant to Rule 704 are confidential and are only to be disclosed to necessary judicial, administrative, or disciplinary personnel.

B. President Judge's Role

1. Ensure Compliance with Rule 704

A president judge receives the initial, subsequent (if any), and return to work reports submitted by the judges in the judicial district and should ensure that each report contains the required information and that the judge submitted a copy of the report to the Court Administrator of Pennsylvania. The president judge is required to notify a judge who has failed to submit a report

under Rule 704 by letter that a report must be submitted within 10 days. A copy of the reminder letter is to be submitted to the Court Administrator of Pennsylvania.

2. Report for Judges who are Unable to Submit a Report

If a judge's illness or disability is such that he or she cannot submit a report, Rule 704(B)(3)(b) requires that the president judge make a reasonable inquiry into the nature of the illness or disability and report the findings to the Court Administrator of Pennsylvania.

3. Placing Judges on Administrative Leave

If the president judge believes a judge is suffering from a mental or physical disability that renders him or her incapable of substantially performing his or her judicial duties and immediate action is warranted, the president judge, after consultation with the Court Administrator of Pennsylvania, may place the judge on administrative leave.

4. Request an Independent Examination

A president judge may request that a judge who is unable to substantially perform his or her duties submit to an independent physical, psychiatric, or psychological examination. The request shall be in writing to the Court Administrator of Pennsylvania and shall explain the reasons for the examination.

If the Court Administrator of Pennsylvania agrees that an examination is justified, the president judge shall inform the judge of the name of the physician, psychiatrist, or psychologist who will conduct the examination. The judge shall submit to the examination within 30 days and shall also waive confidentiality protections so that the president judge, Court Administrator of Pennsylvania, and Supreme Court can be provided the results of the examination.

Questions about Rule 704 Reporting?

**Administrative Office of Pennsylvania Courts
Human Resources Department
60 Commonwealth Avenue, 7th Floor
Harrisburg, PA 17120
717-231-3309**

§ 1.04 REGIONAL ADMINISTRATIVE UNITS

Regional administrative units can be a valuable source of additional judicial resources in your district. Regional administrative units, which are governed by Pa.R.J.A. 701(E), are combined judicial districts that make available common pleas judges and MDJs to judicial districts within the unit when judges are needed due to recusal, vacation, illness, etc. The regional unit can provide judicial coverage on short notice and without requiring the formal process and paperwork of requesting a senior judge from the AOPC.

In recusal cases where the judge or member of his or her immediate family is a party, the judge has a vital interest in the outcome, or the case is one of especially high publicity, the matter must still be referred to the AOPC for assignment of a judge. In addition, a regional unit cannot assign senior judges; these requests must also go through the AOPC.

In order to form a regional unit, the president judge must petition the Supreme Court for approval to combine with other judicial districts. Upon annual approval by the Supreme Court, temporarily assigned common pleas judges and MDJs exercise the same power and authority as vested in a common pleas judges or MDJs of that judicial district. Each regional unit must file a quarterly report with the AOPC for all assignments within the unit. The orders approving regional units are reissued without the units having to request them.

Each regional unit is administered by an administrative judge who manages the judicial assignments, organizes meetings, and submits quarterly reports to the AOPC, typically through his or her district court administrator. The administrative judges are chosen by the regional unit by whatever method it prefers. The scope of the administrative judge's duties varies from unit to unit. The AOPC reimburses a judge for any travel expenses incurred as part of a regional unit assignment subject to certain limitations.

In addition to sharing judicial resources, judges and district court administrators of most of the regional units meet twice a year to discuss matters of common interest. The agenda can include discussion of the impact of a new law or rule or a judge seeking input from others as to how to handle a difficult situation. The meeting can also include presentations from AOPC personnel or other groups like the Juvenile Court Judges Commission, Pennsylvania Coalition Against Domestic Violence, or Pennsylvania Commission on Crime and Delinquency.

Regional Units

1. Potter, Tioga, Bradford, Clinton, Lycoming, Union, Snyder, Northumberland, Montour, Columbia
2. Clearfield, Centre, Clinton, Blair, Mifflin, Huntingdon, Juniata, Cambria, Indiana, Perry
3. Warren, Forest, McKean, Venango, Clarion, Jefferson, Elk, Cameron, Armstrong
4. Bedford, Fulton, Franklin, Adams, York, Cumberland, Perry, Juniata, York
5. Wyoming, Sullivan, Susquehanna, Wayne, Pike, Monroe

Note: Juniata and Perry Counties are in both Unit 2 and 4 and Clinton is in both 1 and 2.

§ 1.05 SENIOR JUDGES AND JUDICIAL ASSIGNMENTS

A. Certification of Senior Common Pleas and Magisterial District Judges

According to Pa.R.J.A. 701(A), a former or retired common pleas judge or magisterial district judge (MDJ) must satisfy the following conditions for senior judge eligibility:

1. Served as a judge for an aggregate period of 10 years,
2. Not have been defeated for re-election or retention, and
3. On the commencement of senior service, must be at least 65 years of age or have a combination of years of service plus age that totals at least 70 for an MDJ and at least 80 for a court of common pleas judge.

In addition, any elected common pleas judge or MDJ required to retire at the end of the year in which he or she reaches mandatory retirement age with an aggregate of five years of judicial service is eligible for senior certification.

A judge seeking senior status must apply immediately upon retirement. Pa.R.J.A. 701(A)(3). "Thereafter, requests for senior status shall be granted only upon application to and approval of the Supreme Court, which approval will be granted only upon a showing of compelling and exceptional circumstances. *Id.*

A former or retired judge who satisfies the above requirements must file an application for certification with the AOPC and upon approval shall be eligible for judicial assignments. Senior judge certification is subject to the pleasure of the Supreme Court, which can rescind or revoke certification at any time at its sole discretion. Pa.R.J.A. 701(A)(7). Senior judges can serve a multitude of purposes as substitutes for commissioned judges, handling recusals, administering specialty courts, or helping the court to clear a backlog.

Senior status ends automatically on the last day of the calendar year that the judge turns age 78. Pa.R.J.A. 701(A)(4). In addition, even a judge who has not yet reached the 78-year age limit may not be certified for senior status for more than ten years, absent extraordinary circumstances. Pa.R.J.A. 701(A)(6). Where extraordinary circumstances exist, however, the Chief Justice may grant an extension of the ten-year certification limit. *Id.*

B. Request for Judicial Assistance

A president judge may request additional judicial assistance as necessary for the prompt and proper disposition of court business. A president judge or designee must submit by either written or electronic transmission a formal request for judicial assistance to the AOPC. An electronic request for judicial assistance is submitted through a secure program developed by the AOPC for this purpose.

Upon the recommendation of the Court Administrator of Pennsylvania, the Chief Justice may, by order, assign any retired, former, or active common pleas judge or MDJ to temporary service within the requesting judicial district. A judge temporarily assigned to another court may hear and determine any matter with like effect as if duly commissioned to sit in such court.

In 2018, the Supreme Court approved a two-year pilot program utilizing data from the Judicial Needs Assessment (JNA) to review requests from judicial districts for senior judges. Senior judges will be assigned to judicial districts demonstrating sufficient need.

The president judge of a district to which a common pleas judge or MDJ has been temporarily assigned shall certify to the AOPC, on a certificate completed and signed by the assigned judge, the number of days of temporary judicial service and the amount of any compensation to which the assigned judge is entitled. The compensation of assigned judges is a per diem amount authorized by law that includes necessary expenses for judges assigned to duties

outside of their judicial districts. For questions about senior judge requests contact the Judicial Assignment Administrator at 215-560-6300.

C. Expenses and Compensation of Senior Common Pleas Judges and Senior MDJs

Senior judges' travel expenses are to be listed on a Business Expenses Voucher (BEV) which is then attached to the Certification of Service form. Senior judges will be paid for in-court service in full or half day increments. If a senior judge spends three and-a-half hours or more on in-court activities in a day, he or she will be paid for a full day; otherwise the judge will be paid for a half day. In-court activity includes any gathering of the judge and all parties (or their counsel) irrespective of whether it took place in open court. A senior judge assigned to a case or cases out of his or her home county who travels to the assignment, but the case is not heard, shall be paid for a half-day.

Senior judges are also eligible to be paid for time spent working out-of-court (i.e., chambers activity) on the assignment. Compensation may be requested for the following activities: Pretrial Case Preparation (including reviewing files and motions); Case Activity (including correspondence, communication with counsel/*pro se* party concerning scheduling and/or prospects of settlement, legal research, and drafting orders); and Opinion Writing (including legal research and drafting of opinions). A time sheet for documenting out-of-court time will be provided to the senior judge. When completing the time sheet for out-of-court time the judge should list one of the aforementioned three categories under the heading "Activity" along with the date performed and the time spent on each. The out-of-court time is then totaled and on the Certification of Service, under Total Days of Service Worked in Chambers, divided by 7.

The senior judge should carefully review the pay sheet before signing as his or her signature is an attestation that the work for which payment is requested was performed on the dates listed.

The president judge's signature is a certification (see Pa.R.J.A. 701(C)(4)) that, to the best of the president judge's knowledge and information, the work for which payment is sought was completed and the time spent was reasonable and appropriate.

For questions about senior judge expenses and compensation contact the Judicial Assignment Administrator at 215-560-6300.

D. Change of Venue/Change of Venire

1. Governing Rules

Civil Actions: Pa.R.Civ.P. 1006(d)(2).

Criminal Actions: Pa.R.Crim.P. 584(a), (b) & (d).

2. General Instructions

Once the trial judge has granted the change of venue or change of venire request a certified copy of the order should be mailed to:

**Administrative Office of Pennsylvania Courts
Judicial District Operations and Programs Department
1515 Market Street, Suite 1414
Philadelphia, PA 19102
Attn: Judicial Assignment Administrator**

215-560-6300

Please keep in mind that in instances where counsel files a motion requesting both a change of venue and change of venire, the trial judge should grant one or the other, but not both, prior to issuing the order, as the Supreme Court is in no position to determine whether venue or venire would be appropriate.

The anticipated trial date should be tentatively scheduled for a minimum of one month in the future after the granting of the venue or venire motion by the trial judge, as most counties require at least one month lead time in order to summon their jurors. In addition, the tentative trial date should be somewhat flexible so that the accepting county can adequately comply with the request by supplying jurors and providing courtroom space.

At the Supreme Court's request, it is the AOPC's responsibility to secure the county which is to provide the jurors. Therefore, there is no need for the requesting county to make any inquiries in order to secure a county to accommodate a venue or venire motion.

For additional information on change of venue/venire, the AOPC's Judicial District Operations and Programs Department has prepared an information sheet on the subject which is available on the [Judicial District Operations secure webpage](#) (login required).

E. Assignments of Judges within the Judicial District

The president judge of a court having more than two divisions has the authority to make the following temporary assignments pursuant to Pa.R.J.A. 702(1) & (2):

- Initially assign each judge that is appointed or elected to fill a vacancy; and
- Assign judges from one division to another division of the court when required to expedite the business of the court.

The assignments are temporary until the Supreme Court approves the president judge's petition for permanency. The president judge can seek approval from the Supreme Court prior to or subsequent to the making of an initial assignment or re-assignment. Pa.R.J.A. 702(4). If the president judge makes the request after assignment or re-assignment, the petition shall be filed with the prothonotary within 10 days from the date thereof. The Supreme Court on its own motion

may make divisional assignments of judges as it deems appropriate. *Id.* A judge may not refuse an assignment. *In re Avellino*, 690 A.2d 1138 (Pa. 1997).

CHAPTER 2: HUMAN RESOURCES MANAGEMENT

Although the management of human resources in a judicial district is ultimately the responsibility of the president judge, depending on the position involved and the preferences of the president judge, the district court administrator or a deputy may have varying degrees of involvement in the process. In this chapter where references are made to responsibilities of the president judge, the reader should be aware that some of these may be delegated—to one degree or another—to district court administrators or their deputies or assistants.

§ 2.01 HIRING AND COMPENSATION

A. State Positions

1. Hiring

The president judge has the power to recommend the appointment of a district court administrator and deputy court administrators² who are state employees. State level positions are filled by the president judge or, in districts with administrative judges, by a majority vote of the president judge and administrative judges, with the written approval of the Court Administrator of Pennsylvania (Court Administrator). Pa.R.J.A. 503(b). After a six-month probationary period, a district court administrator or deputy court administrator may not be removed by a president judge without the prior written approval of the Court Administrator. *Id.*

The hiring process for state employees is outlined in the Hiring Packet which can be obtained from the AOPC's Human Resources Department. A copy of the Hiring Packet can also

² State-level administrators below the district court administrator may be known by other designations. For purposes of this chapter the term deputy court administrator is used to indicate any state employee administrator below the district court administrator level.

be found in Appendix 2.01-A. This copy is for illustrative purposes only—the president judge or district court administrator should always request a Hiring Packet from Human Resources when contemplating hiring to ensure that he or she has the most current version.

**AOPC Human Resources Department
601 Commonwealth Avenue, 7th Floor
Harrisburg, PA 17120
717-231-3309**

a. Hiring approval and starting salary

When filling a state position, the first step is to contact the AOPC’s Director of Judicial District Operations and Programs to gain approval to fill a vacancy or add a new position. A Hiring Packet will be sent at this time if one has not already been requested. The recommended starting salary range for the position should be discussed with the Director at this time as well. The Hiring Packet also contains Starting Salary Guidelines. Once approval to fill the vacancy is obtained, the hiring process can proceed. While the hiring is proceeding, the president judge may appoint an acting district court administrator or deputy without approval, however, an acting court administrator or deputy cannot be in place for more than six months without the written approval of the Court Administrator under Pa.R.J.A. 503(b).

b. Job description

At this time, a job description should be created for a new position or an existing position’s job description should be reviewed to see if it needs to be updated. An up-to-date, accurate job description is essential to both the hiring process and the post-hiring employment relationship. During the hiring process the job description is used to: classify the position for salary purposes; form the basis for interview questions; and make the ultimate determination of which candidate is

best suited for the job. After hiring, the job description will be the benchmark for employee evaluations and disciplinary actions.

The job description should list essential duties, responsibilities, and qualifications of the position and should list the employee's duties and how much time is to be spent performing each. The Hiring Packet contains information on creating or revising job descriptions. A copy of the new or updated job description must be sent to AOPC's Human Resources Department.

c. Candidate recruitment

Once approval to fill the position has been obtained and the job description has been created/updated, the AOPC Human Resources Department must be contacted for assistance in coordinating the posting and advertising of the position. The position can be posted on the Unified Judicial System (UJS) website, employment websites, or in local newspapers as appropriate. Although posting and advertising is encouraged, it is not required. If there is a candidate for the position who the president judge believes is ideally suited for it such that posting and advertising the position would be a waste of time and money, then posting is not required. In such a situation, the president judge or district court administrator is encouraged to contact the Director of Judicial District Operations and Programs for further guidance.

d. Interviewing

The president judge receives copies of each applicant's AOPC Employment Application and resume from AOPC's Human Resources Department. The resumes and applications should be screened to develop a list of candidates to interview. The questions asked during the interview will vary depending on the position being filled and should be designed to elicit sufficient information to determine if the candidate has the requisite skills and experience to perform the duties of the position. The questions should focus on the requirements of the position and how the

candidate's qualifications meet, or fail to meet, those requirements. A list of Sample Interview Questions can be found in the Hiring Packet.

The interviewer should be aware that there are certain questions that should never be asked of candidates as they may violate state and federal employment laws. In crafting interview questions, the Policy on Non-Discrimination and Equal Employment (Policy) and state and federal employment laws must be followed. The Hiring Packet also contains a list of acceptable interview questions.

e. Selection of final candidate

After the interviews are concluded, a final candidate should be selected and telephone reference checks should be conducted prior to recommending the candidate for the position. The telephone reference check is typically conducted by judicial district personnel. A Telephone Reference Check form with a list of questions is contained in the Hiring Packet. At this time the president judge should discuss the proposed starting salary offer with the Director of Judicial District Operations and Programs.

f. Conditional offer

Once the proposed starting salary has been approved, a verbal conditional offer can be extended to the selected candidate. The conditional offer should include the position title, compensation (both salary and retirement plan), overview of fringe benefits, and the UJS Code of Conduct. The AOPC's Human Resources Department can extend the conditional offer if desired or provide the appropriate offer letter. The Hiring Packet contains guidance on conditional employment offers.

g. Criminal history record check

If the conditional offer is accepted, a criminal history record check must be conducted. In order to conduct such a check, the applicant's full name, date of birth, and social security number are required. Since it is not proper to request such information prior to extending a bona fide offer, a conditional offer must be extended and accepted first. The criminal history record check can be conducted by judicial district personnel or by the AOPC's Human Resources Department upon request. Once the criminal history record check is satisfactorily completed, approval to extend a final offer must be obtained.

h. Request for approval to extend final offer

Approval from the Court Administrator must be obtained before a state position can be filled under Pa.R.J.A. 503(b). If approval is not obtained, additional candidates must be presented until approval is obtained.

The request for hiring approval should be addressed to the Court Administrator with copies sent to the Directors of Judicial District Operations and Programs and Human Resources. The request should contain the recommended starting salary, the candidate's resume and application, a summary of professional reference checks, the results of the criminal history record check, and any other materials necessary to support the recommended hiring. The Hiring Packet also contains information on Rule 503 Court Administrator approval and a sample letter requesting approval.

i. Final offer

After hiring approval is obtained a final written offer of employment can be made. The final offer must be in writing and at minimum include specific references to the position offered, the designated starting salary, the agreed start date, and compliance with the UJS Code of Conduct. A sample Final Offer of Employment letter can be found in the Hiring Packet.

The copies of the final offer and the candidate's acceptance should be sent to the AOPC's Human Resources Department. The Human Resources Department will then send the selected candidate a welcome letter and all necessary employment forms.

2. Compensation

Salaries for state district court positions are set forth under the District Employee Pay Plan. Each district position is assigned to one of eleven pay bands, the top of which is twice the amount of the bottom. The pay bands are designed to allow for salary growth within the position and the bands change with cost of living adjustments up to the cap. The maximum salary for this pay plan is equal to the current salary of a Court of Common Pleas Judge as of the effective date of a staff cost of living adjustment, minus ten-thousand dollars. Under the Pay Plan, the standard range for starting salaries is the first third of the designated pay band for the position being filled.

B. County Positions

1. Hiring

The hiring process for county positions is typically conducted by the president judge and/or district court personnel in conjunction with the county's human resources department. Although their involvement is not required in the county-level hiring process, the AOPC's Human Resources, Judicial District Operations and Programs, and Legal Departments are available to provide advice upon request.

Although the AOPC does not require drug testing for state positions, some judicial districts may require it for certain county positions. A judicial district, pursuant to its rights to hire, fire, and supervise court employees, whether paid from county or state funds (16 P.S. § 1620), does not have to comply with a county hiring policy requiring drug testing. If a judicial district is going to

test new hires, the judicial district must identify which positions require drug testing, have a written policy explaining the drug testing process, and all drug testing must be conducted following the conditional offer of employment.

If the president judge is seeking to create a new position, approval will have to be obtained from the county's salary board. Subsection 2.01(B)(2) below discusses dealings with the salary board.

2. Compensation

The compensation of all employees paid from the county treasury, including court employees, is set by the county salary board or, in Home Rule counties, by a different entity as designated in the Home Rule Charter. 16 P.S. §§ 1620, 4820. The salary board's approval is also required to create a new county position. The president judge submits a request for a salary increase or to create a new position to the board. 16 P.S. §§ 1624, 4824. The president judge sits on the salary board when it considers an increase in court positions or an increase in salary of any court employees. 16 P.S. §§ 1625(b), 4825(b). The salary board considers the request and, ideally, approves the position or sets the salary. 16 P.S. §§ 1620, 1623, 4820, 4823.

If the salary board denies the salary request or request to create a position, the president judge may have to file a mandamus action to compel the creation of or funding of the position. *Beckert v. Warren*, 439 A.2d 638 (Pa. 1981). When urging the court to exercise its inherent power, the plaintiff has the burden of proving that its funding requests are reasonably necessary. *Lavelle v. Koch*, 617 A.2d 319, 322 (Pa. 1992). Before taking such a step, the president judge is encouraged to contact the AOPC's Judicial District Operations and Programs or Legal Departments for further guidance.

Judicial District Operations and Programs Department and Legal Departments
1515 Market Street, Suite 1414
Philadelphia, PA 19102
215-560-6300

§ 2.02 DISCIPLINE AND TERMINATION

A. State Positions

1. Conduct-related discipline

Employees of the UJS are expected to comply with all state and federal laws, the Code of Conduct for Employees of the Unified Judicial System of Pennsylvania (Code), the Non-Discrimination Policy, the AOPC's Personnel Policies outlined in the Personnel Handbook, the AOPC's Dress Code, and all rules and regulations governing their judiciary employment. *See* https://onlineservices.pacourts.us/ASAP_Web/HRPersonnelPolicies.ashx (requires login to AOPC Online).

A president judge may initiate disciplinary actions against an employee within their jurisdiction. When it is determined that corrective action is needed the president judge and district court administrator should work with the AOPC in addressing an employee's performance. Disciplinary actions may include, but are not limited to: a verbal warning; written reprimand; probation; suspension; demotion/reclassification; and termination. Documentation of the issues and action plan is strongly recommended.

Typically, disciplinary actions are progressive in nature; however, disciplinary actions are not required to be progressive. Disciplinary actions that would result in an involuntary demotion, reclassification, or termination of a judicial district employee must be approved by the Court Administrator pursuant to Pa.R.J.A. 503(b).

a. Suspension

Employees may be suspended with or without pay depending on the nature of the action. An employee placed on suspension with pay pending a determination of the need for further disciplinary action will have no change in his or her existing medical insurance or compensation.

An employee who is relieved of his or her duties as a disciplinary action will be suspended without pay. An employee who is placed on disciplinary suspension without pay may or may not have a change to his or her medical insurance depending on the nature of the suspension.

b. Termination

An employee may be terminated when rehabilitative discipline would be ineffective or inappropriate. The termination of a state employee must be reviewed and approved by the Court Administrator and the AOPC Legal Department under Pa.R.J.A. 503(b). When considering termination it is necessary to have input from the AOPC's Judicial District Operations and Programs, Legal, and Human Resource Departments. It is vital to include the AOPC in the earliest stages of the termination process in order to ensure that problems are well documented, that disciplinary actions are consistent with past practice, and that possible legal risks are analyzed.

c. Performance evaluations and discipline

An employee's performance evaluation is one of many tools that can be used to improve an employee's performance. Subsection 2.03(A) below contains a discussion of employee evaluations. It is important that a supervisor conduct performance evaluations in order to review and set expectations, identify deficiencies, and document problems. Performance evaluations for state employees are distributed each year in November and early December for completion by the end of January.

d. Gross misconduct

The following are considered acts of gross misconduct: abandonment of position; a finding of "guilty" or a plea of guilty or nolo contendere on criminal charges related to their UJS employment; State Employees' Retirement Board's denial or termination of an individual's state

pension under the authority granted by the Public Employee Pension Forfeiture Act; or other circumstances as determined by the Court Administrator.

2. Performance-related discipline

When a state district employee is underperforming, unless the underperformance is so fundamental or so chronic that attempts to improve it would be a waste of time, the goal is to improve the employee's performance as opposed to punishing the employee. In those instances, you should consult AOPC Director of Judicial District Operations to discuss termination.

For most cases, however, attempts should be made to address the performance issues. When addressing performance issues it is important to do the following: identify deficiencies; outline an improvement plan; allow time for improvement; keep detailed documentation; and discuss progress on a regular basis. AOPC Human Resources will work with you to craft an improvement plan and to monitor the progress. These improvement plans are tantamount to probationary status in that the employee is placed on notice that if they do not address the deficiencies outlined in the plan, they will be terminated. The length of each plan will vary from a few weeks to several months, depending upon the nature and severity of the deficiencies. It is very important to follow up on any performance improvement plan.

B. County Positions

The foregoing AOPC procedures only apply to state employees. Although the AOPC can provide guidance concerning county employees, a district court administrator should follow his or her court's policies when disciplinary issues arise with these employees. Since the court is a separate branch of government, its policies need not follow those of the county. Ideally, the court

should have its own personnel policies. If the court does not have its own policies, the president judge may—but is not required to—follow the county’s disciplinary policies.

§ 2.03 PERSONNEL MANAGEMENT

A. Employee Evaluations

Employee performance evaluations are an important means of establishing goals for employees, rewarding good performance, identifying poor performance, and documenting any problems with the employee. It is important that evaluations be conducted in a timely manner and be as detailed, accurate, and specific as possible. Appendix 2.03-A, Employee Evaluations, contains Supervisor Guidelines for evaluations.

The district court administrator will serve as the evaluating authority for all subordinate state positions in his or her district, and the reviewing authority for such evaluations will be the president judge. The president judge will serve as the evaluating authority for the district court administrator in his or her judicial district, and the reviewing authority for such evaluations will be the Court Administrator of Pennsylvania. Although evaluations are only done once a year, the supervisor should communicate regularly with the employee during the evaluation period and keep notes on their performance to help identify positive and negative issues to identify when it is time to conduct the evaluation.

Starting January 1, 2022, performance evaluations are completed entirely online. An evaluating supervisor will receive an email reminder from AOPC's Human Resources Department approximately 30 days before an employee's evaluation due date containing a link to PA Courts Online Services. The interface will guide the evaluator through the evaluation form and prompting him or her for any information that is skipped. The evaluation can then be Submitted for Review, if there is someone above the evaluator to review or Submitted for HR Review (president judges will select this option). As with paper evaluations, there is an opportunity for the employee and evaluator to discuss the evaluation and for the employee to sign.

The evaluator should start the evaluation process by reviewing goals from the previous evaluation, notes on the employee's performance during the evaluation period, and the employee's job description. The comments in the evaluation should be related to the employee's duties as set forth on the job description and be consistent with the rating given. The evaluation also should be based on the employee's performance during the current evaluation period and not on past performance or expected future performance. Examples should be given to support the rating and comments.

AOPC Human Resources will calculate the employee's overall rating and forward the evaluation to the Director of Judicial District Operations and Programs for review and approval. If the employee receives a dramatically high rating the evaluation will also be forwarded to the Chief Justice for review and approval. Once the evaluation has been approved, Human Resources will calculate the amount of the merit pay award.

B. Labor Relations

1. Generally

The county commissioners have the sole power and responsibility to represent judges of the courts of common pleas before the Pennsylvania Labor Relations Board or in collective bargaining negotiations involving court employees receiving compensation from the county treasury. 16 P.S. § 1620. The court, however, remains the employer regardless of the party that pays or negotiates salary. *Sweet v. Pennsylvania Labor Relations Board*, 322 A.2d 362, 364 (Pa. 1974); *see also* 16 P.S. § 1620 (stating that the exercise of representation by the county commissioners does not affect the court's hiring, discharging, or supervising rights and obligations with respect to court employees).

2. Public Employee Relations Act

The Public Employee Relations Act (Act 195) promotes orderly and constructive relationships between public employees and their employers. 43 P.S. §§ 1101.101-2301. Court employees have the right to organize and bargain collectively under the Act. *Teamsters Local 115 v. Pennsylvania Labor Relations Board*, 619 A.2d 382, 385 (Pa. Cmwlth. 1992) (en banc). The interference or restraint of the employees' right to organize and bargain collectively constitutes an unfair labor practice according to 43 P.S. § 1101.1201(a)(1). *Teamsters Local 115*, 619 A.2d at 388. The judiciary cannot terminate court employees where its sole motivation is to prevent organization and bargaining under Act 195. *Id.* at 389.

A court employee's right to organize and bargain collectively under Act 195, however, may be limited by the Act's definition of "public employee." 43 P.S. § 1101.301(2). Under the Act, a "confidential employee" is excluded from the definition of "public employee," and may not be included in a collective bargaining unit. *Id.* The Pennsylvania Supreme Court has ruled that judicial secretaries and tipstaves are considered "confidential employees" and thus are not included in the bargaining unit. *Id.*; *County of Lehigh v. Pennsylvania Labor Relations Board*, 489 A.2d 1325, 1329-30 (Pa. 1985); *Commonwealth ex rel. Gallas v. Pennsylvania Labor Relations Board*, 636 A.2d 253 (Pa. Cmwlth. 1993), *aff'd*, 665 A.2d 1185 (Pa. 1995).

Act 195 permits employees directly involved with and necessary to the courts to form separate homogenous employee organizations. 43 P.S. § 1101.604(3). When determining who can join a bargaining unit, the Supreme Court performs an individualized analysis of whether bargaining by the proposed unit would impact the common pleas court's ability to hire discharge, and supervise employees. *Commonwealth ex rel. Nichols v. Pennsylvania Labor Relations Board*,

681 A.2d 157, 160 (Pa. 1996); *see also Commonwealth ex rel. Bradley v. Pennsylvania Labor Relations Board*, 388 A.2d 736, 739-40 (Pa. 1978).

3. Collective bargaining

The county commissioners must consult with the president judge during collective bargaining to ascertain the effect proposals being negotiated might have on the courts. *County of Lehigh v. Pennsylvania Labor Relations Board*, 489 A.2d 1325, 1329 (Pa. 1985); *see Troutman v. Pennsylvania Labor Relations Board*, 735 A.2d 192, 195 (Pa. Cmwlth. 1999), *appeal denied*, 757 A.2d 937 (Pa. 2000). A president judge and district court administrator should conduct a careful review of proposals to determine if any would affect the court's ability to hire, fire, and supervise its employees. If contractual terms exist which impair the court's ability to hire, fire, and supervise, and thereby impair independence, those terms must be declared void. *Lehigh*, 489 A.2d at 1330; *see also Eshelman v. Commissioners of the County of Berks*, 436 A.2d 710, 712 (Pa Cmwlth. 1981) (en banc), *aff'd*, 466 A.2d 1029 (Pa. 1983).

Since there is risk and expense involved in litigating the unconstitutional provisions of a contract after the fact, a president judge should never agree to negotiate away the inherent powers of the judiciary and should oppose provisions that diminish the court's ability to hire, fire, and supervise.

4. Labor impasses

Strikes by employees directly involved with and necessary to the functioning of the courts are prohibited at any time. 43 P.S. § 1101.1001. If after a reasonable period of negotiation a dispute or impasse exists, the parties may voluntarily submit to mediation but if no agreement is reached within twenty-one days after negotiations have commenced, but in no event later than one hundred and fifty days prior to the "budget submission date," and mediation has not been utilized

by the parties, both parties shall immediately request the service of the Pennsylvania Bureau of Mediation. 43 P.S. § 1101.801. When court employees and employees directly involved with and necessary to the functioning of the courts have reached an impasse in collective bargaining and mediation the dispute shall be submitted to binding arbitration. 43 P.S. § 1101.805.

5. Pennsylvania Labor Relations Board and court employee terminations

The Pennsylvania Labor Relations Board (PLRB) does not have the power to make binding determinations concerning the termination of a court employee. *Beckert v. American Federation of State, County, and Municipal Employees*, 425 A.2d 859 (Pa. Cmwlth. 1981) (en banc), *aff'd*, 459 A.2d 756 (Pa. 1983). The selection, supervision, and discharge of a court appointed employee rests with the judiciary. An agreement between the union and the county commissioners cannot validly give a court employee a right to have his or her discharge reviewed by a non-judicial branch of the government. *Id.* at 863. The president judge should be aggressive in resisting the PLRB's assertion of jurisdiction and advocate that the county do likewise.

C. Code of Conduct for Employees of the Unified Judicial System

1. Purpose and applicability

The Code of Conduct³ is designed to ensure that employees' conduct "inspires public confidence and trust in the courts and conveys the values of impartiality and fairness that promote the integrity and work of the Unified Judicial System." *See* Code of Conduct for Employees of the Unified Judicial System, at 1 (revised January 2019). The provisions of the Code apply to all state court employees and county employees under the supervision and authority of the president judge.

³ The Code of Conduct discussed herein is the version effective January 1, 2019.

A copy of the current Code is contained in an appendix to the Personnel Policies of the Unified Judicial System which can be accessed utilizing the Online Services webpage at https://onlineservices.pacourts.us/ASAP_WEB/Login.aspx. Once logged in you can access the personnel policies.

2. Summary of the Code

The Code encompasses such subjects as confidentiality, conflicts of interest, partisan political activity, personal relationships and activities, workplace conduct, and employees' duty to report. Labor and employment law are constantly evolving thus it may occur that provisions of the Code appear to conflict with emerging legal principles. If the district court administrator is concerned that enforcement of a provision of the Code might conflict with an emerging legal principle he or she should contact the AOPC's Legal Department for guidance at 717-231-3300.

a. Confidentiality

Court employees are required to safeguard confidential information acquired in the course of their employment and not disclose or use it for any purpose unconnected with their duties. Confidential information is defined by the Code as information required to be kept confidential by federal or state law, court rule or order, or administrative regulation, policy, or directive.

The work product of former employees is also to remain confidential. A former employee may take copies of written materials in which he or she participated if their supervisor allows but may not release these to a third party without the written consent of the court. Work product does not include documents that are of public record. In the event a former employee violates this provision, the president judge or district court administrator should contact the AOPC's Legal Department for guidance at 717-231-3300.

b. Conflicts of interest and related prohibitions

Court employees are forbidden by the Code from engaging in conduct that represents a conflict of interest, undue influence, favoritism, or the appearance of any of these. Specific conduct addressed by the Code includes: soliciting/ accepting anything of value from a person or entity doing or seeking to do business with, or having an interest in a matter before, the court; soliciting/accepting additional compensation or anything of value for performance of official duties and responsibilities; allowing family, social, or other relationships to influence, or appear to influence, their official conduct or judgment; complying with the UJS's Policy on Non-Discrimination and Equal Employment Opportunity (*see* § 2.03(D) below), Rules of Judicial Administration, and applicable state and federal laws and avoiding favoritism in employment decisions; using resources, employees, property, facilities, equipment, time, and funds under their control to improperly benefit themselves or any other person; and participating in any court-related or other work-related matter in which they have more than a minimal personal or financial interest.

In the event a conflict of interest arises, an employee is required to immediately advise his or her supervisor and if the supervisor determines that a conflict exists, the employee is required to abide by any employment restrictions that are necessary to address the conflict.

c. Political activity

Employees governed by the Code are prohibited from engaging in political activity that is "inconsistent with the independence, integrity, or impartiality of the Judiciary." Code, at § V. The president judge is responsible for enforcing the prohibition against certain political activity. The AOPC is charged with providing regarding the political activity policies.

d. Personal relationships and activities

The Code mandates that court employees' personal relationships and outside activities do not detract from the impartiality of the judiciary or interfere with the performance of their duties or the functioning of the workplace. Court employees can serve as officers, directors, trustees, or non-legal advisors of educational, religious, charitable, fraternal, social, or civic organizations and may solicit funds for such organizations provided the name and prestige of the court are not used in the solicitation and funds are not knowingly solicited from parties or attorneys likely to come before the court.

Court employees are permitted by the Code to write, lecture, and speak on legal and non-legal subjects so long as such activities do not detract from the impartiality of the court or interfere with the performance of their official duties. Court employees may not, however, state personal opinions (except to other court employees) about any legal or administrative matter pending before any court or UJS entity if the opinion might reasonably be construed as representing the official position of the employee, the court, a judge, court-entity, or another employee.

The Code prohibits court employees from engaging in financial or business dealings or other personal activities that may detract from the impartiality of the courts, interfere with their official duties, or exploit their position. Court employees may, however, engage in outside employment or commercial activity provided it does not interfere with their official duties. Such activities must, however, be reported in writing in advance to the employee's supervisor except that business transactions that are strictly personal, minor, or incidental need not be reported.

The Code states that prior to engaging in outside activity that involves the practice of law, the legal system, or the administration of justice, an employee is required to consult with his or her supervisor to determine if proposed activity is consistent with the Code. By Supreme Court order of December 11, 2014 (referenced in the Code), however, all law clerks are prohibited from

appearing as counsel in the division or section of the court where they are employed or where the judge by whom they are employed serves. If the court does not have formal divisions or sections, the clerks are barred from appearing in the court itself.

By Supreme Court order of December 29, 2015 (referenced in the Code) all attorneys employed by the UJS are prohibited from appearing as counsel (except *pro se*) in the division or section of the court in which they are employed. If the court does not have formal divisions or sections, or if the attorney is not employed within a division or section, the attorney is prohibited (except acting *pro se*) from appearing as counsel in the court itself. The Personnel Policies of the Unified Judicial System also place restrictions on the practice of law on state staff.

The Code also states that court employees may not require, request or accept the offer of any subordinate employee to perform personal tasks.

e. General standards of conduct

Court employees are required to conduct themselves in an appropriate and lawful manner and adhere to all workplace policies including the Standards of Workplace Conduct outlined in the Code. The Standards govern employees' interactions with co-workers, superiors, subordinates, and the public as well as personal behavior.

f. Duty to report

Court employees are required to report any attempt by anyone to induce them to violate the provisions of the Code or any other policy of the UJS to their immediate supervisor. An employee who is arrested, charged or convicted of a crime is obligated to report this fact to his or her immediate supervisor at the earliest reasonable opportunity. An exception to this requirement exists for summary traffic offenses that do not hinder or prevent performance of the employee's duties.

3. President judge responsibilities

The Court Administrator, on behalf of the Supreme Court, is responsible for disseminating and implementing the Code for state court employees but the president judge, as supervisor of these employees, should notify the AOPC where there are issues with a state employee. The president judge of each judicial district is responsible for implementing the guidelines for all county employees governed by the Code.

If a violation of the Code is suspected, the president judge or a designee may need to conduct a fact-finding investigation to determine if a violation has occurred. The Code does not designate a specific investigatory procedure that has to be followed. The fact-finder should gather all sides to the story, interview witnesses, gather evidence, and take any other actions to gather information necessary to determine if a violation has occurred.

Court employees who fail to follow the standards of conduct in the Code are subject to disciplinary action up to and including termination. The disciplinary policies for state employees are discussed in the Personnel Policies of the Unified Judicial System, https://onlineservices.pacourts.us/ASAP_Web/HRPersonnelPolicies.ashx (requires login to AOPC Online). The president judge is responsible for designating the applicable disciplinary policies for county employees.

As previously stated, the president judge is responsible for enforcing the prohibition against prohibited political activity. A court employee engaging in prohibited political activity is required to cease the activity immediately or be terminated from employment. If the employee becomes a candidate for public office, he or she shall be terminated effective at the close of business on the first day of circulating petitions for that office.

D. Non-Discrimination and Equal Employment Opportunity Policy

1. Purpose and applicability

The Policy prohibits discrimination and harassment in a court facility. The Non-Discrimination and Equal Employment Opportunity Policy can be accessed through the Personnel Policies at https://onlineservices.pacourts.us/ASAP_Web/HRPersonnelPolicies.ashx (requires login to AOPC Online). The Policy defines a court facility as “[a]ny building or office serving as a workplace for Personnel of the System, Supreme Court Boards and Committees, and/or Related Staff; and any UJS-related building or office in which Court Users conduct business with the UJS.” All personnel of the system, Supreme Court Boards and Committees, and related staff must comply with the Policy.

The Policy defines personnel of the system as judicial officers, personal staff, administrative staff, and central staff. Related staff are all individuals employed at public expense who serve the UJS other than personnel of the system. Related staff includes district attorneys, public defenders, sheriffs and others who serve process and enforce orders, registers of wills, prothonotaries, clerks of courts, clerks of the orphans court, coroners, jury commissioners, probation officers, and personnel of these offices.

2. Summary of the Policy

At the judicial district level, the Policy prohibits discrimination by personnel of the system or related staff based on race, color, sex, sexual orientation, national origin, age, disability, or religion in any employment-related or court-related action. The Policy also prohibits sexual, racial, or other harassment. To engage in such prohibited conduct constitutes misconduct warranting appropriate disciplinary action.

The Policy also prohibits retaliation against anyone who complains about discrimination or harassment, files a discrimination or harassment complaint, or cooperates or assists in the

investigation of a complaint. Retaliation is considered misconduct warranting disciplinary action. *See also* § 2.03(E)(2)(f) below for further discussion of retaliation.

3. President judge responsibilities

President judges through their district court personnel are responsible for implementing the Policy in their judicial districts. Judicial officers and managerial and supervisory personnel of the system are required to take appropriate measures to ensure that prohibited conduct does not occur or is properly reported if it does occur. Such officials who observe or have reason to believe that prohibited conduct has occurred are required by the Policy to: “(1) take immediate action to terminate any ongoing harassment/discrimination if they are reasonably able to do so; or (2) immediately report such harassment/discrimination, if possible, as described in the UJS Non-Discrimination and Equal Employment Opportunity Complaint Procedures.”

President judges should ensure that copies of the Policy are distributed to all newly hired district personnel and periodically redistributed as a reminder. The Policy is to be posted prominently in a visible location in all court facilities. The AOPC monitors compliance with the Policy in UJS offices that employ personnel of the system. As part of this monitoring AOPC Human Resources collects statistics on complaints made under the Policy and distributes a report on these statistics annually to president judges.

a. Investigation and adjudication of complaints

Complaints of discrimination or harassment are to be fully investigated and adjudicated by authorities designated in the UJS Non-Discrimination and Equal Employment Opportunity Complaint Procedures (Complaint Procedures) whether the complaints are made by employees or court users. The Policy defines a court user as including, but not being limited to, “attorneys, applicants for employment, litigants, witnesses, jurors, and court volunteers.”

The Complaint Procedures state that if the complaint involves allegations of discrimination or harassment by a common pleas judge, a magisterial district judge, or personnel of the system it shall be investigated by the district court administrator or by an alternate authority appointed by the president judge.

When the investigation is concluded, the Complaint Procedures require that the investigating authority send a report summarizing his or her findings to the president judge for review. The president judge makes the final determination as to whether a violation of the Policy occurred, did not occur, or the findings are inconclusive. The complainant and accused are to be informed in writing of the results and any disciplinary or remedial actions that may be taken. Matters involving complaints against attorneys or judges may be referred to the Disciplinary Board or JCB for further investigation.

Allegations against a president judge will be investigated by an authority appointed by the Court Administrator. The Complaint Procedures require that the findings be submitted to the Court Administrator who will make the final determination as to whether the Policy has been violated. The complainant and accused will be informed in writing of the results and any disciplinary or remedial actions that may be taken. The matter may also be referred to the JCB for further investigation.

Although the time for completing the investigation and findings will vary depending on the circumstances and complexity of the matter, the Complaint Procedures state that every effort should be made to resolve the allegations as expeditiously as possible. Complaints are required to be investigated in as confidential manner as possible. All individuals involved in the investigation (e.g., complainant, accused, witnesses, persons interviewed) are to be directed to refrain from sharing information, including the identity of the complainant, with anyone other than the

investigators. All persons contacted during the course of the investigation are to be advised that all parties are entitled to respect and confidentiality and they are not to share information related to the case.

b. Disciplinary or remedial actions

Violations of the Policy may result in disciplinary action as provided in the policies governing the accused's employment. In addition, the Policy requires that appropriate remedial actions be taken to remedy the complaint and prevent future violations. Judicial officers or attorneys found to have violated the Policy may also be subject to action by the Judicial Conduct Board and Court of Judicial Discipline or Disciplinary Board, respectively.

c. Related staff

A copy of the Policy should be provided to the chief official of each related staff office for distribution to all of the office's employees. If personnel of a related staff office engage in prohibited conduct they shall be reported to the chief official of their office. The Supreme Court expects related staff offices to take discrimination and harassment complaints seriously and properly investigate and adjudicate them and apply appropriate remedial or disciplinary action. Each office employing related staff is also expected to monitor and enforce the Policy by developing administrative policies and procedures, collect data and statistics, and develop educational and training opportunities and materials.

Any related staff serving the UJS who are found to have violated the Policy, impeded an investigation, or retaliated against an individual in violation of the Policy, may be subjected to appropriate remedial or disciplinary actions as provided in the policies of the related staff office.

E. Selected Employment Law

Federal and state laws protect classes of employees from unlawful discriminatory practices in the workplace. The president judge's and district court administrator's primary objective should be to avoid or minimize these types of discriminatory claims by having individuals well versed in anti-discrimination laws when supervising, communicating with, hiring, promoting, disciplining, and terminating employees. If, despite these preventative measures, a discrimination claim is made the district court administrator should take immediate action to investigate and remediate the claim.

Tips for Handling Discrimination Claims:

- Address and report all complaints relating to harassment and discrimination in the workplace (even if you believe the original complaint has no merit).
- Consult with the AOPC Human Resources and Legal Departments
- Guarantee confidentiality
- Document, document, document
- Review employee's history of discrimination complaints prior to changing his/her job status (transfer, demotion, termination, etc.)
- Ensure that no retaliation is occurring

1. Title VII of the 1964 Civil Rights Act (Title VII), 42 U.S.C. §§ 2000 *et seq.*

Title VII prohibits intentional discrimination of employees, as well as policies and practices that have the effect of discriminating, based on race, color, religion, sex or national origin. Policies and practices that do not appear on their face to impact a protected class but in application have a disparate impact on those in a protected class will most likely violate Title VII. The following is an example of a policy that has a disparate impact on women: an employer requiring all job

applicants to meet a minimum height requirement of five feet and ten inches for a clerical position. The policy has a disparate impact on women due to the fact that it excludes far more women than men. Disparate impact does not center on the discriminatory intent, as disparate treatment does, but rather on the discriminatory consequences.

Under Title VII, religion is the only protected class that requires an employer to make a reasonable accommodation for an employee. For example, if an employer requires all employees to take their lunch break at 12:15 the policy could create a disparate impact if employees of a particular religious belief are required to perform daily meditation for ten minutes at noon. An employer is required to reasonably accommodate an employee's religious observance or practice, unless doing so would impose undue hardship. Typically, an earlier lunch break will not cause an undue hardship.

Title VII protects individuals against employment discrimination on the basis of sex. For example, an employer cannot pay female employees less because of their gender nor can an employer refuse to promote male employees because of their gender. Title VII also offers protection to individuals who encounter sexual harassment and pregnancy- based discrimination. Sexual harassment will vary from case to case and includes same sex harassment. Although there are no definitive acts or words, by either a supervisor or a co-worker, that define the term sexual harassment, this type of discrimination occurs when there is the creation of a hostile work environment for the employee. The following are just some examples of sexual harassment: a supervisor asking a subordinate for sexual favors in return for a promotion, offensive remarks about a person's sex, or physical harassment of a sexual nature.

The prohibition against pregnancy-based discrimination ensures that pregnancy, childbirth, and related medical conditions be treated in the same manner as any other temporary medical

illness or condition. Additionally, an employer cannot refuse to hire a woman based solely upon her pregnancy.

The Lilly Ledbetter Fair Pay Act of 2009 prohibits wage discrimination between men and women in the same establishment who perform jobs that require substantially equal skill, effort, and responsibility under similar working conditions. Wages include, but are not limited to, the following: hourly rate, annual pay, bonuses, and expense accounts. Under the Act, an individual subjected to wage discrimination under Title VII, the Age Discrimination in Employment Act (ADEA), or the Americans with Disabilities Act (ADA) may file a charge with the Equal Employment Opportunity Commission (EEOC).

The EEOC has held that Title VII prohibits gender identity and sexual orientation discrimination. *See Macy v. Department of Justice*, EEOC Appeal No. 0120120821 (April 20, 2012); *David Baldwin v. Dep't of Transportation*, EEOC Appeal No. 120133080 (July 15, 2015).

2. Age Discrimination in Employment Act (ADEA) 29 U.S.C. §§ 621 *et seq.*

The ADEA prohibits discrimination in the workplace against individuals over forty years of age. The following are some examples of the employment areas where it is unlawful for an employer to discriminate based on age: hiring, compensation, terms, conditions, privileges, and termination. As elected officials, judges do not have a valid age discrimination claim based upon mandatory retirement at a certain age.

3. Americans with Disabilities Act (ADA) 42 U.S.C. §§ 12101 *et seq.*

The ADA prohibits discrimination “against a qualified individual with a disability because of the disability of such individual in regard to job application, procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.” 42 U.S.C. § 12112(a). A qualified employee or

applicant with a disability is an individual who can perform the essential job functions with or without reasonable accommodations. An individual with a disability is a person who either has a physical or mental impairment that substantially limits one or more major life functions, has a record of impairment, or is regarded as having impairment. An employer is required to make a reasonable accommodation to the known disability of a qualified applicant or employee if it would not impose an undue hardship on the employer. Employers must engage in the interactive process with an employee if they know or have reason to know that an employee may have a disability. Leave of absences, change in work hours, and elimination of non-essential duties are all examples of possible accommodations that could be provided to an employee.

4. Family Medical Leave Act (FMLA) 29 U.S.C. §§ 2601 *et seq.*

The FMLA guarantees an employee twelve unpaid workweeks of leave to be used within twelve months of the occurrence of one of the events listed below. An eligible employee shall be entitled to leave for one or more of the following reasons: birth of a child; adoption or foster care issues related to a child; caring for a sick child, spouse, or parent; the employee's own serious health condition; and deployment to a foreign country of a spouse, child or parent of a military member. Employees are eligible for this leave if they have worked for their employer for the last twelve months and have worked for at least 1250 hours over the twelve months immediately prior to the leave. The FMLA restores an employee to the same position upon return to work, and if that position is unavailable, provides the employee with a position that is substantially equal in pay, benefits, and responsibilities. FMLA leave cannot be used by the employer as a factor in any current or future performance evaluations. It is imperative that the president judge or supervisor ensure an employee, state or county, who has a serious health condition receives notice of his or her rights under the FMLA, and should direct inquiries to the AOPC Human Resources

Department or district court administrator, whoever is charged with handling these inquiries in your judicial district. AOPC HR processes the FMLA paperwork and leave for state employees which includes the notice of rights. Any county employee requesting FMLA leave should contact their county human resources department. However, whether state or county, employees are encouraged to communicate with their supervisor or district court administrator regarding their request/need for leave or any accommodation request.

For state employees, supervisors should relay information to AOPC HR as sometimes they are aware of information AOPC HR isn't (as when an employee is suddenly out on FMLA). AOPC/HR will provide a supervisor with basic information to keep them informed (i.e., that the employee is expected to take time off for FMLA, but does not divulge the medical reason).

5. Pennsylvania Human Relations Act (PHRA) 43 P.S. §§ 951 *et seq.*

The PHRA prohibits discrimination against individuals or groups by reason of their race, color, religious creed, ancestry, age (40 and over), sex, national origin, handicap or disability and the use, handling or training of support or guide animals for a disability. The Pennsylvania Human Relations Commission (PHRC) enforces state laws that prohibit discrimination in employment. Unlike the EEOC, however, the PHRC has no jurisdiction over the courts. Moreover, the courts could not adjudicate a matter involving application of the PHRA to judiciary personnel. *Renner v. Court of Common Pleas of Lehigh County*, 234 A.3d 411 (Pa. 2020). In *Renner*, the Court held that application of the PHRA to the judiciary—whether by the PHRC or the courts themselves—violates separation of powers. *Id.* at 425.

6. Retaliation

A retaliation claim can be brought under any of the foregoing anti-discrimination laws. Employees who made or filed a charge, participated in a discrimination investigation, or opposed an unlawful employment practice are protected against retaliation. A plaintiff in a retaliation claim must show that there was an adverse employment action.

The adversity must be material in order to distinguish it from trivial harms. *Burlington Northern & Santa Fe Railway Co. v. White*, 548 U.S. 53, 54 (2006). The definition of “adverse employment action” has expanded over the years and extends beyond workplace or employment related retaliatory acts and harm. *Id* at 67. Examples of retaliation include change in job status (demotion, termination, etc.), change in job duties and assignments, negative evaluations, harassment, and shunning or intimidation by co-workers. Retaliation provisions cover only those employer actions that would have been materially adverse to a reasonable employee or applicant. *Id* at 54.

F. Law Clerk Qualifications

Law clerks employed in the UJS are required by Supreme Court Order No. 438 Judicial Adm. Docket of December 11, 2014 to "either be members of the Bar of Pennsylvania, or must have received without exception an earned Bachelor of Laws or Juris Doctor degree from a law school that was an accredited law school at the time the law clerk matriculated or graduated." This is a minimum qualification, individual judges or courts may require Pennsylvania bar admission prior to, or within a certain of time after, commencement of employment if they so desire.

CHAPTER 3: BUDGET AND FISCAL MANAGEMENT

§ 3.01 FISCAL ADMINISTRATION – GENERALLY

Fiscal administration is the process involved in the generating, allocation, expenditure, and monitoring of financial resources. It requires knowing where every dollar comes from, where every dollar is spent and why.

Fiscal administration is important because the court is entrusted with public funds and must ensure that these are utilized in the most efficient and effective manner possible to carry out the court's mission. District court administrators are responsible not only to the public, but the court's partners in government whether that be at the federal, state, or local level. Most importantly, a district court administrator is going to be asked at some point by a reporter, a commissioner, or a councilperson: where is the money going to come from and where was it spent?

This chapter covers aspects of fiscal administration. The term fiscal administrator as used in this chapter refers to the individual in district court administration charged with handling these aspects.

§ 3.02 BUDGETING

A. Preparation

The skills a fiscal administrator needs to achieve his/her budgetary goals are leadership, communication, collaboration, integrity and credibility, and good business and management skills. As a preliminary matter, a fiscal administrator should become familiar with the court's recent budgets, especially the structure in which they are presented. The fiscal administrator should determine the major revenue and expenditure categories (i.e., the chart of accounts). The fiscal administrator should also look for trends or other material changes that are easily identified. Finally, the administrator should tap into the expertise of individuals both inside and outside the

organization to seek help and understanding, such as the district court administrator, county budget director, fiscal staff or managers in other court related organizations, and human resource manager, etc.

B. Budgeting Components

The main revenue sources are the General Fund, grants, and revenue generating activity (i.e., fees, fines, costs). The main expenses are salaries and wages, materials, supplies, and equipment, service contracts, and leases and other contractual obligations.

1. Revenues

In analyzing revenue sources, it is important to consider not only the source of the revenue, but what it can be used for, as sometimes uses can be specific. Some specific revenue sources include:

- a. Property taxes**
- b. Collection of fees/fines/costs**
- c. Grants**
 - i. Pennsylvania Commission on Crime and Delinquency (PCCD)**
 - ii. Juvenile Court Judges Commission (JCJC)**
 - iii. Pennsylvania Board of Probation and Parole**
 - iv. Title IV-D**
 - v. Title IV-E**
- d. Other reimbursable programs (AOPC)**
 - i. Senior Judge Reimbursement**

The state, through the AOPC offers Senior Judge Operational Support Grants pursuant to 42 Pa.C.S. § 1906, to defray costs imposed on counties for facilities and staff for senior judges

assigned to the court of common pleas. These grants are available based on the level of operational support provided by the county for senior judges formerly of the judicial district who are regularly or periodically assigned there and for visiting senior judges. The grant application must be signed by both the county and the president judge and emailed to SeniorJudgeSupportGrant@pacourts.us. For questions about the Senior Judge Support Grant, utilize the support grant email address or call the Department of Judicial District Operations and Programs at 717-231-3313.

ii. Act 24 guardian

iii. Language access

The state, through the AOPC, offers Court Interpreter Services Grants to defray costs incurred by judicial districts for providing language access services to the deaf and hard of hearing and Limited English Proficient (LEPs) court users. State funding is available in three categories: (1) in-person interpreters; (2) telephone interpreters; and (3) other language access services, such as bilingual signage and translation of court documents and forms. Reports on interpreter usage and costs are filed electronically through the Language Access Data Collection (LADC) system. To date, the amount of reimbursement has been around 30% of the costs each county incurred. Interpreter Services Reimbursement Grant are due by April 1. Approval is required by the president judge and county official. Payment is received by end of June. For more information on this grant contact Marisa Lehr, Esquire, Coordinator of Court Access at Marisa.Lehr@pacourts.us or 717-231-3300, ext 3279.

iv. Security and Technology Initiatives

The AOPC periodically provides grant funding to the judicial districts for security needs (e.g., surveillance cameras; bullet proof glass; x-ray and scanning equipment; duress alarms, etc.)

and technology needs (e.g., video conferencing). The timing and amounts available to each district vary. These funds are usually administered by the office of the Judicial Security Administrator.

v. Judicial support cost reimbursement

The state through the AOPC annually reimburses each county \$70,000.00 per judge to offset incidental expenses related to the judicial position. In some years the General Assembly may not appropriate sufficient monies and the per-judge reimbursement has to be decreased proportionally. This money can be used for equipment, support staff salaries, or any other legitimate purpose directly associated with the performance of judicial duties. The reimbursement is made each year, in approximately late January, and should be included in the courts' budgetary calculations and expectations.

vi. Juror compensation reimbursement (See § 5.02(M)).

vii. Other

2. Expenses

a. Salary and wage expenses

Salaries and wages includes full and part-time and represented and unrepresented positions and will likely account for 80% of a district's budget. Also included in salary and wage expenses are healthcare, life insurance, and pension benefit expenses.

b. Non-Salary expenses

i. Office supplies

ii. Postage

iii. Rents/leases

iv. Insurance

v. Training/dues/travel

C. Budget Timeline

Although by law the county budget must be approved by December 31st, in reality budgeting is often a year-round process.

1. Start internal discussions with the president judge and the district court administrator early to determine any new or changing priorities or initiatives. It is also important to work with administrators and managers in the courts to gather more detail into their respective areas.

2. Draft the budget and meet again with the president judge and district court administrator.

3. Finalize the budget and submit to the appropriate county official(s).

4. Prepare testimony for the budget hearing.

5. Work with county leadership and prepare responses to specific requests/questions.

6. Begin planning for any changes that may be made before adoption of the budget.

7. Implement/Track/Monitor.

8. Report/Correct/Adjust.

Sample Budget Timeline

		County 2018 Budget Calendar	
07/27/17	BUDGET	Budget Instructions Issued	Budget and Finance
8/7/17-8/18/17	BUDGET	Begin discussions with Division Heads regarding 2018 Budget	Budget and Finance / Division Heads
8/7/17-8/18/17	BUDGET	Updated Position Allocation List (including list of Limited-term positions) to Budget and Finance if any changes from first pass (Chris email)	Budget and Finance / Human Resources
8/28/17-9/1/17	BUDGET	Begin discussions with County Manager regarding Requested Budget numbers	Budget and Finance / County Manager
09/08/17	BUDGET	Finalize Recommended Budget numbers	Budget and Finance
09/08/17	BUDGET	Property Tax info due to Manager for Manager's Budget Message graphs	Budget and Finance / Assessor
09/08/17	BUDGET	Recommended Budget balanced; Budget Summary Schedules completed	Budget and Finance
9/11-9/15/17	BUDGET	Finish reconciliation of Position Allocation List	Budget and Finance / Human Resources
09/15/17	BUDGET	Manager's Budget Message, graphs, charts	Division Heads
9/18/17-9/22/17	BUDGET	Complete and Final review of Budget Documents	Budget and Finance

10/03/17	BUDGET	Budget Document to print	County Manager
10/10/17	BUDGET	Recommended Budget made available to Council, public; posted on County website	County Manager
10/17/17	BUDGET	Budget Work Session 1	County Manager / Division Heads
10/24/17	BUDGET	Budget Work Session 2	County Manager / Division Heads
10/30/17	BUDGET	Budget Hearing 1/ Budget Work Session 3	County Manager / Division Heads
11/06/17	BUDGET	Budget Work Session 4	County Manager / Division Heads
11/21/17	BUDGET	Budget Work Session 5	County Manager / Division Heads
12/05/17	BUDGET	Public Budget Hearing 2	County Manager / Division Heads
12/12/17	BUDGET	Budget Adoption	County Manager / Division Heads

D. Tracking Revenue and Expenses

It is vital to track both revenue and expenditures throughout the fiscal year. Monthly review of budget line items is best for those responsible for fiscal duties. Quarterly reviews with the management team(s) and the district court administrator may be sufficient.

The reports should be easy to understand and at a minimum include the actual adopted budget number, current month and year-to-date transactions as well as prior year totals. More detailed analysis may be required if the reported numbers deviate drastically, to determine the specific cause of the deviation.

E. Post-Adoption Adjustments

In the event the budget needs to be adjusted after adoption, a budget transfer may be needed. At any time in the fiscal year, the office of court administration can transfer part or all of any unencumbered balance between programs, services, functions, or other purpose subject to their direct control by making a budget transfer request. Who has authority to transfer appropriated amounts between line items varies. For counties governed by the County Code and the Second Class County Code, approval by the county commissioners is required. In some of the Home Rule Counties, however, approval by the governing body may not be required. In Allegheny, Erie, and

Microsoft Word - Luzerne County Budget 2014.docx

Luzerne County Budget Transfer Request

Department Name Courts Dept # 4184

Action	Fund #	Div#	Department #	Account #	Amount	Account Description
+ Increase budget line	100	13	4184	560.17	14,000	Courts/Examinations/Witnesses
- Decrease budget line	100	13	4184	560.10	(14,000)	Capital Cases
Total					0	<i>(Must equal 0)</i>

Explanation (Attach memo if necessary)
 Internal transfer of unused funds to subsidize payment of court examinations/witnesses. Funds became available in capital cases due to the rescheduling of capital cases until fiscal year 2014. Funds needed due to an increased need for interpreter services.

The purchasing process has specific rules that must be followed. The fiscal administrator should become familiar with the county's purchasing office and inquire if they have a purchasing manual or have posted such a manual online. It is important to know bidding procedures

⁶ See Lehigh County Home Rule Charter, §1.7-706.

(timeframes), dollar thresholds and approvals, and be familiar with what other divisions are buying.

It is also important to become familiar with the Commonwealth CoStars program and if your county participates in the program. See <http://www.dgs.pa.gov/Local%20Government%20and%20Schools/COSTARS/Pages/default.aspx>. It may be possible to leverage the Commonwealth's buying power to save money on large purchase such as vehicles and equipment.

§ 3.04 PUBLIC ACCESS TO COURT FINANCIAL INFORMATION

Certain matters related to court finances are public information. The Right to Know Law (65 P.S. § 67.101 *et seq.*) and Pa.R.J.A. 509 allow citizens to request judicial financial records. Financial records that are accessible under Pa.R.J.A. 509 are any account, contract, invoice, or equivalent dealing with receipt or disbursement of funds appropriated to the system or acquisition, use or disposal of services, supplies, materials, equipment or property secured through funds appropriated to the system. The request form for financial records maintained by the judicial district can be found at: <http://www.pacourts.us/assets/files/page-1089/file-841.pdf>. In addition, certain court-related financial information is available to the public online on the UJS Portal: <https://ujportal.pacourts.us/FinancialRecords/FinancialRecords.aspx>.

Moreover, the Sunshine Act (65 Pa.C.S. § 701 *et seq.*) requires that official actions and deliberations by the governing body⁷ be held in public and this includes budget matters. Other statutory provisions in the County Code and Second Class County Code also require public notice by the county of the proposed budget to allow for public comment.

⁷ Although the governing body is covered by the Sunshine Act, the judicial branch is not. See *In re 42 Pa.C.S. § 1703*, 394 A.2d 444 (Pa. 1978).

§ 3.05 BONDING

Common pleas judges are not required to be bonded. Magisterial district judges (MDJs), however, are required by [Pa.R.S.M.D.J. 110](#) to give a minimum \$25,000 bond. A president judge may require a higher bond if he or she feels it is appropriate in light of the amount of money collected in a particular court. The bond is conditioned on the faithful application of all funds that come into the hands of the MDJ. The bond is to be lodged with the prothonotary.

Court employees who are employees of the state (AOPC), do not have to post a bond. County employees of the courts are covered under the county's anti-theft policies. For this reason it is a good idea to make sure the county has an accurate and up-to-date list of court employees—including MDJ office personnel.

CHAPTER 4: FACILITIES AND SECURITY MANAGEMENT

§ 4.01 FACILITIES MANAGEMENT

Management of the facilities in which the courts operate is a critical part of district court administration. If any component of the physical court facilities is not functioning properly, it can have a significant impact on both workflow and caseflow. District court administration needs to pay close attention to the courts' physical facilities and should spend time building relationships with those individuals responsible for various aspects of the courts' facilities, e.g., maintenance and janitorial staff, IT support, security personnel, mailroom staff, parking attendants, etc.

A. Facilities Assessments

It is a good practice to conduct regular assessments of each court facility to determine its usage, functionality, and capability of being secured and yet still accessible to the public. Improved courtroom lighting, state of the art sound systems, document and evidence presentation enhancements, video conferencing/high resolution large screen monitors for viewing by all participants are some of the facility enhancements court officials should consider in their assessment of their facilities.

In addition, the district court administrator, with cooperation from county officials, must ensure all interior and exterior areas of the court facility are accessible to the public and are in compliance with the Americans with Disabilities Act (ADA), *see* § 4.02 for a discussion of the ADA as it relates to court facilities.

The district court administrator should also collaborate with the local court security committee to examine safety and security of every part of the court facility. *See* § 4.04 for discussion of Security.

B. Judicial Center or Courthouse

By statute (42 Pa.C.S. § 3721) each county must have a judicial center located at its county seat. The judicial center, which can be the existing courthouse, must provide certain facilities for courts and offices of related personnel. These facilities include courtrooms, chambers, and offices for the district court administrator, prothonotary, clerk of courts, clerk of orphans' court, jury commissioners, register of wills, sheriff, district attorney, and public defender. In Philadelphia, the judicial center facilities must also include facilities for the minor judiciary. The facilities in the judicial center can be either together at a common site or in multiple sites as may be required by local circumstances and conditions.

The regular sessions of the court of common pleas are to be held at the county seat of the county comprising the judicial district or elsewhere as may be prescribed by general rule or rule of court. Court sessions may be held outside of the county seat in the event of an emergency.

C. Law Libraries

The county law library is to be located at the judicial center. 42 Pa.C.S. § 3721(a)(5). All county law libraries are to be open to the public and are to be operated pursuant to general rules or local rules of court. 42 Pa.C.S. § 3724. A county law library, including one maintained by a bar association or independent library corporation, is to receive from the county all necessary funds, accommodations, goods and services as specified by general rules or orders adopted by the Supreme Court, if any. County law libraries are to be operated in accordance with general rules or the rules of the court of common pleas of the judicial district of the county and are to be open to the general public.

D. Child-Care Facilities

The judicial center or courthouse may include (it is not required) a child-care facility for children of parents or guardians whose presence has been requested or is necessary. 42 Pa.C.S. §

3721(c). The child-care facility must be located in the judicial center or easily accessible thereto. If the judicial center facilities are located at multiple sites, each site can have its own child-care facility. A child-care facility must be licensed and operated pursuant to the requirements of the Public Welfare Code and the regulations of the Department of Public Welfare. An additional civil or criminal filing fee may be charged to fund such a facility. The fees collected are to be deposited into a separate fund for the operation of the facility.

E. Court Hours

Although by law (42 Pa.C.S. § 324) the courts are “always open for the transaction of judicial business” the reality is that in this respect there is an inherent tension between the power of the governing authority of the county, which controls the court facilities, and the court. This is especially true when the courthouse contains non-court offices. Under the County Code, 16 P.S. § 2301.1, county commissioners “shall determine when the county courthouse . . . shall be open.” The court, however, can set its regular business hours and close for holidays although there should be some provision for handling emergency matters on dates, or at times, when the courthouse is closed.

F. Inclement Weather Policy

A policy for canceling court business or delaying court business due to inclement weather should be developed. Although each judicial district will have to determine its own policy, regardless of whichever policy is approved by the president judge, it should be published and made known to all judges and judicial staff, all other court personnel, all county elected officers, local bar association and all attorneys. Although the court should try to be consistent with the county weather policy, the court’s operation, including closing or delay can be different from that of the

county. The weather policy should be reviewed with staff so that any questions can be resolved prior to the first time that the policy has to be implemented.

Regardless of whatever decision is made, it should be made as early as possible if it is to be made before the opening of the court for business and as soon as possible if the court has already opened. The decision must be promptly and concisely disseminated to the media. All court staff and employees, attorneys, and others should be told to refer to the county or court websites for weather information. The information should be placed on the websites as soon as possible.

G. Offices, Papers, and Records

The County Code, 16 P.S. § 405, requires that the governing body and row officers—including the clerks and prothonotaries—keep their offices and public records at the county seat. Public records may be stored outside of the county seat only with the approval of the president judge and the head of the office to which the records belong.

H. MDJ Court Facilities

See § 5.03(F) for discussion of MDJ facilities.

I. Parking

A thorough review of the parking situation for judges, court staff, and jurors should be conducted in order to review safety and security and efficiency of the parking plan. Parking for senior judges and visiting judges should also be considered. A map of and photographs of the parking building, lot or area for jurors should be created and displayed in the jury assembly room. The district court administrator should work with the governing body to seek any available reimbursements from the AOPC for lighting and security cameras in parking areas.

J. Unlawful Use of Audio or Video Device in Court; Body Cameras

Pursuant to 18 Pa.C.S. § 5103.1 and Pa.R.J.A. 1910(A)⁸, it is unlawful for a person, in any manner and for any purpose, to use or operate a device to capture, record, transmit or broadcast a photograph, video, motion picture or audio of a proceeding or person within a judicial facility or in an area adjacent to or immediately surrounding a judicial facility without the approval of the court or presiding judicial officer or except as provided by rules of court. The term "judicial facility" means a courtroom, hearing room or judicial chambers used by the court to conduct trials or hearings or any other court-related business or any other room made available to interview witnesses. *Id.* A first offense under § 5103.1 is a second degree misdemeanor and a second or subsequent offense is a first degree misdemeanor. *Id.*

Pa.R.J.A. 1910(B) states that judges shall prohibit broadcasting, televising, recording or taking photographs in courtrooms and in areas adjacent to them, except in presenting evidence, other purposes of judicial administration, or for ceremonial proceedings. Photographing and recording may be permitted if they will not distract participants or impair the dignity of proceeding, the parties and witnesses have consented, the recording will not be exhibited until the proceeding is concluded and all direct appeals exhausted, and the reproduction will only be exhibited for educational purposes. There are limited exceptions for civil nonjury proceedings, but these exceptions do not include support, custody, or divorce proceedings. *See also*, Pa.R.Crim.P. 112 for rules specific to criminal proceedings.

Pa.R.J.A. 1910(C) allows the use of body cameras for security purposes, subject to specific controls of the president judge and presiding judge. Subsection 1910(C)(1) provides the general

⁸ In *Philadelphia Bail Fund v. Arraignment Court Magistrates, et al.*, 440 F.Supp.3d 415 (E.D. Pa. 2020), a federal court found Pa.R.J.A. 1910 and Pa.R.Crim.P. 112(C) to be unconstitutional “insofar as they apply to bail hearings in the Philadelphia Municipal Court as long as [that court] does not make available to the plaintiff either official audio recordings or transcripts of bail hearings of the same type and quality and in the same manner that are made available for other judicial proceedings.”

rule that officers of law enforcement agencies, sheriffs and deputy sheriffs, and judicial security officers (hereafter collectively referred to as Officers) may wear body cameras and operate them as permitted by state or local court rule, and as may be further authorized under the policies of the Officer's agency. There are, however, two exceptions to this general rule: (1) if the wearing or operation of the body cameras is expressly prohibited by local rule or court order promulgated pursuant to Pa.R.J.A. 1910(C)(5); or (2) another provision of Pa.R.J.A. 1910(C) prohibits wearing or operation of body cameras.

Regarding the second category of exceptions, Pa.R.J.A. 1910(C)(2) states that a body camera cannot be activated in a courtroom during judicial proceedings except when an Officer, in his or her professional opinion, determines that there is an actual or imminent emergency situation warranting activation in the ordinary course of his or her duties. In such a situation the Officer may activate the body camera until such time as in his or her professional judgment the emergency situation has concluded.

When an Officer activates a body camera in an emergency situation, Pa.R.J.A. 1910(C)(3) requires that he or she verbally notify the presiding judge at the first reasonable opportunity after activation. In addition, within one business day of the emergency incident, the Officer or his or her supervisor shall provide the presiding judge a written report of the circumstances surrounding activation, including times of activation and deactivation and an explanation of the Officer's actions. The presiding judge shall promptly share the activation report with district court administration. The report shall also be provided to the Officer's law enforcement agency.

Pa.R.J.A. 1910(C)(4) states that a body camera recording made in a courtroom during a judicial proceeding may not be released to anyone outside the court and Officer's law enforcement agency without the express written consent of the president judge of the court. Use and

dissemination of a recording made pursuant to Pa.R.J.A. 1910(C) in connection with law enforcement activity also requires express written approval of the president judge.

Pursuant to Pa.R.J.A. 1910(C)(6) a court and any law enforcement agency providing security services in the courtroom shall enter into written agreement conforming to Pa.R.J.A. 1910 and any local rule or protocol promulgated by the judicial district. At minimum, the agreement shall require the agency to: (i) inform its officers of their responsibilities under the rule; (ii) provide training to its officers regarding the requirements of the rule, including training of new officers before they are permitted to activate a body camera in the courtroom; (iii) require annual written certification by a responsible representative of the law enforcement agency that its Officers have been informed of their responsibilities and received proper training; and (iv) monitor their officers' compliance. At the time Pa.R.J.A. 1910(C) was amended in October 2019, the Court Administrator of Pennsylvania circulated a sample Memorandum of Understanding for courts to use to enter into an agreement with the sheriff's department or other court security agency regarding the use of body cameras. If you need to obtain a copy of the Memorandum, contact the AOPC Legal Department at 215-560-6300.

Pa.R.J.A. 1910(C)(7) requires each agency providing security services to a court or judicial district to provide the district court administrator a copy of its current policies regarding the use of body cameras, as well as a list of Officers assigned to a court or judicial district who are qualified to wear and use body cameras.

K. Weapons in Court Facilities; Gun Lockers

1. Generally

Under 18 Pa.C.S. § 913(a) it is an offense if a person "knowingly possesses a firearm or other dangerous weapon in a court facility or knowingly causes a firearm or other dangerous

weapon to be present in a court facility" or "knowingly possesses a firearm or other dangerous weapon in a court facility with the intent that the firearm or other dangerous weapon be used in the commission of a crime or knowingly causes a firearm or other dangerous weapon to be present in a court facility with the intent that the firearm or other dangerous weapon be used in the commission of a crime." A court facility includes: "[t]he courtroom of a court of record; a courtroom of a community court; the courtroom of a magisterial district judge; a courtroom of the Philadelphia Municipal Court; a courtroom of the Pittsburgh Magistrates Court; a courtroom of the Traffic Court of Philadelphia; judge's chambers; witness rooms; jury deliberation rooms; attorney conference rooms; prisoner holding cells; offices of court clerks, the district attorney, the sheriff and probation and parole officers; and any adjoining corridors." 18 Pa.C.S. § 913(f).

2. Exceptions

There are exceptions under 18 Pa.C.S. § 913(c) for officers, agents or employees of the United States, the Commonwealth, or a political subdivision who are "authorized by law to engage in or supervise the prevention, detection, investigation or prosecution of any violation of law." In addition, court officials are exempted for the lawful performance of their official duties. *Id.* There is also an exception for instructors and participants in a course of instruction provided by the Pennsylvania Game Commission under 34 Pa.C.S. § 2704 (Eligibility for License) carrying rifles and shotguns. *Id.* Groups of veterans and auxiliaries or members of the armed forces of the United States or the Commonwealth, including reserve components, are exempt when engaged in the performance of ceremonial duties and with county approval. *Id.* Finally, an attorney seeking to use a dangerous weapon or firearm as an exhibit or as a demonstration who has written authorization from the court, may bring it into the court facility unloaded and in a secure wrapper. *Id.*

3. Notice

Each public entrance to a courthouse or building containing a court facility shall have a conspicuously posted notice of the provisions of 18 Pa.C.S. § 913(a) (Offense Defined) and 913(e) (Notice of Facilities for Checking Firearms/Dangerous Weapons). 18 Pa.C.S. § 913(d). Failure to post the notice may prevent the individual from being convicted of 18 Pa.C.S. § 913(a)(1) unless he or she had actual notice of the provisions of § 913(a). *Id.*

4. Storage Facilities; Gun Lockers

The county is required to make available, at or within a building containing a court facility, free lockers or similar facilities for the temporary checking of firearms by persons carrying firearms pursuant to 18 Pa.C.S. §§ 6106(b) (Persons Exempted from License Requirement) or 6109 (License to Carry Firearm) or for the checking of other dangerous weapons that are not otherwise prohibited by law. 18 Pa.C.S. § 913(e). An individual checking a firearm, dangerous weapon, or item deemed to be a dangerous weapon, shall be given a receipt. *Id.*

§ 4.02 PUBLIC ACCESS TO COURT FACILITIES

A. Americans with Disabilities Act (ADA)

The Unified Judicial System of Pennsylvania (UJS) complies with Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. § 12132. This provision states that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subject to discrimination by any such entity.” A “qualified individual with a disability” is defined as an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary

aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a public entity.

42 U.S.C. § 12131(2).

To comply with the ADA, the Supreme Court adopted [Pa.R.J.A. 250-252](#). Rule 252 requires each judicial district to develop a policy for the public to use to request reasonable accommodations as well as a grievance procedure to use in the event a court denies reasonable accommodations.

B. Reasonable Accommodation Request Policy

Accordingly, each judicial district developed a written policy for the receipt and processing of requests for reasonable accommodations. These policies are posted on the judicial district's website and in each court facility. They are also posted on the ADA compliance page on the UJS website <http://www.pacourts.us/judicial-administration/court-programs/americans-with-disabilities-act>.

As required by [Pa.R.J.A. 252](#), each district's policy is substantially similar to the policy contained in Appendix A to the rules. The policies contain the following basic elements:

1. Appointment of an ADA Coordinator

The coordinator is identified on all court materials along with his or her work address, work fax number or email address, and work telephone number.

2. Notice of the Right to Request Free Accommodation(s)

3. Explanation of the Process for Requesting Accommodation(s)

4. A Timeline for Request and Response

In addition, each judicial district's ADA (Title II) policy includes a form substantially similar to the one in Appendix A to Pa.R.J.A. 252.

C. Grievance Procedure Following Denial of a Reasonable Accommodation

Judicial districts were also required to adopt and publish grievance procedures for requests for reasonable accommodation that have been denied in whole or in part. These policies are substantially similar to the policy in Appendix B of Pa.R.J.A. 252, which also contains a standard grievance form. Any denial of a request for reasonable accommodation based on undue burden or fundamental alteration to services and programs must be put in writing by the president judge, or his or her designee, and with specific reasons for the denial.

Additional ADA Resources

For questions on Title II of the Americans with Disabilities Act, please contact:

Marisa G. Lehr, Esquire
Coordinator for Court Access, AOPC
Marisa.Lehr@pacourts.us
717-231-3300, ext. 3279

In addition, the following websites provide helpful information on the ADA and its regulations, development of internal policies, and information on standards for accessible design.

Americans with Disabilities Act: <http://www.ada.gov>

**ADA Primer for State and
Local Governments:** http://www.ada.gov/regs2010/titleII_2010/title_ii_primer.html

United States Access Board: <http://www.access-board.gov/>

§ 4.03 RENOVATIONS AND NEW CONSTRUCTION

Constructing new court facilities or modifying existing ones can be a difficult process that consumes a great deal of time and resources, although it is well worth the effort. A well-designed court facility embodies the court’s essential principles of openness and fairness while providing accessibility and security. The facility allows the judicial process to move forward unhindered while promoting efficiency and effectiveness.

It is strongly advisable for the president judge and district court administrator to attend all planning meetings and discussions to the extent possible as only they fully comprehend the impact every decision—even the most seemingly trivial ones—may have upon the court. Even if the president judge cannot, or does not want to, be heavily involved in the process, the district court administrator should still be.

A. District Court Administrator’s Roles

During the renovation/construction process, the district court administrator will fill several roles: (1) project manager; (2) lead communicator; and (3) public information officer.

1. Project Manager

The district court administrator becomes the de facto project manager from the court’s perspective. The district court administrator must become involved in all phases of the renovation/new construction project. The district court administrator, perhaps accompanied by the president judge, key court stakeholders such as members of the bar, filing office heads, sheriff or court security director and county executives should form a team. The first order of business for this team could be to view other recently renovated or constructed court facilities.

Although it is highly advisable for the courts to engage dialogue with a court expert who recognizes workflow within a court facility while communicating these needs in a language

understood by architects and contractors, district court administrators should be nonetheless cautious when considering outside experts who provide all of the information and make the vast majority of the decisions regarding workflow within the design of the facility. The court should advise the county executive to choose an architect with courthouse construction experience. Choosing the lowest bidder for an architect or builder is not always the best or most cost-efficient solution.

It is import to stress to the county executive the need to focus on all details and perhaps pay more at the outset to avoid costly change orders during the construction phase of the project. Moreover, recommended changes to the design should be introduced and approved before the floor plans are distributed to the contractors and construction people with responsibility over HVAC, structural engineers and installation of all technology, to name a few. Some important questions to ask of these personnel include: Whether all of the active participants in construction (HVAC, structural engineers, utility companies, IT) fully expressed their needs and expectations and impact each has on one another? For example, do you have adequate air flow/coolant for the closet or room you are storing the data servers? Is every essential function and even those not considered essential but routinely and consistently produced by the court included in the design plan and communicated with all court stakeholders? For example, if your conference rooms or hearing rooms are used for more than one purpose/essential function, that must be noted for potential space conflicts. Mock-ups or life-size models of constructed courtrooms, and judges' benches enable court officials to observe proper sight lines, angles, and auditory reception quality for nearly all court participants.

Attention should be given to current technology for use in the remodeled or new facility to avoid installing obsolete, or soon-to-be obsolete, technology. Hearing assisted wireless headphones and transmitters should be installed.

A good starting point for the process might be to have a study done by the National Center of State Courts (<http://www.ncsc.org/Services-and-Experts/Areas-of-expertise/Facilities-planning.aspx>).

2. Lead Communicator

The district court administrator should plan and communicate with everyone touched by the facility including all employees, the bar, and the community. Court staff and the bar will prove extremely helpful in ascertaining the usefulness and compatibility of the workspace as it pertains to current operations. If employees are using “work arounds” for deficiencies in the current structure, all of these issues and their solutions should be duly noted and communicated to architects, contractors and subcontractors as applicable.

The district court administrator should be cognizant of AOPC rules requiring the publication of notice in a public area of the courthouse describing the policy related to the specific court’s Language Access Plan (*see* § 5.09), Non Discrimination and Harassment policies and ADA (*see* § 4.02). Some of the AOPC policies requires informing the public as to interpreters. The district court administrator should also be aware of using facility signage to assist the public, litigants and attorneys.

3. Public Information Officer

Communication with the public is essential during the construction process. Community meetings with presentations from the court, county, and architects will provide a forum for the unveiling of ideas, as well as community concerns such as zoning, impact upon surrounding area

of the court facility and the municipality it will reside in. Although many county officials are interested in construction that will satisfy the court's needs for the foreseeable future their future however may be shorter in duration than that of the court officials. As a district court administrator, one must stress that the facility include room for growth, be it for additional staff workspace or additional courtroom or public viewing/jury assembly space.

§ 4.04 SECURITY

A. Pennsylvania Judicial Incident Reporting System (PAJIRS)

Pennsylvania's Judicial Incident Reporting System (PAJIRS) is an electronic reporting system designed to capture information about any security incidents directed against judges, their families, court staff, and members of the public who have business in the courts. PAJIRS was implemented in the magisterial district courts in 2005 and in the court of common pleas in 2007.

All judges and employees of magisterial district judge (MDJ) offices are authorized to file a PAJIRS report for incidents occurring in MDJ offices. All district court administrators, sheriffs, and judges are authorized to file PAJIRS reports for incidents occurring at the court of common pleas.

Pa.R.J.A. 1954 requires PAJIRS reports to be completed by the close of business on the day of the incident. Staff from the Administrative Office of Pennsylvania Courts (AOPC) Office of Judicial Security receives notice of the filing of a report and contact the filers. Annual reports compiling data collected via PAJIRS are generated by the Office of Judicial District Security and distributed to the judicial districts. These reports can be used in conjunction with budget requests for security improvements in the judicial districts.

PAJIRS can be accessed at <https://extranet.pacourts.us/pajirs/SitePages/Home.aspx> (login required). Included on the website are links to the PAJIRS User Guide, contact information to request access and for support, and a link to the Court Safety and Security Manual. Please note this is a relatively new web address so please ensure that you are using the above address and not an earlier one.

B. Emergency Regional Administrative Units

In 2010, the Supreme Court ordered the creation of emergency regional administrative units to promote continuous judicial coverage in the event of an emergency. If an emergency is declared, as defined under [Pa.R.J.A. 1950-1954](#), president judges are authorized to provide for the temporary assignment of judges and MDJs to any of the judicial districts designated within their emergency regional unit.

For purposes of implementing emergency preparedness under Pa.R.J.A. 1953, (discussed in § 4.04(I) below) the AOPC decided to build on and retain the infrastructure of the Pa.R.J.A. 701(E) regional units, which are discussed in § 1.04 of this manual. Judicial districts that already participate in Rule 701(E) regional administrative units have been kept largely intact. For those judicial districts not currently within an administrative unit, three new emergency regional units have been created to assure that all judicial districts are included in the security unit infrastructure. Those few judicial districts that participate in more than one administrative regional unit have been assigned to only one emergency regional unit. *See* Appendix 4.04-A for the Emergency Regional Administrative Units Map.

In the event of an emergency affecting any court's operations which causes partial or full implementation of the court's COOP plan, or if the Supreme Court or president judge declares a judicial emergency (*see* § 4.04(I) below), the president judge of the affected judicial district or districts may activate the emergency regional administrative unit by providing notice to the Court Administrator of Pennsylvania. Once the emergency regional administrative unit is activated, common pleas judges and MDJs may be temporarily assigned to another judicial district within the unit.

If a judge or MDJ is assigned to another district under Pa.R.J.A. 1953, notice shall be sent immediately to the Court Administrator of Pennsylvania. All judges and MDJs assigned to another

judicial district under Pa.R.J.A. 1953 have the same power and authority as a judge or MDJ of that district. The expenses of judges and MDJs assigned under Pa.R.J.A. 1953 are to be reimbursed as provided by law.

C. Local Court Security Committees

Pursuant to Pa.R.J.A. 1954, the president judge of each judicial district shall establish a local court security committee. The purpose of the court security committee is to lead and guide courthouse safety and security efforts at the local level. The president judge of the judicial district shall convene the committee. At minimum, the committee should be composed of the following:

- President judge or designee
- County executive
- Sheriff
- District court administrator

Other individuals that should be included in this committee are MDJs, facility managers, risk managers, IT personnel, and clerks of courts. Tasks the committee should be responsible for include:

- Developing policies and procedures
- Communicating policies to all court employees
- Assuring the prompt reporting of court security incidents
- Training concerning on-site safety and security awareness
- Preparing for emergencies
- Reviewing and assessing security incident reports and recommend appropriate

actions based on those reports

D. Annual Local Court Security Workshops

Regional Local Court Security Committee workshops are sponsored annually by the AOPC's Office of Judicial District Security. The purpose of these workshops is to provide the local court committee members with informative information and training on specific security topics and encouraging discussions about court safety issues throughout the Commonwealth.

The Office of Judicial District Security can be contacted at:

ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS OFFICE OF JUDICIAL DISTRICT SECURITY 601 Commonwealth Avenue, Suite 1500 P.O. Box 61260 Harrisburg, PA 17106-1260	Robert F. Granzow, Judicial District Security Administrator (717) 231-3300, ext. 4018 robert.granzow@pacourts.us
	Kyle Ramberger, Assistant Judicial District Security Administrator (717) 231-9589 kyle.ramberger@pacourts.us
	John Liken, Judicial District Security Advisor (part-time) john.liken@pacourts.us
	Rebecca Ramberger, Judicial District Security Analyst (717) 231-3315 rebecca.ramberger@pacourts.us

E. UJS Court Safety and Security Manual

In 2005, the Judicial Council's Committee of Judicial Safety and Preparedness and AOPC published the Unified Judicial System of Pennsylvania Court Safety and Security Manual. The manual's purpose is to equip law enforcement officers, judges, clerks of court, court administrators, and other county officials with the information necessary to customize a comprehensive safety and security plan for their courts. Appendices 4.04-B and 4.04-C contain the DCA Emergency Planning Checklist and Emergency Action Plan template which are useful in formulating a safety and security plan.

F. Security Considerations – Court of Common Pleas

It is advised that the following recommendations be coordinated with your local court security committee:

1. Consider an orientation, security protocol session for common pleas judges only to address what they are to do in the event of a mental health emergency, active shooter or other type of emergency.
2. Train on the use and location of duress alarms (panic buttons).
3. Conduct drills regarding emergency situations such as fire and active shooter events.
4. Establish procedures regarding how to respond to mental health emergencies (as opposed to security emergency in the courtroom or a medical emergency).
5. Make sure your security and safety protocols have been posted and/or emailed to all court employees so that all are aware of how to proceed in emergency.
6. Provide employees with information regarding bomb scares and suspicious packages.
7. Anticipate security risks. For example, do you have a system in place for identifying or predicting security risks, and are those who need to know aware of what to do in the event that a threat is made over the phone? Other examples include: a recently terminated employees or protection from abuse (PFA) litigant who has made threats or otherwise acted in ways that give rise to an anticipated security need.
8. Debrief after drills. Once a drill (fire drill, active shooter drill or other incident) occurs, someone should assess the drill to determine whether it went well, what needs to be improved, and how to ensure your employees receive the information.

G. Security Considerations – MDJ Courts

It is advised that the following recommendations be coordinated with your local court security committee.

1. Consider an orientation, security protocol session for MDJs only to address what they are to do in the event of mental health emergency, active shooter or other type of emergency.
2. Ensure that MDJs know how to obtain extra security when the need arises (e.g. difficult civil matters, high profile criminal cases). Extra security could be in the form of county sheriff personnel or certified Pennsylvania constables.
3. Does your county have a firearms policy at MDJ courts?
4. As required under Pa.R.J.A. 1954, conduct a facility security assessment to determine if additional security measures can be incorporated. Examples of additional security measures include security glass at the transaction counter, duress alarms, a separate and secured holding area for defendants in custody, sufficient parking lot lighting, and video conferencing equipment. The AOPC publishes a Magisterial District Court Facility, Equipment & Security Guidelines, a current copy of which can be accessed at [Judicial District Operations secure webpage](#) (login required).

H. Sovereign Citizens

Sovereign citizens are United States citizens who reject their status as such and claim that the government is operating outside its jurisdiction. Therefore, they generally do not recognize the authority of federal, state or local governments and renounce their obligation to adhere to the laws, policies or regulations created by those governments.

Threats to judicial and law enforcement officers by sovereign citizens include the threat and use of violence to kill or intimidate the officials from conducting their duties. The most common threat has been the use of fraudulent financial filings and law suits against judicial

officials and law enforcement. Where the actions of a sovereign citizen rise to the level of a reportable incident under PAJIRS, an incident report should be filed and concomitant actions undertaken. Additional information on Sovereign Citizens can be found in the U.S. Justice Department pamphlet *Criminal Aspects of the Sovereign Citizens Movement in the United States* found in Appendix 4.04-D.

I. Judicial Emergencies; Continuity of Operations (COOP)

1. Judicial Emergencies

Pursuant to [Pa.R.J.A. 1952](#), the Court Administrator of Pennsylvania, the president judge, and the district court administrator play important roles in minimizing the disruption of court operations in the event of an emergency, which includes any disruption no matter the duration. Examples of such an emergency would be a fire, flood, terrorist attack, earthquake, water disruption, electrical outage, bomb threats, weather issues, and a pandemic such as the Covid-19 outbreak. The Court Administrator establishes minimum standards and procedures for continuity of operations (COOP) and other emergency plans. The president judge has primary responsibility for planning for the continuity of operations in the event of an emergency and for implementing such plans in his or her judicial district. The district court administrator is charged with assisting the president judge in emergency and COOP planning and in implementing emergency plans and continuation of court operations.

In an emergency situation, there are emergency regional administrative units throughout the Commonwealth that are comprised of two or more neighboring judicial districts. Pa.R.J.A. 1953(A). Every judicial district in this state belongs to an emergency regional administrative unit. In the event of an emergency affecting any court's operations which causes the partial or full implementation of a court's continuity of operations plan under Rule 1951 or if the Supreme Court

or president judge declares a judicial emergency under Rule 1952(A)(1) or (B)(1), the president judge of the affected judicial district or districts may activate the respective emergency regional administrative unit by providing notice to the Court Administrator. Pa.R.J.A. 1953(B). Once the emergency regional administrative unit is activated, common pleas judges and MDJs may be temporarily assigned to another judicial district within the unit and given the same power and authority vested in a judge of that judicial district. *See* § 4.04(B) above for information on emergency regional units.

a. Request to Declare a Judicial Emergency

The president judge may request Supreme Court authorization to declare a judicial emergency. The declaration will remain effective until the Supreme Court amends, rescinds, modifies, or supersedes it by order. A request to the Supreme Court for an emergency judicial order shall be in the form designated in the Comment to Pa.R.J.A. 1952 and sent to the Court Administrator of Pennsylvania, Office of Judicial Security. Pa.R.J.A. 1952(B)(4).

The format is as follows:

IN THE SUPREME COURT OF PENNSYLVANIA

In Re: ____ Judicial District--Request for Emergency Judicial Order

1. _____, President Judge of the ____ Judicial District, hereby requests the following relief by Order of the Supreme Court:
 - a. Authorize the president judge to declare a judicial emergency in this judicial district and take any actions authorized by Pa.R.J.A. 1952(B)(2).
 - b. Suspend or modify statewide procedural or administrative rules in this judicial district as follows:
 1. Suspend time calculations for the purposes of time computation within this judicial district for the filing of documents with the court or taking other judicially mandated action. Beginning date _____, ending date _____.
 2. Authorize the expanded use of advanced communication technology to conduct court proceedings as follows:
 3. Suspend or modify other statewide procedural or administrative rules as follows:
 - c. Grant other relief as follows:

2. The circumstances necessitating this request for an emergency judicial order are as follows:

3. To the extent possible and practical under the circumstances, notice of this request for an emergency judicial order has been or will be:

☐ posted in the courthouse or other judicial office

☐ posted on the court's or county's website

☐ posted on the county bar association's website

☐ submitted to the Administrative Office of Pennsylvania Courts for publication pursuant to Rule of Judicial Administration 1952(C)(5)

☐ published in the legal publication designated by the court for publication of legal notices

☐ published in a newspaper of general circulation within the county

4. Interested parties are advised that objections to any emergency judicial order issued by the Supreme Court should be transmitted to the Supreme Court Prothonotary.

Signed:

Dated:

b. Powers During Judicial Emergency

Pursuant to Pa.R.J.A. 1952(B)(2), if the Supreme Court declares a judicial emergency, the president judge has the following powers, unless limited by the Supreme Court: close court facilities until safe operations can be restored; order evacuation of court facilities; relocate court operations; take necessary actions to provide for the safety of court personnel, court users, and the public, and the security of court facilities, financial and cash operations, equipment, and records; establish either a telephone hotline or website to give the bench, bar, and public emergency information; reassign judges and court personnel within the district as necessary to ensure continuity of operations; expand duties and work hours of staff to handle emergency matters; cancel/modify court calendars, subpoenas, or other court orders; cancel/suspend both jury and non-jury trials; cancel/suspend jury duty; suspend/modify local rules of court and administrative rules and administrative rules and procedures and personnel policies; suspend/modify time requirements and limitations imposed by local rules; apply to the Supreme Court to temporarily suspend or modify statewide court rules as applied to any case or cases in the judicial district; provide for

alternative signing, delivery, and service of court documents and orders; extend the duration of an emergency or temporary order issued by a judge or MDJ in the district; assign custodial responsibility for court funds; ensure compliance with any federal, state, or local emergency declarations; order full or partial implementation of the COOP plan; and request additional emergency judicial orders from the Supreme Court as the needs of justice require.

The president judge shall immediately notify the Court Administrator of Pennsylvania of any emergency in the court or judicial district causing the closure of court facilities, the temporary suspension of court operations, or causes full or partial implementation of the court's COOP plan.

In the event of an emergency, the provisions of any statewide procedural rule that requires submission of local rules or administrative orders to the Supreme Court, AOPC, procedural rules committee, or Legislative Reference Bureau for publication in the Pennsylvania Bulletin, shall not apply to any local rule or administrative order issued in response to the emergency. Pa.R.J.A. 1952(B)(5). The president judge, however, shall inform the Supreme Court of any such local rule or administrative order as soon as is practicable.

c. District Court Administrator's Role

In addition to assisting the president judge in emergency and COOP planning (see below), Pa.R.J.A. 1952(D) requires the district court administrator to assist in implementing COOP plans in the event of an emergency. Rule 1952(D) also states that in an emergency—and unless otherwise specified in the COOP plan—the district court administrator shall:

- Gather information from state and local officials, health and safety personnel, and any other relevant individuals or information sources to advise the president judge if the COOP plan should be activated;
- prepare the COOP plan notification for approval by the president judge and disseminate the notification;
- coordinate court personnel and resource deployment to an alternate facility;

- assist the sheriff and courthouse security in the movement of jurors, prisoners and the public, and assist with the general security of court and alternate facilities;
- ensure that all emergency judicial orders are promptly posted conspicuously in the affected judicial district and that they are transmitted to the Court Administrator in as prompt a manner as circumstances permit;
- manage alternate facility operations;
- provide timely information to the president judge and Court Administrator on the performance of court operations;
- ensure personnel issues are addressed and resolved; and
- confirm and communicate to the president judge when the emergency situation has ended.

Pa.R.J.A. 1952(D)(3).

Once normal operations have resumed, the district court administrator shall communicate with judges, staff and other appropriate individuals and entities to develop an after-action report to be transmitted to the Court Administrator and in conjunction with the COOP plan review mandated by Pa.R.J.A. 1951(b)(4). Pa.R.J.A. 1952(D)(4).

2. COOP Planning; Emergency Action Plans

a. COOP Plans

COOP stands for continuity of operations, which is defined as “the process, during and following an emergency, by which a court maintains at least minimal levels of service.” Courts develop a COOP plan to ensure they know what to do if faced with an emergency that threatens the continuation of normal operations. COOP plans are developed and implemented for situations in which the courthouse, court-related facilities or court operations are threatened or inaccessible (e.g., as a result of a natural or manmade disaster). A COOP plan establishes the processes and procedures needed to quickly deploy personnel, equipment, vital records and supporting resources to an alternative site so that organizational functions can be sustained until normal court operations are reconstituted.

i. Court COOP Planning Goals

- Reduce the loss of life, minimize property damage, and other losses.
- Facilitate decision making, including designating who is in charge and what authorities are granted during specific emergencies.
- Reduce or mitigate disruptions to operations.
- Identify alternate facilities and designate principals and support staff to relocate.
- Protect essential facilities, equipment, records, and other assets.
- Recover and resume normal operations.
- Maintain COOP readiness through a testing, training, and exercise program.

See the COOP Toolkit in the “Resources” section of the Department of Judicial District Operations and Programs protected view webpage accessible at [Judicial District Operations secure webpage](#) (login required).

ii. President Judge and District Court Administrator’s COOP Planning responsibilities.

Pursuant to the standards and procedures established by the Court Administrator, the president judge, in conjunction with the district court administrator and any other relevant individuals designated by the president judge, shall consult with county emergency service agencies and other governmental entities, as well as non-governmental entities, to develop a plan for the continuity of court operations during and following the occurrence of an emergency and an emergency action plan. Pa.R.J.A. 1951(B)(1) & (C)(1). The president judge shall conduct an annual review of both the continuity of operations plan and emergency action plan in consultation with the local court security committee and shall certify on a form that the review has taken place

and that the plan is accurate and meets the requirements established by the Court Administrator. Pa.R.J.A. 1951(B)(4) & (C)(2).

Pursuant to Pa.R.J.A. 1951(B), the president judge is required to: (1) develop a COOP plan in conjunction with the district court administrator, the local court security committee, and other relevant individuals designated by the president judge and after consulting with county emergency services agencies and other government agencies; (2) ensure that the COOP plan provides for continuation or immediate resumption of court business by the most expeditious and practical means possible as consistent with the standards established by the Court Administrator of Pennsylvania; (3) ensure that the COOP plan is accurate and updated; and (4) annually review the COOP plan in consultation with the local court security committee and certify on the form provided by the Court Administrator of Pennsylvania that the plan is accurate and meets the standards established by the Court Administrator.

b. Emergency Action Plans

An Emergency Action Plan is defined as a “written document providing guidance to and expectations of employees responding to various emergency situations.” Pa.R.J.A. 1950. Pursuant to Pa.R.J.A. 1951(C), the president judge shall: (1) develop an emergency action plan for each court facility located in the judicial district in conjunction with the district court administrator, the local court security committee, county emergency services agencies, and any other relevant parties to use in response to, during, and immediately following the occurrence of an emergency; and (2) annually review the district's emergency action plans in consultation with the local court security committee and certify on the form provided by the Court Administrator of Pennsylvania that the review has taken place, and that plan meets the standards established by the Court Administrator and the plan has been disseminated to all district employees.

CHAPTER 5: COURT OPERATIONS MANAGEMENT

§ 5.01 CASEFLOW MANAGEMENT

A. Elements of Caseflow Management

1. Judicial Commitment and Leadership

The president judge should provide the leadership, support and guidance for any case management strategy. In addition, since the judges of the district are critical partners with the district court administrator “buy-in” by the full bench is vital. For example, [Pa.R.Civ.P. 1931](#) prescribes a team concept for managing family law cases which is applicable in four judicial districts (1st, 5th, 23rd, and 45th). Under this concept, one judge presides over all family law matters that involve a particular family including divorce, custody, juvenile dependency and delinquency, support, and protection from abuse.

2. Consultation with the Bar

Involving the local bar in discussions of any contemplated local rule or procedural modifications is important in improving predictability and creating buy-in for any case management changes. Predictability means equal and fair treatment of all litigants and enhances the quality of litigation process. Buy-in means greater cooperation and creates a partnership that can assist divergent interests in finding a common ground.

3. Court Supervision of Case Progress

A court controlled schedule with meaningful events that produce a likelihood of case resolution is essential. There should be no “Call of the List” events that place one party (e.g. plaintiff in civil matters) at a disadvantage financially.

4. Standards and Goals

A caseload management system should include measurements to show accountability as well as trends and emerging issues coupled with specific resources to address these trends. The system should also establish time goals that are relatively easy to understand and communicate to stakeholders. Information systems should be used to monitor caseloads.

5. Monitoring and Information Systems

An effective monitoring and information system enables a manager to identify backlogs and inefficiencies and perhaps provide solutions for improvement. Although information technology (IT) is not a panacea, it can be a valuable tool to enhance caseload and workflow.

Any case management system should be able to answer certain basic questions in reference to its effectiveness such as:

- How many cases are filed each year?
- How many cases are pending?
- How many cases are pending on each judge's docket? How old are they?
- What is the status of each case?
- What was the last event?
- When did it occur?
- What is the next event?
- When is it scheduled?
- How many cases are disposed each year?
- How many cases are disposed by each judge?
- How do the cases reach disposition (e.g. jury, bench trial, settlement/plea, dismissal, etc.?)
- How old are the cases when they reach disposition?

Courts should conduct periodic internal examination of caseload efficiency in their judicial district. The court should start with an examination of one aspect of caseload, perhaps civil, criminal, or family, but not all at once. The National Association of Court Management (NACM) provides an excellent module that enables courts to view and score themselves in an objective manner. <http://nacmcore.org/curriculum/caseload-and-workflow/>. Other useful resources are <https://www.ncsc.org/information-and-resources/companion-sites> and <http://www.courttools.org/>.

An additional way to monitor the court's caseload and spot problems is to regularly monitor the judges' Pa.R.J.A. 703 reports. The rule requires that judges file copies of these reports with their president judge and district court administrator to better enable them to monitor their dockets and address problem areas promptly. *See* § 1.02 for discussion of Pa.R.J.A. 703 reporting.

6. Case Assignments: Calendaring systems

a. Master calendar

One calendar all jurists adhere to within that judicial district.

b. Individual calendar

The case is assigned at its inception and it proceeds at the individual judge or attorney's discretion. Although it can be independent it is usually interdependent with the rest of the court's operations.

c. Hybrid

A combination usually including individual calendar case assignment and autonomy blended within the confines of a court-wide master calendar.

7. Early Court Intervention: Court ownership of the case

Attorney-driven systems place the court in a precarious position, one which does not control the pace a case should take. When applied to a court-driven case management system, Differentiated Case Management (DCM) is a tool with highly successful results for the court, increased satisfaction for the litigants, and a higher level of trust in the administration of justice.

DCM identifies the type of case and provides firm expectations for parties to adhere to. These expectations address deadlines for pretrial and trial proceedings including but not limited to discovery, alternative dispute resolution (ADR), and judicial intervention (settlement or case status conferences). Such a system establishes meaningful events at case inception, puts parties on notice of when cases will reach a resolution, including but not limited to the establishment of firm trial dates. The court, through practices like DCM, sets clear expectations of the parties and should commit to enforcing such expectations as well as fulfilling its own to the litigants.

In DCM, the court identifies each case by its complexity. For civil cases such labels might include: motor vehicle/trespass (simple); products liability (complex); medical malpractice (complex), etc. Labeling the case at its inception enables the court to provide immediate direction and expectations to the litigants that are specific to their case type with definitive timelines for all meaningful events in the life of the case.

One advantage of DCM is that it facilitates optimum use of ADR programs. In addition, attorneys are required to give early attention to cases and when attorneys are forced to prepare for a meaningful event, the opportunity for disposition increases significantly. Another advantage of DCM is the potential for reduced motions practice and thus a reduction in pleadings that force a court to render a decision that creates additional time to a case life.

8. Setting Firm Trial Dates and Scheduling Meaningful Events

Lawyers resolve/settle cases when they are forced to prepare for a hearing. If the likelihood of the case event occurring is high, the likelihood of settlement increases as well. If, however, the proceeding involves little chance of settlement and is a matter of course “calling” a case for trial, or is a function that is ministerial in nature, you should not mandate court appearances from the litigants or attorneys. One reason for this is that one side may be at a disadvantage. In addition, unnecessarily mandating court appearances uses valuable court time with no chance of resolution of the case. To mandate court appearances, the event must be meaningful, i.e. provide the court and the parties with a distinct opportunity of case disposition or at least a significant step toward disposition.

9. Controlling Continuances

Granting continuances routinely takes the power and control of caseflow management and gives it to the litigants and not always in a fair manner. Continuances delay disposition. “Time destroys the purposes of courts⁹” and courts must be diligent in their individual pursuit of being fair to both parties in terms of time and delay. Continuances, if granted, should only be for extreme situations or emergencies of the court or the parties.

The court should have a continuance policy that is in writing and universally applied. District court administration should track continuances and consult with the bench regarding irregularities or lackadaisical enforcement of the policy.

10. Systems Approach and Vision

The vision of your court operation must be shared and owned by the bench and adhered to by all court stakeholders. A team approach will encourage everyone to look for ways to improve and increase outside-of-the-box thinking.

⁹ Ernest Friesen.

11. Attention to Detail

B. Stakeholders in Caseflow

1. Court

Ultimately the responsibility lies with you. People and processes compose caseflow administration. Good communication with stakeholders as well sound, thoroughly vetted and statistically proven and enforceable protocols will provide a sound foundation for successful case management. Listening to and addressing stakeholder needs and interests, as in many fields, is critical to a successful case management system.

2. Local Bar

Courts should regularly consult with county bar leaders regarding court practices and potential reforms particularly local rules prior to any attempt to draft changes. If the bar, a truly invested stakeholder, thinks their needs and interests are addressed by the court, there is a greater likelihood for buy-in for changes as well enforcement of current practices. For example, if the court wanted to institute a no continuance policy and shared their interest and concern with bar leaders long before publishing a rule for public comment, the greater chance for cooperation.

3. Self-Represented Litigants

a. Self-help centers

These units provide filing and procedural information and forms for self-represented litigants (SRL). In order to maximize the efficiency of these cases in a court's caseflow management process, court leaders must provide instructions that are clear and concise for any SRL to comprehend and follow and also provide procedural information when not available at other court offices such as the court records office.

4. Custodians of the Record

Clerks, prothonotaries, and registers of wills are vital stakeholders in the caseflow and workflow processes. These stakeholders should be consulted and recognized for any modifications to procedures. It should always be kept in mind that the president judge has statutory authority as “owner” of the court records, these office holders and their staffs are custodians only.

5. Quasi-Judicial Officers (masters, conciliators hearing officers, etc.)

These court officials provide valuable assistance in the disposition of cases. Although they have some authority and some judicial-related powers, they must work in concert with judges to ensure procedural fairness and the equitable and consistent administration of justice.

C. High Profile Case Management

1. Leadership Team

The leadership team should ideally be created before the case arrives and include:

- a. Judges** – both trial and president or administrative judge
- b. District court administrator**
- c. Court information officer**

2. Assignment of a Trial Judge

In assigning the case, many factors should be taken into consideration including but not limited to: judicial caseload; type of case; the judge’s experience level; personality; political position (e.g. judge up for retention); media relationship; and reputation.

3. Trial Setting

You should first determine if the trial will take place in your facility or in another court through a change of venue. Security, transportation, and communication issues should also be addressed.

4. Communication Plan

The communication plan must address the delegation of authority to make key decisions, which should be shared by the trial judge and the president judge. The plan should also dictate the responsibility for carrying out specific tasks assigned to specific people who will brief the leadership team on the process and the outcomes of each task (e.g., security, record retention, facility management, press relations, fiscal administration, juror concerns, IT enhancements, etc.). Expectations for all parties may be clearly delineated in an administrative decorum order issued by the trial.

5. Security

Although the sheriff/security team may have authority to enforce security and safety protocols on the grounds of the court facility, conversations should take place with local law enforcement regarding outside influence and impact on the court stakeholders and the community. In addition, all measures of security should be shared with the trial judge and may be included in the judge's decorum order.

6. Caseflow and Workflow Impact

Discussions should be held among members of the leadership team to determine the impact a high profile case will have caseflow and workflow in the court. Cases may need to be moved to an alternate facility and the president judge or district court administrator may need to consult the Supreme Court regarding alternate locations for other court cases within the district.

7. Jury Administration

8. Additional resources

- <http://www.ncsc.org/hpc>.

D. Dispose of Inactive/Inattentive Cases

Rule of Judicial Administration 1901 creates opportunities for courts to monitor, manage and dispose of cases that have had no activity for 24 months. Courts should develop a plan in consultation with the local bar and communicate essential elements of the plan to court stakeholders. This plan, like any case management plan, should include the expectations the court has of the litigants and bar as well as projected courses of action taken by the court. To examine the specific authority regarding “purging” of inactive cases, consult this link: [Pa.R.J.A. 1901](#).

§ 5.02 JURY MANAGEMENT

A. Introduction

"Management of the Jury System comprehends every aspect of selecting jurors and using their services, from defining the sources of names for prospective jurors, and defining accurate techniques for forecasting the number of jurors who will be needed, to providing for the comfort and convenience of the jurors during their term of service."

Maureen Solomon
Court Management Consultant
MANAGEMENT OF THE JURY SYSTEM

B. Jury Selection Commissioners

Selection of prospective jurors is the task of the jury selection commission where one exists. The governing body of a 3rd through 8th class county can abolish the office of elected jury commissioner under 16 P.S. § 401(f). If the county abolishes its elected jury commissioners the president judge becomes the sole jury commissioner at the expiration of the incumbent elected commissioners' terms. *Pa. State Assn. of Jury Commissioners v. Commonwealth*, 74 A.3d 333, 340 (Pa. Cmwlth. 2013). In which event, jury selection becomes the responsibility of district court administration.

1. Composition of Jury Selection Commissions

In counties that have not abolished their elected jury commissioners, pursuant to 42 Pa.C.S. § 2122(a), except in the First Judicial District (Philadelphia) and other home rule counties, the jury selection commission consists of two elected jury commissioners and the president judge of the

court of common pleas of the judicial district embracing the county. The president judge may from time to time assign another judge of the court to perform his or her duties temporarily. The president judge or his assigned replacement shall be the chairman.

In Philadelphia, the jury selection board constitutes the jury selection commission pursuant to § 2122(d). The clerk of the board shall be the commissioner, the assistant clerk of the board shall be the deputy commissioner and the masters, not to exceed four, shall be the assistant commissioners.

Under 204 Pa.Code § 201.6, a county's home rule charter may supersede § 2122. The following unofficial, non-exhaustive summary of select local law is provided for general information and shall not be construed as an authoritative or comprehensive interpretation of any provision of law:

Delaware County - Sections 408 and 416 of the charter provide that a majority and minority jury commissioner shall be appointed by the county council. The jury commissioners have all the powers and duties granted by applicable law, the charter or ordinance of county council.

Erie County - Section 3 of Article VI of the charter provides that there shall be a Jury Board which shall consist of the president judge of the court of common pleas, one other judge of the court appointed by the president judge and a clerk appointed by the president judge from among the clerks employed by the department of records; that the jury board shall have and exercise all powers and duties imposed upon it by applicable law pertaining to the selection of jurors; and that certain procedures shall be followed in the selection of jurors.

Lackawanna County - Section 1706 of the charter abolishes the office of elected jury commissioner. Section 702(a) of the charter provides that the elected sheriff shall have the power relating to administration of jury service in the county.

Lehigh County - Section 1105 of the charter, as amended, abolishes the office of elected jury commissioner. Section 501(d) of the charter, as amended, provides that jury selection and management shall be the responsibility of the Judiciary and grants plenary power and authority to carry out that responsibility. The "judiciary" is defined by § 1009(m) of the charter to include the court of common pleas; the judicial magisterial system within the 31st Judicial District; the offices of the district court administrator and clerk of the orphans' court; the domestic relations section; the probation department; and such other offices sections, departments and/or agencies which do now or shall hereafter constitute part of the judicial system within the County of Lehigh.

Northampton County - Section 1303(a) of the charter abolishes the office of elected jury commissioner. Section 1304(b)(3) of the charter transfers the duties, powers and functions of the jury commissioners to the court of common pleas.

2. Election of Commissioners

According to 42 Pa.C.S. § 2122(b), the jury commissioners shall be elected as provided by the Second Class County Code (16 P.S. § 3101), the County Code (16 P.S. § 101), and the Pennsylvania Election Code (25 P.S. § 2601). A jury commissioner is eligible for reelection for any number of terms. The two persons elected as jury commissioners shall not be of the same political party.

3. Filling of Vacancy

In case of inability of a jury commissioner, by sickness, death, or other unavoidable cause, to discharge the duties of his/her office, or in case of neglect or refusal to serve, § 2122(c) directs

the president judge of the court of common pleas of the judicial district to appoint a suitable person of the same political party as the jury commissioner whose place is to be filled to perform the duties of the office during the period of inability. When filling a vacancy to an elected office under a statutory duty, the president judge should follow the procedures set forth in Pa.R.J.A. 1908. Rule 1908 requires that the court receive applications from interested candidates pursuant to a deadline established by the court. The names and written materials submitted by candidates are to be made available to the public upon request, with the exception of certain personal information such as Social Security number, home address, personal telephone number and email, and information pertaining to children under the age of 17.

4. Quorum

A jury selection commission may act by a majority under 42 Pa.C.S. § 2122(e).

C. Source/Master Lists

1. The Pennsylvania Constitution in Article 1, § 9 provides simply that a defendant is entitled to a "public trial by an impartial jury of the vicinage" and cannot be "deprived of his life, liberty or property, unless by judgment of his peers or the law of the land." While this language is quite general, we know that courts are inclined to place complex construction on simple language. The statute governing jury selection is found at 42 Pa.C.S. § 4521 which provides:

a. The master (source) list of prospective jurors shall be prepared or updated at least once a year.

b. The list shall contain all voter registration lists for the county or may be prepared from other lists which will provide as many or more prospective jurors than the voter registration list.

c. The list shall be available for public inspection.

d. At least once a year, a sufficient number of jurors (as determined by the president judge) shall be selected at random from the master (source) list for service during that year.

2. Section 4521 was designed to implement the policy articulated in 42 Pa.C.S. § 4501 which provides that persons entitled to a jury trial shall have the right to select jurors at random from a representative cross section of the eligible population of the county; all qualified citizens shall have the opportunity to be considered for service and the obligation to serve when called; and no one shall be excluded from service on the basis of race, color, religion, sex, national origin or economic status.

3. 42 Pa.C.S. § 4502 outlines individuals who are not to be qualified as jurors. Statutory disqualification is limited to those unable to read, write, speak and understand English; those incapable of rendering efficient jury service because of mental or physical infirmity (this section must be carefully examined because of the Americans with Disabilities Act (ADA) standards, *see* § 4.02 for a discussion of the ADA; or those who have been convicted of a crime punishable by imprisonment for more than one year.

4. In many courts the voter list is the source of names for the selection of prospective jurors. This list consists of those registered to vote or those who voted in the most recent election and covers a much wider cross section of the population than source lists previously prepared by keymen. Courts accept the voter registration list as the best single list to use because it provides an adequate cross section of a jurisdiction and has many desirable features.

5. Recently, the question has been raised whether exclusive use of the voter registration list meets the goals of jury selection. A substantial proportion of those eligible for jury service may not register to vote. The driver's license list usually has greater coverage than the

voter registration list and is usually the list used with the voters list. A number of jurisdictions have gone to exclusive use of the driver's license list with excellent results.

6. Two measures against which the voter registration list, or any source list, should be tested are balance and inclusiveness. Balance is the degree to which the list reflects the eligible population based on its demographic characteristics (e.g., age, race, sex, occupation, etc.). Inclusiveness is the completeness of the list or combined lists.

7. Courts considering the use of multiple lists should consider the following:

a. Availability - The best lists (social security, federal census, and income tax) cannot be used. However, a state or local census and state income tax lists are available in some jurisdictions. Courts should be prepared to pay the costs of lists and insure the privacy of the lists used.

b. Efficiency - Combining lists can be costly.

c. Bias - Some lists are heavily biased. For example, property tax and utility lists are biased toward property holders.

d. Duplications - Because of difficulties in eliminating duplicated names in multiple lists, an individual named on several lists has a greater probability of being selected than those named on only one list. The best method for removing duplicates is to have available a unique individual identification in each list, such as the social security number, if possible.

e. Geocoding - Some lists are not easily resolved into court jurisdictions, e.g., county or district. This may require a manual verification of those few summoned who reside in the undefined areas such as in one zip code or tract.

8. Many of the above problems can be remedied, or at least reduced, to an acceptable level, with the use of computer sub-routine.

9. In order to have a representative master list, it is imperative that we expand our source list. This is appropriate and prudent for the following reasons:

- a. It conforms to the declaration of policy at 42 Pa.C.S. § 4501.
- b. It is ethically and morally correct to achieve the greatest cross section of the citizenry.
- c. Increasing participation decreases the burden of jury service by spreading it more evenly over the population.
- d. Making the list more representative anticipates and preemptively responds to the possibility of a legal challenge based on state or federal constitutional grounds.

10. A compelling reason for expanding the service list beyond the minimum statutory requirement is the possibility that, pursuant to a legal challenge, our courts will hold that voter registration lists are inadequate as they fail to include a broad enough cross section of the citizenry. Both Pennsylvania and federal courts have thus far rejected arguments that the use of voter registration lists systematically excludes groups or classes of otherwise qualified residents.

11. For this reason it is suggested that, consistent with technical and economic considerations, we should strive to construct master lists using as many different source lists and containing as many residents as is possible.

12. Recommended Matching Criteria

- a. Agreement of the following criteria is recommended for identifying duplicate records from the voter registration and driver's license lists.
 - i. Last name
 - ii. First name
 - iii. Middle initial (where record exists)

- iv. Birth month and day (where record exists)
- v. Street number or post office box number (street name is not included due to format difficulties)

b. The following format considerations are also necessary:

- i. No name or number should contain internal blank spaces.
- ii. Obvious errors in the records (such as incorrect zip code or out-of-county, -town, or -city, non-alpha names or inconsistent numeric sequences should be checked or rejected).

c. Using these criteria, the assumption is that records match if the last name, first name, middle initial, day, and month of birth are the same, notwithstanding street address differences.

13. Volunteers to Source List

Pursuant to § 4521(a)(3)(iv), citizens can volunteer to have their names included on the source list if their names are not already included on any lists from which the source list is generated. To include these names in any other list would be to give volunteers an unfair advantage. Volunteers must be subjected to the same test for duplication as any other list of names discussed previously.

14. Statewide (AOPC) Source List

The AOPC compiles a statewide jury information list from lists submitted by the Department of Human Services, Department of Transportation (PennDot), Department of Revenue, and Department of State pursuant to 42 Pa.C.S. § 4521.1. The AOPC makes the list of names of prospective jurors in the county upon request.

D. Summoning Procedure

The methods for summoning jurors will vary from the manual system, usually involving jury commissioners, to a modified manual system, to a completely automated, computer system.

1. Manual System

a. Names from varied source lists comprise the master list developed annually. A number is assigned to each name, either manually or by computer input, to assure random selection required by statute.

b. Jury commissioners usually draw the numbers (representative of the names of prospective jurors) for the desired count needed for each trial period.

c. The numbers drawn are then converted to a list of names for the designated trial period. The list must be available no less than 30 days prior to the date of jury selection.

d. The summoning letter is prepared for each designated period. The letter is addressed manually or by labels, and mailed first class to each prospective juror generally 30 days prior to the jury selection date. The summons usually includes a juror qualifying questionnaire and an instruction sheet for reporting for duty either reporting on a specific day, or calling in to determine if and when the juror is to report for duty.

2. Modified-Manual System

The preceding operations might be accomplished by a combination of the manual and computer systems.

3. Computer System

a. Names from varied source lists comprise the master computer list (prepared annually), with a number assigned by the computer to each name.

b. The computer is programmed to randomly select the total names required, and print out the list of names and corresponding numbers for the period designated. The list must be available no less than 30 days prior to the date of jury selection.

c. The summoning notice is prepared in the computer with the specific data for the reporting period. The computer addresses and prepares the summonses for mailing, generally 30 days prior to the jury selecting date.

d. Incorporated into the summoning notice could be the juror qualifying questionnaire and specific instructions for reporting for duty, unless these are sent separately.

E. Qualification/Disqualification of Prospective Jurors

1. Declaration of Policy - Pa.C.S. § 4501

“(1) All persons entitled to a jury trial in a civil action or criminal proceeding shall have the right to jurors selected at random from a representative cross section of the eligible population of the county. (2) All qualified citizens shall have the opportunity to be considered for service as jurors in the courts of this Commonwealth and shall have an obligation to serve as jurors when summoned for that purpose. (3) A citizen shall not be excluded from service as a juror on the basis of race, color, religion, sex, national origin or economic status.”

2. Qualifications of Jurors - Pa.C.S. § 4502

- a.** Must be of required minimum age for voting
- b.** Must be a resident of the county
- c.** Must be able to read, write, speak and understand English language
- d.** Must not have a mental or physical infirmity which would render him/her incapable of efficient jury service.

e. Must not have been convicted of a crime punishable by imprisonment for more than one year unless a pardon has been granted.

F. Orientation/Handbook

1. Orientation

Orientation procedures vary from county to county. Some use a jury orientation film while others have a judge or other court official address the prospective jurors. Either system presents the prospective jurors with a brief overview of the right of a defendant to a jury trial by his/her peers, our responsibility as citizens in a democratic society to serve when summoned for jury duty, and the importance of the task before them. Recognizing that the summons for jury service has interrupted their daily routine, every effort should be made to make the prospective jurors feel the value of their service and to secure their cooperation, as well as resolve the initial concerns and anxieties they may have had. It is helpful to inform the jurors of the procedures to be followed, how many days they can anticipate being in court, and how they will be compensated for their time.

Frequently asked questions can be covered during this period including such items as where restrooms are located, where they may smoke, use of cell phones and other electronic devices, and when they may feel free to leave the courtroom for a short break.

2. Juror Handbook

The orientation period will be less time consuming when a juror handbook is distributed to jurors upon their selection for a trial. It is suggested that the handbook explain briefly civil and criminal cases, defining common legal terminology in laymen's terms. It could also explain the voir dire procedure, the juror's oath, the stages of a trial, and the jury charge. It may further describe

courtroom etiquette and conduct during the trial and what will take place in the jury room, concluding with The Juror's Creed, *see e.g.* <https://www.delcopa.gov/courts/juror/creed.html>.

G. One Day/One Trial

The one change in the jury system in recent years which has had the greatest impact on the citizen has been the reduction in the length of time which persons are asked to serve. From the court's point of view, a reduced term of service means more persons must be called which increases the administrative efforts. From the jurors' point of view, the term of service determines the hardship on those persons who serve, and is related to the willingness of citizens to serve. Reduced terms are welcomed by employers as well as jurors.

The purpose of a shorter term of jury service is to reduce the personal and financial burden upon those serving, as well as their employers, and to permit persons to serve who would otherwise need to be excused for personal or community hardship reasons. This broader participation in the jury system results in a better cross section of the public serving on jury duty and distributes the burden more equitably across the eligible population.

The term "one day/one trial" can best be defined thus:

"When selected as a juror, a juror serves for the duration of the trial;
but if not selected, jury service is only for one day."

By itself, one day/one trial or reduced terms do not save a penny for the courts if not properly managed. Management is vital in the following areas:

1. Computerized selection (if possible)
2. Accurate prediction
3. Telephone call-in, along with text messaging and email notification
4. Rapid orientation

5. Reuse of each prospective juror

H. Two Days/One Trial

1. Definition

Under the two day/one trial jury system, jurors are summoned for two days. If at the end of two days they are not selected for a jury their service is concluded. However, if a person is selected for a trial, they must serve for the duration of that trial.

2. Similarities to One Day/One Trial

- a. Allows the court to summon more people, thereby providing a greater cross section of the citizenry.
- b. Jurors are happier with a shorter period of service and less time waiting in the jury assembly area.
- c. Fewer excuses are granted to prospective jurors for financial and personal hardships due to the shorter service period.
- d. Employers are pleased that employees serve for shorter periods of time on jury duty.
- e. Two day/one trial system does allow you to summon fewer jurors than one day/one trial system while accomplishing the same - a shorter term of service. This system also is cost efficient in that you do not have to pay jurors the \$25.00 fee past three days unless they are chosen to serve on a jury.

3. Recommendations to Accommodate Two Days/One Trial System

a. Computerization

A program should be in place to handle the need to summon additional jurors. The computer should accomplish the selection of prospective jurors, print summons, postponement

letters, sheriff follow-up notices and certification letters. It is wise to include a financial portion in your system to either print checks or vouchers for service. The check stub can also be a certification for jury service. The computer should also update attendance lists, allow speedy check-in, and print voir dire lists with whatever information you require.

b. Phone-In/Text Messaging/Email

These procedures can be very effective by allowing you to bring in only the number of jurors you believe you need on any given day. It also permits you to cancel entire panels if necessary.

c. Recycle jurors

Reusing jurors can create better juror utilization. If a juror is not selected in one courtroom, the juror should immediately be made available for another judge. This allows you to call in fewer jurors, but can result in judges waiting until other courtrooms have their jury before they can select.

d. Bar code or scanning technology can be utilized to update attendance records, qualify jurors, shorten check-in and print voir dire lists.

I. One Day/Multiple Trials

One day/multiple trials is the method of holding jury selection for all cases on the trial docket for that particular period on one day. In counties utilizing this method, each prospective juror will serve at least one day on which no trials are held, and those who are selected for a case, or cases, will return on a specific date for each trial.

In this method, the entire pool of prospective jurors is summoned to report on the day of jury selection. After roll call, orientation, and general voir dire, jurors are selected for one case at a time and are given a specific date on which to return for the trial. They will then serve the additional day or days necessary to complete the case (or cases) for which they were selected. At

the close of the day of jury selection after jurors for all cases on the trial docket have been chosen, any remaining jurors are dismissed. In counties with multiple judges where juries are being selected simultaneously in various courtrooms, jurors not selected in one courtroom can be immediately recycled to another judge.

A variation of this method would be that of individual voir dire such as in homicide cases where a specified number of prospective jurors are summoned to report on one day to be interviewed privately and either seated or dismissed immediately following the voir dire procedure. Those who are not called for voir dire on the first day may be instructed to return the following day until the entire panel has been selected.

J. Voir Dire Process

1. Generally

Voir dire is the examining and questioning of prospective jurors. Voir dire is governed by the applicable rules of court, Pa.R.Civ.P. 220.3 (civil actions) or Pa.R.Crim.P. 631 & 632 (criminal actions). The trial judge shall select one of the following methods, which shall apply to the selecting of jurors and the alternates:

a. Individual voir dire

This type of voir dire for prospective jurors shall be conducted individually and may be conducted beyond the hearing and presence of other jurors. Challenges, both peremptory and for cause, shall be exercised immediately after the prospective juror is examined. Once accepted by all parties, a prospective juror shall not be removed by peremptory challenge.

b. List system of challenges

The list, already prepared by a designated person (court administrator, prothonotary, etc.) shall contain at least 12 prospective jurors, plus the number of alternates to be selected, plus the

number of peremptory challenges. Parties can agree to less than 12 jurors, but not less than six jurors. When the examination is complete and all challenges for cause are exercised, peremptory challenges shall be done by passing the list between the plaintiff or prosecutor and defendant, with the plaintiff or prosecutor striking first, followed by the defendant, and alternating thereafter until all peremptory challenges have been exhausted. If either party fails to exhaust all peremptory challenges, the jurors last listed shall be stricken.

2. Alternates

The trial judge may direct that a reasonable number of jurors, in addition to the principal jurors, are called and impaneled to sit as alternate jurors. Alternate jurors, in the order in which called, replace principal jurors who become unable or disqualified from performing their duties. Alternate jurors are examined, challenged, and selected in the same manner as the principal jurors. Alternate jurors who do not replace a principal juror, shall be retained until the verdict is read.

After all jurors have been selected, the jurors and alternates shall be sworn in as a body to hear the cause.

3. Exhaustion of the Jury Panel

When sufficient qualified jurors are not present to permit selection of juries, the court shall:

- a.** Require a designated official to summon prospective jurors and return immediately from the county at large with as many qualified and competent persons necessary; or
- b.** Order in writing the officials produce the jury wheel or master list in open court before the judge, and draw therefrom five names for each juror required.

4. Remaining Prospective Jurors

Any remaining prospective jurors will be returned to the general pool for:

- a.** possible selection for another voir dire;

- b. dismissal for the day to return for selection on a date certain;
- c. discharge from further jury duty.

5. Recording of Voir Dire

Voir dire, including the judge's ruling on all proposed questions, shall be recorded in full, unless recording is waived. The record will be transcribed only upon written request of either party or order of the judge.

6. Mini Trials (binding or non-binding)

Voir dire for a mini trial shall consist of the number of jurors and alternates determined by the trial judge (a reasonable number could be eight), plus a sufficient number of prospective jurors in the event of dismissal of some for cause.

K. Jury Utilization Performance Measures

1. Important Numbers to Track

Instructions for completing the monthly report are outlined in the Pennsylvania Court Statistics Manual. However, jury managers should keep a tally on:

- a. Number of summonses mailed
- b. Number of summonses returned undeliverable
- c. Number of summonses not responded to
- d. Number of jurors disqualified
- e. Number of jurors excused and/or exempt
- f. Number of jurors deferred to a new term
- g. Number of jurors deferred from a previous term
- h. Number of jurors reporting

- i. Number of jurors told NOT to report for service
- j. Number sent to each voir dire
- k. The date sent
- l. Number of trials
- m. Date trial started and date ended for each trial
- n. Number of sworn jurors
- o. Jury costs (fees and mileage) for each trial; determine state reimbursement
- p. Number of days each juror serves on a trial

2. Key Measures of Juror Usage

The following six measures of juror usage can help diagnose any problems with the jury system.

a. Voir dire attendance rate

The number of jurors sent to voir dire divided by number of juror days--73% is a reasonable standard of good juror usage.

b. Trial attendance rate

The number of sworn jurors divided by number sent to voir dire. If this number is less than 40%, especially if this pattern continues over time, it usually means the panels sent to voir dire are too large.

c. Juror days per voir dire starts

The number of juror days divided by the number of voir dire starts. The National Center for State Courts suggests a standard of 30-35 juror days per voir dire.

d. Percent zero panel days

The number of zero panel days divided by pool days. A standard of 10% or lower is suggested by Center for Jury Studies

e. State reimbursement rate

Jury fees reimbursable by the Commonwealth divided by total amount of jury fees (includes mileage). See subsection (M)(1) below for reimbursement.

f. Average jury fees per trial

The total juror fees divided by the number of trials. An average of \$850 is considered standard.

3. Jury Yield and Utilization Statistics

a. Jury yield and utilization report and other resources

This report, which is filed on a monthly basis with the AOPC, is designed to help jury managers reduce the unnecessary waiting time of jurors, and save jury fees and tax dollars. Efficient jury systems have the added benefit of building citizen appreciation for the work of the court and for government generally. This report can be accessed through the Jury Managers Toolbox which can be accessed through the National Center for State Courts – Center for Jury Studies, <https://www.ncsc-jurystudies.org/>, which contains additional helpful jury management resources.

L. Exemptions from Jury Duty

1. Exemptions

Pursuant to 42 Pa.C.S. § 4503 no person shall be exempt or excused from jury duty except the following:

a. Persons in active service of the armed forces.

b. Persons who have served as jurors within three years next preceding; however, a person who has served as a juror for fewer than three days in any one year is exempt only for a period of one year.

c. Persons demonstrating to the court "undue hardship or extreme inconvenience" may be excused permanently or for such period as the court determines necessary, and if excused for a limited period, at the end of the period the juror shall be assigned to the next jury array.

d. Spouses, children, siblings, parents, grandparents, and grandchildren of victims of criminal homicide under 18 Pa.C.S. § 2501 (relating to criminal homicide)

e. Persons who have previously served for a term of 18 months on a statewide investigating grand jury, including any extension thereof, who opt not to serve.

f. Persons 75 years of age or older who request to be excused.

g. Judges and magisterial district judges of the Commonwealth and judges of the United States as defined in 28 U.S.C. § 451 (relating to definitions).¹⁰

h. Breastfeeding women who request to be excused

2. Excusal Upon Request

The following categories may be excused from jury duty upon request. A written request is recommended.

a. Doctors in active practice, *Commonwealth v. Kloch*, 327 A.2d 375 (Pa. Super. 1974).

b. Lawyers, *Commonwealth v. Kopitsko*, 110 A.2d 745 (Pa. Super. 1955); *Kloch, supra*.

¹⁰ State judges are also exempt from federal jury duty pursuant to 28 U.S.C. § 1863(b)(6).

- c. Nurses in active practice; *Kloch, supra*.
- d. Clergy in active practice; *Kloch*.
- e. Persons actively teaching or supervising in school or college; *Kloch, supra*.
- f. Persons required at home to care for young children or for a disabled person

who cannot be left alone and no other family member is available to provide such care. *Commonwealth v. Clayton*, 532 A.2d 385 (Pa. 1987).

- g. Students whose schooling will be interrupted or interfered with,

Commonwealth v. Graves, 463 A.2d 467 (Pa. Super. 1983).

- h. Persons self-employed in one-person businesses (if they cannot get a substitute to run business).

- i. Persons with prepaid vacations. *Commonwealth v. Albrecht*, 511 A.2d 764

(Pa. 1986).

3. Duration of Exemption

Pursuant to 42 Pa.C.S. § 4503(a)(3), where the basis for the exemption is temporary, the person shall be excused only for the limited period required and shall, at the end of the period, be assigned to the next jury array.

4. Determination of Exemptions

The jury clerk is authorized to grant exemptions which clearly fall within the categories set forth in the preceding parts L(1) and L(2), however, any request for an exemption which requires the exercise of discretion under part L(1)(c) (undue hardship or extreme inconvenience) or otherwise, shall be referred to a judge. *See American Bar Association Standards for Criminal Justice*, § 15-2.1.

M. Jury Reimbursement

1. Juror Compensation and Travel Allowance

Pursuant to 42 Pa.C.S. § 4561, a person summoned to serve as a juror is to be compensated at the rate of \$9 a day for the first three days in any calendar year he or she is required to report for service and \$25 a day for each day thereafter in the calendar year that he or she is required to report. In addition, persons summoned for jury duty are to be paid a travel allowance of \$.17 per mile circular except that no travel allowance shall be paid in the First Judicial District. Many counties use standard mileage rates from each of their municipalities to the county seat to expedite the mileage reimbursement process. Methods of payment of juror compensation and travel allowance can include check or cash payments made either on the same day as service or later by mail. To qualify for reimbursement the mileage costs and juror fees must have been paid to the jurors.

The Commonwealth will reimburse the county 80% of the amount spent by the county on juror compensation and travel beyond the first three days of service if the juror is participating in a trial or grand jury proceeding. Trial participation as the basis for reimbursement occurs only during attendance at the courthouse when the juror is a member of a trial jury which has been sworn for a specific case or the juror is participating in a voir dire examination that commenced prior to the juror's fourth day of service.

2. Procedures for Juror Reimbursement

The reimbursement is paid by the State Treasurer through the AOPC. The AOPC's Department of Judicial District Operations and Programs reviews applications for reimbursement for accuracy and completeness and submits them in monthly batches to the AOPC's Finance Department for payment. The Judicial District Operations and Programs Department also serves

as liaison between the Finance Department and counties by fielding questions from counties, troubleshooting errors, and keeping Finance informed of late applications.

Any county seeking reimbursement for juror compensation costs shall electronically file with the AOPC a Juror Compensation Reimbursement Calculation form, which can be found in the Juror Compensation Costs Request for Reimbursement workbook. Access to the workbook can be obtained by email to JurorCompensation@pacourts.us. Information to be included on the Juror Compensation Reimbursement Calculation form requires the following information: County; Report Dates; Case Type (civil, criminal, or grand jury); Case Number; the date the juror first reported for service; Juror's Name; the days beyond the third day of service during which the juror was participating in trial; the total number of reimbursable days for each juror; the actual daily mileage costs paid by the county for each juror; and the total actual mileage costs paid for the reimbursable days for each juror.

Such forms shall be filed with the AOPC using the designated juror compensation email address, JurorCompensation@pacourts.us. The corresponding request for reimbursement cover letter, signed by the president judge of the court of common pleas of the county seeking reimbursement, is to be mailed to the AOPC.

The AOPC reviews all requests for reimbursement, ascertains that the required supporting documentation is present, and forwards such requests to the State Treasurer with a request for payment. Electronic notification of payment is made to counties receiving reimbursement by direct deposit when funds are received from the State Treasurer. Checks are mailed via U.S. Postal Service along with a remittance copy explaining payment as they are received from the State Treasurer.

No request for reimbursement shall be forwarded to the State Treasurer, however, unless there has been an appropriation made by the Legislature for the reimbursement of juror costs under § 4561 and a sufficient Treasury balance exists to cover the request for reimbursement.

Questions about Juror Reimbursement?

Contact the Department of Judicial District Operations and Programs at:

JurorCompensation@pacourts.us

or

215-560-6300

3. Multicounty Investigating Grand Jury Expenses

Jurors serving on multicounty investigating grand juries are paid according to 42 Pa.C.S. § 4553(b)(1), which allots them \$40 per day as well as certain expenses set forth in the statute. In addition, expenses of trials arising from a statewide or multicounty investigating grand jury are reimbursable under 42 Pa.C.S. § 4553(b)(2). Applications for reimbursement of such expenses are made through the Office of Attorney General, which provides a specific reimbursement formula to each county when a case originates from a statewide or multicounty investigating grand jury. It is important that the court and the county keep precise and accurate records of allowable expenses to be reimbursed.

§ 5.03 SUPERVISION OF MAGISTERIAL DISTRICT JUDGE COURTS

A. Role and Authority of President Judge in Supervision of Magisterial District Judges

The role and authority of the president judge with respect to the magisterial district judge (MDJ) courts is set forth in Pa.R.J.A. 605. Generally, president judges have broad authority regarding the management of the MDJ courts. Specifically, the president judge of the court of common pleas may exercise general supervision and administrative authority over the magisterial district courts in a number of areas, including the establishment of policies and procedures related to the hiring, firing, supervision and discipline of all magisterial district court staff. The president judge may also review and receive complaints regarding the conduct of a magisterial district judge, and take any action deemed appropriate to assure the efficient administration of justice.

For further information on the supervisory and administrative authority of the magisterial district court by the president judge, please refer to [Pa.R.J.A. 605](#).

An additional reference is the ‘Court of Common Pleas President Judge Desk Book – Chapter IV(F): Magisterial District Judges, which can be found on the [Judicial District Operations secure webpage](#) (login required).

B. Magisterial District Judge (MDJ) Jurisdiction and Venue: Summary of Applicable Authority

1. Generally

Except as otherwise prescribed by general rule adopted pursuant to 42 Pa.C.S. § 503 (relating to reassignment of matters), MDJs shall, under procedures prescribed by general rule, have jurisdiction of all matters as identified in 42 Pa.C.S. § 1515, which include:

- a. Summary offenses: Traffic/Non-Traffic Citations; and Private Criminal Complaints.
- b. Matters arising under The Landlord and Tenant Act of 1951.
- c. The following classes of Civil Claims not to exceed \$12,000.00, exclusive of interest and costs: actions in assumpsit (except cases of real estate title disputes); actions in trespass; and fines and penalties by any government agency.
- d. Criminal matters: conducting preliminary arraignments/preliminary hearings; fixing and accepting bail (except for offenses under 18 Pa.C.S. §§ 2502 (relating to murder) and 2503 (relating to voluntary manslaughter)); issuing warrants; taking guilty pleas in criminal matters for certain offenses when specific circumstances apply. Criteria for such cases are identified in § 1515. **Note:** Some jurisdictions have local rules prohibiting MDJ's from exercising this jurisdictional authority.

2. Venue

a. Criminal matters

All criminal proceedings in summary and court cases shall be brought before the issuing authority for the magisterial district court in which the offense is alleged to have occurred or before an issuing authority on temporary assignment to serve such magisterial district subject, however, to exceptions identified in Pa.R.Crim.P. 130.

b. Landlord/Tenant actions

The action may be brought in and only in the magisterial district where the whole or part of the real property, possession of which is sought to be recovered, is located. Pa.R.Civ.P.M.D.J. 502.

c. Civil actions

The venue for civil actions has multiple variables that are dependent upon the cause of action and/or the type of defendant, i.e., individual, business, political subdivision, etc. Pa.R.Civ.P.M.D.J. 302.

3. Videoconferencing

Many judicial districts utilize videoconferencing technology in their MDJ offices for preliminary arraignments, issuance of search warrants, bench/arrest warrants and emergency protection orders. Rule of Criminal Procedure 119 governs the use of two-way simultaneous audio-visual communication in criminal proceedings.¹¹ With this technology, MDJs have the ability to interface with various other entities when conducting preliminary arraignments such as local/state police, county jails and state correctional institutions. Use of video technology eliminates the need to transport defendants to the district court, which eliminates safety concerns associated with transporting defendants as well as, reducing costs incurred to jurisdictions for transports.

When considering implementation of this type of technology for preliminary arraignments the following should be considered:

- With whom will the courts be interfacing? What are the video capabilities of the other agencies?
- What types of proceedings are permitted via video?
- What technology is available to exchange documents to be signed/provided to the defendant? Fax machine/scan and email?

¹¹ In addition, two-way simultaneous audio-visual communication may be used for: preliminary arraignments (Pa.R.Crim.P. 540); search warrants (Pa.R.Crim.P. 203); arrest warrants (Pa.R.Crim.P. 513); and emergency Protection from Abuse actions (Pa.R.Civ.P.M.D.J. 1207).

- What is the procedure if the defendant is able to post bail immediately? Transport to district court? Access to internet to post bail electronically?

Note: All scheduling with state correctional facilities must be through the GTL Scheduler.

4. Central Preliminary Hearing Court: Central Court (CC)

There has been a significant expansion in the number of judicial districts that have established and utilize central court (CC) concepts. *See* Pa.R.Crim.P. 131 (Location of Proceedings before Issuing Authority). The general concepts used in many CCs are as follows:

a. Types of cases included for CC:

- i. Unlimited Cases (all criminal court cases are included); or
- ii. Limited Cases (limited to certain cases types, regions, or for incarcerated defendants only).

b. MDJ:

- i. MDJs hear their own cases; or
- ii. MDJs hear all cases scheduled for CC on that day.

c. Preliminary arraignments: held at the district court offices where filed and then forwarded to the CC.

d. Preliminary hearings:

- i. All held at the CC site; or
- ii. Limited to certain case types, regions, or for incarcerated defendants only.

e. MDJ CC schedule:

- i. MDJs are placed on a rotating schedule.

ii. Annual schedule is developed by the administrator responsible for the MDJ courts of the judicial district.

f. Continuance requests:

i. Requests are submitted directly to the CC - Court Administration and then reviewed as appropriate by the MDJ; or

ii. Requests are directly submitted to the MDJ for consideration and then promptly forwarded to CC for rescheduling.

g. Staffing:

i. Staff of the assigned MDJ's accompany him/her to CC; or

ii. Personnel are assigned by court administration.

h. Supervision of staff: the administrator in charge of the MDJ courts of the judicial district supervises CC staff.

i. Transporting prisoners to the CC:

i. Sheriffs transport prisoners to CC, which is often the option most utilized due the financial benefits and increased safety; or

ii. Constables transport the prisoners.

j. Consider:

i. How will cases be assigned to the CC? What are the parameters?

ii. How will the cases be assigned to the MDJs? How will the CC schedule be divided among the MDJs?

iii. How will the MDJ's district be covered while hearing cases in CC?

iv. What additional costs will be incurred for CC for staff, supplies, equipment and facilities?

v. Accessibility of the CC for witnesses/victims, public defender, district attorney, etc.

vi. Procedures for continuance requests, accepting bail, etc.

C. Daily Operations in MDJ Court Administration

The administration team that assists with MDJ courts should be mindful of the issues that can arise frequently such as:

- handling complaints regarding MDJs after consultation with the president judge;
- approving expenditures;
- coordinating interpreter services and tracking for reporting and budgetary purposes;
- preparing court orders for changes/temporary assignments of MDJs approved by the president judge;
- preparing an annual special assignment schedule that provides 24-hour on-call coverage so that criminal matters and emergencies can be addressed promptly;
- coordinating the schedule of attendance of all MDJs at the Minor Judiciary Education Board (MJEB) Annual Continuing Education program at the Pennsylvania Judicial Center; and
- scheduling swearing-In ceremonies for newly elected and re-elected MDJs (of course, this depends on the election cycle of the MDJs in the county). Of note, MDJs run for election in odd-numbered years.

D. Important Rules to Review

1. Pennsylvania Rules of Judicial Administration

The Pennsylvania Judicial System is regulated by the provisions of the Pennsylvania Rules of Judicial Administration, which can be viewed at on the Pennsylvania Code Online at [Rules of Judicial Administration](#).

[Pa.R.J.A. 250 - 252 \(Disability\)](#) and [Pa.R.J.A. 260 - 263 \(Language Access\)](#) set forth the policy of the Unified Judicial System to prohibit discrimination against any individual with a disability as defined by the Americans with Disability Act, (ADA), 42 U.S.C. § 12131 *et seq.* or who has limited English proficiency or who is deaf or hard of hearing.

[Pa.R.J.A. 507](#) relates to Record Retention Schedules.

[Pa.R.J.A. 601 - 604](#) pertain to the continuing education requirements for commissioned and senior MDJs.

[Pa.R.J.A. 605](#) sets forth the role and authority of the President Judge, as discussed in the previous section.

[Pa.R.J.A. 701 - 706](#) relate to the assignment, transfer, and supervision of judges.

[Pa.R.J.A. 1701](#) addresses the appearance of a judge or magisterial district judge as a character witness.

[Pa.R.J.A. 1901](#) relates to the prompt disposition of pending matters and the termination of inactive cases.

[Pa.R.J.A. 1910](#) addresses the presence of cameras in the courtroom.

[Pa.R.J.A. 1920 - 1922](#) relate to criminal and disciplinary matters against judges.

[Pa.R.J.A. 1950-1954](#) relate to continuity of operations, emergency actions, emergency units, and judicial security.

2. Pennsylvania Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges

The Pennsylvania Rules of Conduct set forth the ethical behavior of MDJs, as well as judicial candidates. The rules “require magisterial district judges, individually and collectively, to treat and honor the judicial office as a public trust, striving to preserve and enhance legitimacy and confidence in the legal system.” The rules may be found at <http://judicialconductboardofpa.org/rules-governing-standards-of-conduct-of-magisterial-district-judges/>

With regard to standards, [Rule 101](#) discusses the minimum office standards for each magisterial district office, as well as the office schedules. [Rule 110](#) sets forth the minimum bond amount for each MDJ. [Rule 112](#) discusses the availability and temporary assignments of MDJs by the president judge.

The Rules of Civil Procedure governing actions and proceedings before MDJs are set forth in three main sections. [Rules 301 - 382](#) relate to civil actions. [Rules 401 - 482](#) govern enforcement of money judgments rendered by MDJs. [Rules 501 - 582](#) relate to landlord/tenant matters.

E. Staffing and Court Structure

1. Hiring and Supervision

The hiring and overall supervision of the MDJ court staff are handled by the president judge through district court administration. All magisterial district court staff are hired and considered county employees. Magisterial district court staff is bound by the Code of Conduct for Employees of the Unified Judicial System and all county policies. The pertinent rules are as follows:

a. The Pennsylvania Rules Governing Standards of Conduct of Magisterial District Judges, Rule 101 states in part: “[a] magisterial district judge shall be provided with such

staff, forms, supplies and equipment as shall be necessary for the proper performance of his or her duties.” Pa.R.S.M.D.J. 101(3).

b. The Pennsylvania Rules of Judicial Administration outline in detail the supervision of MDJ courts by president judges. Rule 605 states that the president judge shall exercise general supervision and administrative authority over magisterial district courts within the judicial district. The president judge’s administrative authority over magisterial district courts within the judicial district includes but is not limited to, and shall be governed by, the following:

i. Records. The president judge may designate a person to maintain personnel and other records in such form as directed by the president judge or required by general or local rule. Pa.R.J.A. 605(A)(1).

ii. Meetings with MDJs. The president judge may require the attendance of MDJs in the judicial district, individually or collectively, at meetings with the president judge or his or her representative. Pa.R.J.A. 605(B)(1).

iii. Staff in the MDJ courts.

Except where minimum job qualifications for staff in MDJ courts are prescribed by the Supreme Court of Pennsylvania, the president judge may prescribe minimum job qualifications for staff in the MDJ courts in the judicial district. The president judge may establish a classification system and job descriptions for all authorized staff in the MDJ courts in the judicial district. The president judge may establish general procedures regarding the hiring, firing, supervision, and discipline of all authorized staff in the MDJ courts in the judicial district. Pa.R.J.A. 605(A)(2)(a)(i).

Subject to the preceding paragraph, MDJs shall be responsible for the management of authorized staff in his or her court, shall assign work among authorized staff in his or her court, and may select one authorized staff member as personal staff. Pa.R.J.A. 605(A)(2)(b).

In the interest of efficient administration of the judicial district, the president judge may transfer or reassign a staff member, other than personal staff (who may be transferred or reassigned only with the consent of the MDJ), from one magisterial district court in the judicial district to another and hire and assign, as appropriate, temporary or floater staff. Pa.R.J.A. 605(A)(2)(a).

The president judge may establish a system of performance evaluation for staff in the MDJ courts in the judicial district. The president judge may also prescribe initial and ongoing training for staff in the MDJ courts. Pa.R.J.A. 605(A)(2)(a).

2. Number of Staff Members at each MDJ Court

District court administration determines the number of staff per office, keeping in mind that each office must have adequate staff to ensure the efficient and proper administration of justice. Some counties use their own caseload analyses (no statewide staffing metrics). An example of total case filings per each staff member commonly used by court administration is 1,500 cases per each staff. In that scenario, an MDJ office with 4,500 case filings would need 3 full-time staff personnel to process the caseload. In addition to raw case filing totals per staff, other factors typically considered when staffing an office include the experience and skillset of staff, office foot traffic and other distractions, and the types of dockets being processed.

From the MDJ case management system (MDJS), the Magisterial District Judge Statistical Summary Report (#4809) and Case Management Summary Report (#5809) are commonly used reports. Additionally, for in-depth analysis, a review of staffing for MDJ offices in similar-sized counties is sometimes performed by court administration.

An annual review of case filing/staffing should be conducted to ensure adequate staff in each district court. Upon review reassign staff as necessary. A staff member may be moved from

one district court to another, unless the person is deemed the personal staff member. *See* Pa.R.J.A. 605(A)(2)(a)(ii).

If you need assistance with reestablishment or general guidance and data for staffing, please contact **AOPC Judicial District Operations and Programs Department** for assistance.

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3. Types of Staff Members at an MDJ Court

a. Personal staff member. The MDJ is entitled to designate one staff member as personal staff. Usually the personal staff member serves as the secretary/office manager/office administrator. *See* Pa.R.J.A. 605(A)(2)(b)(i).

b. Clerks (make up the remaining staff members).

c. Floaters/Travelers (employees that go to different MDJ offices). These people may fill in during staff vacancies and works between two or more offices.

4. Personnel Matters in the MDJ Court

The special courts administrator¹² is responsible for personnel matters in the MDJ courts. He or she must develop a working relationship with the district court human resource director or the county's human resource director. He or she must also have a great deal of familiarity with union agreements as some of staff may be members of a specific bargaining unit.

a. Hiring of staff members at each MDJ court

- Ensure that hiring of personnel is non-political
- Establish standard job descriptions

¹² The term "special courts administrator" is used throughout this section to refer to the administrator responsible for supervising the MDJ courts of the judicial district regardless of whether the individual has that title or holds another.

- Have minimum job qualifications for MDJ staff (*see* Pa.R.J.A. 605(A)(2)(a)(i))
- Develop a cadre of qualified candidates
- The special courts administrator should have an active role in the interview

process. Many have a series of interviews or joint interviews with the candidate, the MDJ and special court administrator or their designee.

b. Training of new staff members at each MDJ court

- Develop of a training protocol that should be followed in every district court.
- Send new employees to the basic MDJS class.
- Follow up on progress of new employees in monthly intervals.
- Employees should be cross-trained on all case types in the district court.

c. Continuing training of staff members at each MDJ court

- Encourage staff members to participate in AOPC annual training, advanced training, and webinars.

- May conduct yearly meetings with office managers to go over issues. Example agendas are attached in Appendix 5.03-A.

5. Discipline of MDJ Court Staff

The special courts administrator should be involved in every aspect of employee discipline to ensure that such discipline is being handled correctly according to the court/county human resource policies.

6. Termination of MDJ Court Staff

The special court administrator should be involved in every termination of an MDJ court employee. Some counties will require input from the human resource department. The ultimate decision rests with the president judge.

F. Facilities

1. Own/Lease/Rent

Although some counties own the facilities that house the MDJ courts, for the most part the counties are leasing/renting these facilities. A few counties own one or two of their MDJ courts and these are usually located in county buildings with other county offices. Lease negotiations vary from county to county. The special courts administrator should be actively involved in negotiating leases for the individual courts. The county solicitor, contracts manager, president judge and county commissioners or council may also be involved in final approval. A standardized lease agreement for use by a court is contained in Appendix 5.03-B.

2. Standards

Some counties have developed specific standards for MDJ courts' physical plant. It is recommended that the following requirements be adhered to in the establishment of a court facility:

- a.** Americans with Disabilities Act (ADA) compliance
- b.** Public, private and secure prisoner restrooms
- c.** Courtroom
- d.** Private office for the MDJ
- e.** Clerk area with public window
- f.** Lunch/break room for staff
- g.** Storage room or space, including secure space for MDJS equipment
- h.** Public and private (prisoner) conference rooms
- i.** Secure, private criminal holding area
- j.** Ample public parking

k. Private, reserved parking for judge, staff and police (other than police parking, the reserved spaces for the judge and staff should only be designated as “reserved”, not “judge” or “court staff”).

3. Security

There should be adequate security for each court. These measures should include:

- a. Blue light alarm system
- b. Panic alarm (with direct connection to 911)
- c. Burglar alarm
- d. Fire alarm
- e. Security window between staff and public
- f. Electronically locked doors between staff and public
- g. Electronically locked doors between prisoner holding areas and courtroom
- h. Surveillance cameras with monitors for staff and judge

4. Pennsylvania Judicial Incident Reporting System (PAJIRS)

All staff should be trained on the reporting requirements of PAJIRS (Pennsylvania Judicial Incident Reporting System). Staff must report all security incidents through this system which is located on the UJS Portal. There is discussion of the PAJIRS system in § 4.04(A) of this manual.

5. Court Consolidation

Rule 101 of the Pennsylvania Rules of Conduct, Office Standards and Civil Procedure for Magisterial District Judges was amended in 2014 to permit the consolidation of courts within a judicial district as long as certain, specified requirements are met. *See* Pa.R.S.M.D.J. 101(B) and (C). Such consolidation must ultimately be approved by the Supreme Court.

6. AOPC Guidelines

A reference for guidelines for court facilities has been provided by the AOPC within the publication entitled Magisterial District Court Facility, Equipment & Security Guidelines. This publication is available online to all court administrators via the [Judicial District Operations secure webpage](#) (login required)

7. Weapons in MDJ Facility; Gun Lockers

For a discussion of weapons in court facilities see § 4.01(K) above.

8. Office Hours; After Hours Coverage

The president judge may designate the hours that the MDJ courts shall be open for official business. Pa.R.J.A. 605(A)(3). The approved office hours shall be posted in a conspicuous place on the MDJ court premises and posted on the judicial district's website. *Id.* The president judge is obligated under [Pa.R.Crim.P. 117](#) to ensure sufficient availability of MDJs to provide the services required under the Rules of Criminal Procedure. Rule 117(B) sets forth the systems a president judge may establish by local to provide the services required by the rule. The president judge can also establish a system by local rule to provide coverage for the setting of bail.

G. Budget

The president judge or designee, either the district court administrator or the special courts administrator, is responsible for the budget for the MDJ courts. Preparation, presentation, and adoption of the budget need to be done in conjunction with the county policies and the president judge's direction on preparing the budgets for the court departments. Careful monitoring of expenditures and revenues should be done all year long to ensure adequate funding each year.

The respective counties in the Commonwealth are responsible for funding personnel and benefits costs as well as facilities and supplies for the adequate maintenance of each MDJ court.

The counties may be eligible for certain grants or reimbursement from the state for enhanced security, interpreters, technology equipment, etc.

The special courts administrator is responsible for authorizing purchases, controlling expenses, and processing the payment of vendors. Please note, however, that personnel and benefits costs are decided and controlled by the county finance office.

H. MDJ/Administration and Staff/Administration Meetings

Pennsylvania Rule of Judicial Administration 605 outlines in detail the supervision of MDJ courts by president judges. This rule recognizes that MDJs are the judicial officials charged with the legal and administrative responsibilities within their districts, however, it contemplates a cooperative approach between the MDJs and the president judges. President judges or their representatives should meet regularly with the MDJs. Regular meetings foster and maintain open lines of communication.

Consistent with the president judge's general supervision and administrative authority over MDJ courts within the judicial district, the president judge may require attendance of MDJs at meetings either individually or collectively. These meetings can be:

- Individually – may address complaints regarding conduct
- Collectively with executive members of the Special Court Judges Association
- Collectively with all MDJs within their county for an annual meeting to discuss

court initiatives and training.

Sample agendas for such meetings are included in Appendix 5.03-A.

I. Caseloads; Temporary Assignments of MDJs; Case Transfers

Caseloads of the MDJ courts are an important consideration for special court administrator. The caseloads demonstrate the ebb and flow of the daily work in the MDJ courts and have a direct impact on the revenue generated and staffing needs.

Caseloads can be monitored by scheduling reports in the MDJS, and it is important to include all case types that the MDJ courts produce on the report to determine accurate numbers. The caseloads will be important for realignment and reestablishment purposes. See subsection L. below for a discussion of realignment and reestablishment.

In consultation with affected MDJs, the president judge may order temporary assignments of MDJs or reassignment of cases or certain classes of case either to other MDJ districts or central courts within the judicial district. Pa.R.J.A. 605(A)(5).

J. Internal Controls and Financial Management in the Courts

1. Generally

Please refer to the “Magisterial District Court Guide for Audits and Internal Control Procedures” created by the AOPC’s Judicial District Operations and Programs Department and accessible from MDJS HELP.

2. Banking

a. Checking account

Each MDJ court must have a checking account. The checking account should be established at a bank conveniently located to the MDJ court. The checking account should be established by order of the president judge. The order should set forth that the account shall be established in the name of the MDJ court, not the name of the MDJ. The authorized signatory shall be the MDJ. In the absence of the MDJ, the president judge, through court order, may authorize a

county official(s) as an emergency second signatory. For purposes of good internal controls, the emergency second signatory should not be a staff member of the same MDJ court. Often, the emergency signatory is a member of district court administration. The order should establish that the name(s) of the authorized signatories have been ordered pursuant to a directive from the president judge.

b. Custodial account

In accordance with 204 Pa.Code § 81.301, an MJ-IOTA custodial account should be established with the bank as appropriate. MJ-IOTA accounts generate earned interest income that is used to help provide legal assistance to poor and disadvantaged citizens of Pennsylvania. For more information on arranging IOLTA interest withdrawals from a new account, contact the IOLTA Board at: PA IOLTA Board, Pennsylvania Judicial Center, 601 Commonwealth Avenue., Suite 2400, PO Box 62445, Harrisburg, PA 17016-2445, phone: 717-238-2001, fax: 717-238-2003 or visit the website: www.paiolta.org.

c. Changing banks

If your court plans to switch to another bank, AOPC must be notified prior to the change. MDJS modifications must be coordinated to ensure ePayments can be deposited. As a result, the MDJ court must notify the MDJS Help Desk at least three weeks prior to changing to the new bank. For helpful tips and additional information on establishing a new bank account, see ‘New Bank Account’ in the MDJS Help.

3. Safeguarding Assets

To secure court assets and prevent fraud, the court administrator or special courts administrator should adopt policies and procedures to maintain tracking and inventory control over the assets held at each MDJ court. These would include, but are not limited to, the following:

a. Fixed assets-furniture, fixtures and equipment

Inventory should be maintained and verified periodically. The inventory list should contain product type/number, quantity and associated cost of the item. Procedures should be in place to track transferred/removed items.

b. Change fund/petty cash

The staff should count and verify the change fund and petty cash when opening and closing each date. Identify who should be contacted if a discrepancy occurs. Policies and procedures for usage and reimbursement should be implemented.

c. Daily receipts/daily deposit

Daily receipts are required to be deposited each day. More than one staff person should be involved in verifying and balancing the daily receipts against the MDJS daily deposit. It is recommended to maintain a daily mail log, which should balance with the MDJS daily deposit record of mail payments. State auditors require proper validation from the bank for every deposit. This usually occurs with the bank providing a receipt displaying a breakdown of cash and checks contained in the deposit or at times the court's deposit slip, which lists the breakdown, is stamped by the bank in an identifiably reliable manner (i.e., electronic stamp). The deposit receipt should include a cash/check breakdown, which should be verified against the MDJS daily deposit record of cash and checks taken for the day.

d. Supplies: paper, postage, office supplies, etc.

Usage should be tracked and monitored.

4. Segregation of Duties

Segregation of duties is a concept of job functions within the MDJ court that are separated to reduce loss, prevent errors, and increase financial integrity such that several people are

performing a specific job function to complete a process, as opposed to one person. The AOPC recommends segregation and rotation of duties within an MDJ court office when possible. Personnel should be cross-trained as appropriate. The job functions that should be rotated to increase internal controls are:

- Receipting of payments
- Handling of cash
- Opening mail
- Processing warrants, DL-38's, and other MDJS Case Admin lists
- Performing adjustments and voided transactions
- Preparing the deposit slip
- Making the deposit in the bank
- Verifying the return deposit
- Preparing disbursement checks
- Reconciling the bank statement

5. Financial Reports

As part of the internal control process and segregation of duties, reviewing reports by someone independent from maintaining the accounting records and handling cash is an important measure in maintaining financial integrity and safeguarding assets. The following list provides examples of suggested reports and procedures an MDJ should consider reviewing, initialing, and dating for good internal purposes. Additional internal control reports and procedures should be reviewed and considered on a regular basis, as needed.

Report/Document	Suggested Frequency	Purpose
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Deposit Listing (MDJS 1300)	Daily	Verify the deposit was performed daily, the amounts were correctly deposited, and the bank properly validated.
Validated Deposit Slips	Daily	Verify the deposit was performed daily, the amounts were correctly deposited, and the bank properly validated.
Voided Transactions (MDJS 1410)	Weekly	Verify documentation/comments support the voided transactions and are authorized.
Multi-Court User Actions (MDJS 4510)	Weekly	Verify access and actions to cases are warranted.
Adjustment Transactions (MDJS 1920)	Monthly	Verify documentation/comments support the adjustment and are authorized.
Non-Monetary Payment (MDJS 1570)	Monthly	Verify jail-time compensation or community service was authorized.
Bank Reconciliation (MDJS 1320)	Monthly	Ensure bank reconciliation is performed appropriately and sign the report.
Undisbursed Funds (MDJS 1710)	Monthly	Ensure monies owed to recipients are disbursed in a timely manner.
Check Register (MDJS 1610)	Monthly	Review all checking account transactions for the month such as outstanding transactions, cleared checks, and voids.
Dispositional Validation (MDJS 4610)	Monthly	Review and sign off on eFiled traffic cases with dismissed or not guilty dispositions.
Case Management Summary (MDJS 5800)	Monthly	Review to ensure case actions are being performed timely to promote the prompt disposition of cases and collection of monies owed.

K. Audits

1. Generally

Audits are conducted in the MDJ courts by the Pennsylvania Auditor General and locally as directed by the county controller's office or county auditors. There are generally four audit tests that are performed by auditors, as follows:

a. Receipt test

This test verifies that money collected was timely, properly recorded, and accurately deposited into the bank.

b. Bank reconciliation test

This test verifies the bank statements were reconciled accurately and timely.

c. Disbursement test

This test verifies that money was disbursed in a timely and accurate manner.

d. Docket test

This test verifies that cases were processed and disposed in a timely and accurate manner.

2. Common Audit Findings

- a.** Inadequate segregation of duties
- b.** Inadequate warrant and DL-38 procedures
- c.** Monies collected were not deposited the same day as collected
- d.** Deposits were not properly validated by the bank
- e.** Evidence of authorizing the disposition of citations was unavailable
- f.** Records unavailable for examination
- g.** Missing manual receipts
- h.** Initial costs for civil cases were not always receipted and deposited timely
- i.** Improper third party collections
- j.** Late payments to the Department of Revenue
- k.** Inadequate stale check procedures
- l.** Improper use of facsimile signature stamp
- m.** Improper use of community service and jail credit adjustments
- n.** Unsecured payment drop-off
- o.** Incorrect assessment of costs

NOTE: Records subject to audit should not be destroyed in accordance with the record retention schedule Pa.R.J.A 507 until the audit is complete.

3. Procedural Audits

In addition to financial audits performed by the county or state, as authorized by Pa.R.J.A. 605(A)(4), the president judge may direct that procedural audits of the MDJ court be conducted to assure compliance with general and local rules, administrative policies and procedures in addition to clerical procedures adopted by the AOPC for management of cases in the MDJS.

The time frame for conducting procedural audits shall be determined by the president judge of the judicial district. They may be conducted by the district court administrator, special courts administrator, an outside independent auditor or such other person as the president judge may designate. The AOPC has published an audit template to be utilized by the auditor. In addition, the AOPC has published “Recommendations for Common Audit Issues and Good Internal Controls” which can be found in Appendix 5.03-C.

Contact the AOPC Judicial District Operations and Programs Department if you have questions or need general assistance with audits.

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4. Record Retention

Pursuant to Pa.R.J.A 507 setting forth a record retention schedule, MDJ courts may dispose of records as specified therein. Please refer to the [Supreme Court Record Retention Schedule](#), found on the Unified Judicial System website. Section 5.2 outlines the schedule for ‘Magisterial District Courts, Pittsburgh Municipal Court and Philadelphia Municipal Court Records.’ Additionally, ‘Destruction Hold Procedures’ are referenced in Section 2.4 (2.4.1-‘Matters in

Litigation’ and 2.4.2- ‘Matters Pending Audit’). Please note that records subject to audit or in pending litigation should not be destroyed. MDJS Bulletin No. 14-11 (April 14, 2011) provides an additional reminder. For further discussion of record retention, see § 7.02 of this manual.

5. Summary of Disposal Procedures

a. MDJS entry

Access Forms/Reports and print Unified Judicial System Disposal Log – Non Permanent Records (507B).

b. Preparation

Prepare the Unified Judicial System Disposal Log – Non Permanent Records (507B) including records eligible for destruction.

c. Any records that have not been audited or are part of pending litigation cannot be destroyed until pending matters have been resolved.

d. Send the original form to the person designated in your county to process these requests.

e. The MDJ court will receive a copy approving or denying the request.

L. Realignment and Reestablishment of Magisterial Districts

The Judicial Code, 42 Pa.C.S. § 1503, sets forth the guidelines and standards for reestablishment of magisterial districts. The code mandates that in the year following the Federal decennial census the court shall reestablish the number, boundaries and classes of magisterial districts within each judicial district (except the First Judicial District). Also, after the decennial census reestablishment a district may be revised from time to time as required for the efficient administration of justice.

Once the plan is enacted by the Pennsylvania Supreme Court order, the special courts administrator is responsible for reviewing the date and implementing the plan. Depending upon caseloads and populations, magisterial districts can be realigned (changed) or reestablished (unchanged). This is a large project, and needs to be handled with diligence and diplomacy.

The AOPC Judicial District Operations and Programs Department will provide forms, data, and guidelines to assist with the reestablishment process. If you have questions about the reestablishment process, you can contact them at 717-231-3313 or reestablishment@pacourts.us.

If the intent is to have a magisterial district realigned communication is vital. Public hearings will be required, and all interested parties will need to be notified. Any changes will need to be advertised and the plan must be made available for public comment.

Some things to consider when reestablishing or realigning a magisterial district that results in an MDJ court being relocated:

- If your county leases facilities, check on the leases to determine dates and ensure compliance.
- Notify all county offices, the district attorney, public defender, the private bar, impacted law enforcement agencies, and the impacted municipality or municipalities.
- Plan ahead for scheduling purposes to minimize work and inconvenience to the public.
- Check on the inventory of supplies, and reorder with changes, if necessary.
- Check all reports in MDJS to be certain that all monies are escheated, cases are up-to-date, and scheduling is done in advance
- In conjunction with the AOPC and the county, determine equipment needs and make sure necessary wiring is done.

- Prepare and post the Supreme Court order approving the reestablishment.
- Prepare a local court order that outlines the changes in filings.
- Prepare an order that notifies of any daily court closures.
- Prepare signage.
- Contact vendors that provide telecommunications.
- Prepare a change of address for the post office.
- Consult the retention schedule and ensure the court is up-to-date on destruction and

sending files to storage.

M. MDJ Leave and Discipline

To ensure access to the courts and efficient use of judicial resources, a president judge may establish a judicial district policy that requires MDJs to provide advance notice of leave except when leave must be taken due to exigent circumstances, in which case MDJs shall notify the president judge (or designee) as promptly as possible. Pa.R.J.A. 605(B)(2). MDJs enjoy autonomy with respect to when to take leave subject to reasonable coordination with the president judge and any policy promulgated by the president judge and with regard to the schedules of other MDJs in the judicial district. *Id.*

When a complaint about the conduct of an MDJ is received the president judge may, at his or her discretion, review the matter with the MDJ and take any action deemed appropriate to assure the efficient administration of justice. Pa.R.J.A. 605(B)(3). The action can include, if appropriate, informing the appropriate disciplinary authority. The president judge shall give contemporaneous notice of any action taken resulting in the reassignment of cases, or that otherwise affects the duties of the MDJ, to the AOPC. *Id.* This power is not intended to contradict and circumvent the constitutionally established procedure for suspension, removal, or discipline of MDJs and, except

as provided by law or rule, president judges do not have the authority to suspend or discipline MDJs. Note to Pa.R.J.A. 605.

§ 5.04 CRIMINAL JUSTICE ADVISORY BOARDS (CJAB)

A. History

In the early 1990s, a small group of individuals from Delaware County began exploring the idea of forming a collaborative group to address systemic criminal justice initiatives and solutions. They held the first official Criminal Justice Advisory Board (CJAB) meeting in the state of Pennsylvania in October 1994. Delaware County wasn't the only county looking for collaborative solutions, the Pennsylvania Commission on Crime and Delinquency (PCCD) was as well. A large part of PCCD's responsibility was to administer federal and state grant funds to counties and as it reviewed grant applications it would often receive submissions that were in direct competition from other agencies within the same jurisdiction. To combat this issue, PCCD began requiring all grant submissions to have a written letter of support from the local CJAB directly relating an identified priority of the board to the funding announcement. This practice encouraged each county to create a CJAB and to proactively identify common problems and develop joint solutions on a regular basis.

B. Currently

Fast forward 20 years and the local CJAB has become one of the most collaborative tools a district court administrator has to depend on. No longer do CJABs exist as merely a vehicle to obtain grant funding, although it is still a requirement when seeking PCCD grant funding to have a letter of support from the local CJAB. All but two of Pennsylvania's 67 counties have a CJAB and the list of projects and accomplishments that CJABs have collectively been responsible for is staggering. Cross Systems Mapping, Treatment Court Expansions, IT Collaborations, Re-entry Coalitions, Strategic Planning, Pre-trial Initiatives and more recently the heroin crisis, are all issues addresses and combated by CJAB members.

Each CJAB board has its own unique structure within the broader guidelines required by PCCD. In some counties the president judge is the chair and the board is very much court-driven. In other counties, a director of a non-profit group that provides services within the criminal justice system may be the chair. Depending upon how your local CJAB is structured you may have the responsibility to provide administrative support to the board. PCCD requires a dedicated staff member for that purpose. In many counties that staff member is a judge or court administrator. In all counties the court has a guaranteed seat, and therefore a vote, on the board. Beginning in 2006, PCCD developed minimum operating standards, including the structure, by-laws and required representatives from specific agencies for CJABs. You can reference these minimum operating standards on PCCD's [website](#).

PCCD has also provided regional representatives who provide training, technical assistance, and strategic planning services to county CJABs. You can find your regional representative and their contact information on PCCD's website [here](#).

PCCD hosts a minimum of two training opportunities for CJAB coordinators and chairs each year, and it provides data dashboards to assist CJABs with their strategic planning efforts. You can find information specific to your county data here: <https://pacjabdash.net/Default.aspx>.

§ 5.05 MASTERS, HEARING OFFICERS, AND CONCILIATORS

A. Generally

A master¹³ is a judicial officer employed by the court to make a recommendation to a judge in a variety of actions including partition actions (Pa.R.Civ.P. 1551-1574) and orphans' court matters (Pa.R.O.C.P. 9.1-9.8). A hearing officer is an attorney who conducts a hearing on the record and makes a recommendation to the court pursuant to the rules applicable to actions for support under Pa.R.Civ.P. 1910.12, partial custody under Pa.R.C.P. 1915.4-2, divorce actions (Pa.R.Civ.P. 1920.51), juvenile delinquency (Pa.R.J.C.P. 182-191), and dependency (Pa.R.J.C.P. 1182-1191) matters. A custody conciliator is also an attorney employed by the court to hear matters in custody in those jurisdictions that use a non-record proceeding under Pa.R.Civ.P. 1915.4-3.

Masters, hearing officers or conciliators are officers who develop a recommendation by conferencing or hearing an issue that is before the court in a fair and equitable manner. The master, hearing officer or conciliator develops the recommendation that can be accepted by the parties, negotiated further, or rejected outright by one or both parties who take exception to it and request review of the issue by a judge. The process for review depends on the jurisdiction. The master, hearing officer or conciliator are all employed to assist the trial court in expediting the outcome of cases and play a key role in the court system.

The use of masters, hearing officers, and conciliators varies widely throughout the Commonwealth. Masters or hearing officers may be employed to assist trial judges in areas related to family law, such as protection from abuse, custody, support, equitable distribution, juvenile dependency or delinquency, and divorce. In civil cases masters are used in settlement conferences

¹³ The term "master" is gradually falling out of favor and some rules have switched to the term "hearing officer" in recent years.

or to resolve partition matters. Masters are used in orphans' court cases to resolve complex estate issues.

A master is usually an attorney whose role is not to provide legal advice or assist a party with filing or pleadings, but rather to conference and/or hear cases where testimony and evidence are presented. In most instances, the rules of court and rules of evidence apply to these hearings. After the hearing, the master reviews the evidence and prepares a report summarizing the proceeding and provides findings of fact, conclusions of law or recommendations for disposition of the case depending upon the type of case and jurisdiction or local practice.

Although entitled to great weight, a master's report is not binding on the court. A master's report is advisory only, although it should be given full consideration, particularly on issues of credibility because the master has the opportunity to hear and observe witnesses. *See Anderson v. Anderson*, 822 A.2d 824 (Pa.Super. 2003); *Kohl v. Kohl*, 564 A.2d 222 (Pa.Super. 1989); West Pennsylvania Practice, Wilder, Pa. Family Law Practice and Procedure, Vol. 17, 7th Edition, §§ 16.2 - 16.3.

The referral to a master is within the discretion of the trial court and may be made on the court's own motion or upon the motion of either party. Recusal of a court appointed master is also within the discretion of the court.

A master is subject to the Unified Judicial System (UJS) Code of Conduct. Please note the exception to the Prohibition on Partisan Political Activity contained in (V)(2)(b) of the Code for employees who are duly sworn court-appointed full time masters who become candidates to higher judicial office.

In January 2020, the Ethics Committee of the Pennsylvania Conference of State Trial Judges adopted [Formal Advisory Opinion 2019-1](#), which addressed whether court-appointed

masters, hearing officers, and other quasi-judicial officers are subject to the Code of Judicial Conduct and the ethical obligations of judges supervising them. The Committee concluded that masters, hearing officers, and other quasi-judicial officers are not subject to the Code of Judicial Conduct but may be subject to the Code of Conduct of Employees of the Unified Judicial System (UJS Code of Conduct) if they are "county-level court employees who are under the supervision and authority of the President Judge." Regardless, judges who have supervisory "direction and control" over masters, hearing officers, and other quasi-judicial officers are subject to Rule 2.12 of the Code of Judicial Conduct, which requires them to ensure that those individuals act in a manner that is consistent with the judge's obligations under the Code.

A master should be able to listen, understand, and convey awareness and respond appropriately. The master also should be able to work and make sound decisions in a stressful, fast-paced environment. Finally, the master should have the ability to use precise and concise language in reports.

B. Types of Masters, Hearing Officers, and Conciliators

There are specific references to masters, hearing officers or conciliators in the Pennsylvania Rules of Procedure as follows:

1. Partition of Real Property: Pa.R.Civ.P. 1551 – 1574

A master may be appointed by a trial judge in an action for partition of real property. The court, at any time after a preliminary conference, may appoint a master to hear the entire matter or to conduct any sale, or to act upon only specified issues or matters relating to carrying out the court's order for partition under Pa.R.Civ.P. 1558. The master may hold hearings and make examinations as necessary, after reasonable notice, and may employ appraisers or other experts with authorization from the court pursuant to Pa.R.C.P 1559. A master who is appointed by the

court shall file a report with respect to the matters submitted and may file the report in the form of a decision including findings of fact pursuant to Pa.R.Civ.P. 1570.

Rule 1569 allows the master to change or modify the findings and a party may file exceptions to rulings on evidence, findings of fact or conclusions of law or proposed order within 10 days after notice by the master. The master's cost is paid by the parties pursuant to an order by the trial Judge and is taxed as part of costs to be paid by the parties under Pa.R.Civ.P. 1574.

2. Support: Pa.R.Civ.P. 1910.1 - 1910.50

Rules 1910.1-50 govern support or obligations to pay alimony pendente lite. The rules allow for the use of a hearing officer to make a recommendation after conducting a record hearing. After a conference, Pa.R.Civ.P. 1910.12 requires that a record hearing be conducted by a permanent hearing officer who must be a lawyer. The hearing officer receives evidence, hear arguments and not later than 20 days after the close of the record file a report with the court containing a recommendation including amount of support, by and for whom it shall be paid, and the effective date of the order. Upon receipt of notice, a party may file exceptions.

A hearing officer may also hear civil contempt petitions filed by a party for failure of a party to pay support ordered by the court pursuant to Pa R.C.P. 1910.25-4. The hearing officer recommends whether the respondent has willfully failed to comply, should be held in contempt, and if sanctions should be imposed. A party may file exceptions.

3. Custody and Visitation: Pa.R.Civ.P. 1915.1 – 1915.24

These rules govern custody, partial custody, and visitation of minor children. It is important to note the rules require prompt disposition of custody cases for scheduling and decision purposes. After the conclusion of an initial conference, the rules allow for a hearing to be scheduled before a hearing officer who is a lawyer no more than 45 days from the conference.

According to Pa.R.Civ.P. 1915.4-2, the lawyer must be employed by or under contract with a judicial district and must not practice family law in the same judicial district.

The officer receives evidence, hears argument, and files a report with the court containing a recommendation with respect to partial custody or supervised physical custody. A party may file exceptions. Some counties utilize non-record proceedings and use a custody conciliator under Pa.R.Civ.P. 1915.4-3 with the same responsibilities and rules as a hearing officer. Please note that Pa.R.Civ.P. 1915.11(c) requires the president judge or administrative judge of the family division of each county to certify that custody proceedings are conducted using record/hearing officer or non- record/conciliator process.

4. Divorce: Pa.R.Civ.P. 1920.51

Rule 1920.51 specifically allows for the appointment of a hearing officer by the court or upon motion by one of the parties to report and recommend on matters related to annulment, alimony, alimony pendente lite, equitable distribution of marital property, child support, partial custody or visitation, counsel fees, costs and expenses. No hearing officer may be appointed to determine solely grounds for divorce or in a claim for legal, physical, shared custody or paternity pursuant to Pa.R.Civ.P. 1920.51(a)(2)(i) and (ii). A permanent or standby hearing officer employed by or under contract with a judicial district or appointed by the court is forbidden by Pa. R.C.P 1920.51(4) to practice family law before a conference officer, hearing officer, permanent or standby master, or judge of a judicial district.

In an action for divorce or annulment which was referred to a hearing officer, the hearing officer must include findings of fact, conclusions of law, and a recommended disposition of the case under Pa.R.Civ.P. 1920.53. If the claim is for child support, alimony pendente lite, or counsel fees and expenses, the hearing officer's report may need to contain specific information pursuant

to Pa.R.Civ.P. 1920.54. A court may adopt local procedures for matters referred to a hearing officer. Please note there are certain deadlines under Pa.R.Civ.P. 1920.55-2 for when a hearing officer shall file a record and report at the conclusion of a hearing. A hearing officer may, sua sponte, hold a status conference at any time in the proceedings. Pa.R.Civ.P. 1930.7.

5. Orphans' Court Auditors and Masters: Pa.R.O.C.P. 9.1 -9.8

According to Orphans Court Rules 9.1- 9.8, a master may be appointed pursuant to 20 Pa.C.S. § 751 and shall give notice of scheduled hearings as prescribed by local rules. A master has 90 days to file a report after appointment unless extended by the court. The report shall also include the transcript. The master shall give notice of the filing or intention to file the report and the report is not approved until a decree is entered adopting the master's recommendations. A master may apply to the court at any time for leave to require security for payment of expenses and may decline to proceed until security is entered.

6. Juvenile Hearing Officers: Pa.R.J.C.P. 182-191 & 1182-1191

a. Generally

Pursuant to the Juvenile Act, 42 Pa.C.S. § 6301, *et seq.* courts employ hearing officers¹⁴ in delinquency and dependency matters who must initially conform to the rules related to education, experience and training as outlined in Pa.R.J.C.P. 182 (delinquency) & 1182 (dependency). Juvenile hearing officers must have specific training in juvenile law and continuing education requirements under the Pennsylvania Continuing Legal Education Board. Both the AOPC's Office of Children and Families in the Courts (OCFC) and the Juvenile Court Judges' Commission (JCJC) offer an online educational session hosted on the JCJC's educational platform.

¹⁴ The Juvenile Act, 42 Pa.C.S. § 6305, uses the term master, but the Juvenile Rules use the term hearing officer.

The hearing officer is defined as an attorney with delegated authority to hear and make recommendations for juvenile delinquency and dependency matters. The president judge or designee may appoint masters to hear designated juvenile delinquency and dependency matters but these officers must not practice before the juvenile court in the same judicial district. *See* Pa.R.J.C.P. 185 & 1185.

b. Delinquency

In delinquency matters, juvenile hearing officers may preside over detention hearings, detention review hearings, shelter care hearings, discovery, pre-adjudicatory, preliminary proceedings for misdemeanors, and hearings on misdemeanor petitions, uncontested dispositional review hearings and uncontested probation revocation hearings. A hearing officer has no authority, however, to conduct transfer hearings under Pa.R.J.C.P. 394, issue warrants, or hear requests for writs of habeas corpus.

Juvenile hearing officers must inform the juvenile of certain rights under Pa.R.J.C.P. 187(C). At the hearing, a hearing officer may accept admissions and at the conclusion of the hearing the officer must announce in open court on the record the findings and recommendation that will be submitted to the judge. A summary stating the recommendation must be submitted to the juvenile court judge within one business day of the hearing. Pa.R.J.C.P. 190 & 191. A party may challenge the hearing officer's recommendation by filing a motion with the clerk of courts within three days of receipt of the recommendation and requesting a rehearing by a judge. Pa.R.J.C.P. 192.

c. Dependency

If necessary to assist the juvenile court judge, hearing officers may be appointed to hear designated dependency matters pursuant to Pa.R.J.C.P. 1185(A). A hearing officer has no

authority, however, to preside over termination of parental rights hearings, adoptions, or any hearing where a party seeks to establish or change the permanency goal to adoption. Pa.R.J.C.P. 1187(A). A dependency hearing officer also does not have authority to: enter emergency or protective orders pursuant to Pa.R.J.C.P. 1200 and 1210, issue warrants, or issue contempt orders.

Juvenile hearing officers must inform the parties of certain rights under Pa.R.J.C.P. 1187(B). At the hearing, a hearing officer may accept stipulations and at the conclusion of the hearing the officer must announce in open court on the record the findings and recommendation to be submitted to the judge. Pa.R.J.C.P. 1190 & 1191. A summary stating the recommendation must be submitted to the juvenile court judge within two business days of the hearing. A party may challenge the hearing officer's recommendation by filing a motion with the clerk of courts within three days of receipt of the recommendation and requesting a rehearing by a judge. Pa.R.J.C.P. 1191(C).

§ 5.06 CONFLICT COUNSEL IN CRIMINAL MATTERS

A. Generally

Pursuant to the Pennsylvania Rules of Professional Conduct, a lawyer generally shall not represent a client if the representation involves a concurrent conflict of interest. According to Pa.R.P.C. 1.7, a concurrent conflict of interest exists if: (1) the representation of one client will be directly adverse to another client; or (2) there is a significant risk that the representation of one or more clients will be materially limited by the responsibilities to another client, a former client or a third person or by a personal interest of the lawyer. The Comment to Rule 1.7 identifies various instances in which a conflict may arise. Comments 23 - 25 relate specifically to “conflicts in litigation” which may be of interest to district court administrators. According to the Comments, the rule prohibits representation of opposing parties in the same litigation, regardless of a client’s consent. Such conflicts arise in criminal cases. The potential for conflict of interest in representation of multiple defendants who are facing charges arising from the same criminal episode is defined as “grave” and ordinarily a lawyer should decline to represent more than one co-defendant.

In addition to the rules of professional conduct, Pennsylvania Rule of Criminal Procedure 122 requires the appointment of counsel in criminal cases involving a potential jail sentence with an indigent defendant, or where the interests of justice require it. The language of Pa.R.Crim.P. 122 covers instances of the appointment of counsel for people without financial resources, i.e., indigents. *See Gideon v Wainwright*, 372 U.S. 335, 9 L.Ed. 2d 799 (1963) (requiring state courts to provide counsel to those accused who cannot afford to pay for an attorney); *see also* U.S. Const. amend. VI.

B. Appointment

If there is a potential conflict in criminal cases, public defenders file an application with the court in the form of a petition or motion and request the court to appoint conflict or independent counsel—a private attorney—to represent an indigent co-defendant. Representation is typically provided for any financially eligible person. The state requires each local government to fund and administer indigent defense services. Therefore, most common pleas courts have a program or process for appointing conflict counsel.

Conflict counsel is usually appointed from an eligible panel of attorneys in the local bar who are experienced in matters such as summary, misdemeanors, felony, juvenile, mental health, and homicide cases. In some counties panels of attorneys are created by the court or local bar association. Attorneys who are appointed by the court should have adequate knowledge of the relevant areas of law, be assigned to represent indigent clients at the earliest stage of a case, be present at every critical stage, conduct reasonable factual and legal pretrial investigations, pursue discovery rules, utilize investigators and experts, consult with clients, and discuss substantive and procedural rights and perform work with reasonable diligence and promptness. *See Kuren v Luzerne County*, 146 A.3d 715 (Pa. 2016).

C. Indigent Defense Plan

A plan to ensure the proper administration and implementation of indigent defense should have basic elements which include a combination of the following:

1. A petition for appointment of counsel identifying a conflict and supporting documentation.
2. Review by a judge and selection of an attorney from an appropriate panel or source.

3. Counsel to be appointed must have certain minimum qualifications related to type and complexity of charge, e.g. misdemeanor, felony, homicide (capital or non-capital), juvenile, mental health, etc.

4. Establishment of a mentoring system to assist court-appointed attorneys.

5. Counsel who is appointed must obtain all necessary information related to the client.

6. Reasonable fee structure computed on reasonable rates related to travel time, out of court time, and in court time. Counsel must keep strict time records.

7. Fee caps on cases depending on type of case.

8. Relief from fee caps in cases upon submission of counsel's petition and review and approval by judge.

9. Ability to employ experts, investigative and other reasonable expenses.

10. Performance reviews and requirement to attend Continuing Legal Education (CLE) tailored to members.

11. Administration and oversight of program.

12. Ability to submit reimbursement of expenses and costs.

The ability to appoint conflict counsel in criminal cases and structure a cost-effective plan while providing adequate legal services to indigent defendants is an important issue in court administration.

§ 5.07 PROBLEM-SOLVING COURTS

A. Problem-Solving Courts Generally

Problem-solving courts, sometimes referred to as treatment courts, focus on specific types of behaviors or conditions often linked to crime and social problems. These behavioral problems, particularly drug addiction and untreated severe mental illness, have a major impact on the courts, jails, and prisons.

The drug court model of problem-solving courts was developed in 1989 in Miami-Dade County, Florida, where the community was struggling with a crack cocaine epidemic. Since its inception, the drug court model has been the subject of intense scrutiny. Studies have found that drug courts stop the revolving door of addiction, criminal behavior, and incarceration; save lives; reunite families; and save taxpayer dollars. The model has since been adapted to include juvenile drug courts, driving under the influence (DUI) courts, mental health courts, veterans courts, and more. Drug courts have been called the most significant criminal justice initiative in the last century.

Since 1997, the Commonwealth has expanded problem-solving court models to include DUI courts, mental health courts, juvenile drug courts, and veterans courts. In Pennsylvania, problem-solving courts are established at the discretion of the president judge. In 2007, the Supreme Court of Pennsylvania established an Executive Office for Problem-Solving Courts within the Administrative Office of Pennsylvania Courts (AOPC) (<http://www.pacourts.us/judicial-administration/court-programs/problem-solving-courts>) and a program administrator was appointed to assist judicial districts with the implementation and operation of these programs. In 1999, there were 37 problem-solving courts in Pennsylvania. As of April 2022 there were 131. A current list of problem-solving courts can be found at

<https://www.pacourts.us/Storage/media/pdfs/20211025/210629-problemsolvingcourtslist-asof10.25.21.pdf>.

The goal of problem-solving courts is to supervise the treatment and rehabilitation of carefully screened and selected defendants to try to change their behavior. Instead of a jail sentence, defendants are given counseling, treatment for their addiction or illness, educational assistance, and healthcare support. Diverting certain nonviolent defendants into a problem-solving court rather than jail has been shown to stem the number of repeat offenders, trim costly jail expenses, improve lives, and strengthen families. For example, research from the U.S. General Accounting Office indicates that nationally drug courts return to the community up to \$27 for every \$1 invested and can reduce crime by up to 50%. The longest study to date shows crime reductions lasted up to 14 years. *See* National Association of Drug Court Professionals, <http://www.nadcp.org>.

B. Features of a Problem-Solving Court

Problem-solving courts is a term adopted by the Council of Chief Justices and the Council of State Court Administrators to refer to a specialized calendar or docket, typically part of a judge's larger caseload, to which cases involving individuals with behavioral health problems, such as drug addiction or mental illness, who meet certain criteria, are diverted for alternative case processing. The goals of a problem-solving court are to reduce recidivism and facilitate the process of reintegrating participants into the community to become contributing members of society.

There are eight distinguishing features of the problem-solving court model:

1. **Team Approach** (i.e. judge, prosecutor, defense, coordinator, probation and treatment providers)
2. **Target Population**
3. **12-24 Month Program** (divided into phases)
4. **Intense Community Supervision**
5. **Drug Testing** (random and frequent)
6. **Treatment Services** (as determined by assessment)
7. **Regular Status Hearings before a Judge**
8. **Incentives and Sanctions** (administered by the judge in response to participant behavior)

C. Starting a Problem-Solving Court

Judicial districts interested in exploring the development of a program should contact AOPC's Program Office for Problem-Solving Courts. AOPC staff will travel to your district to provide an overview of the problem-solving court model. If the district decides to establish a program, the AOPC will guide it through the planning and implementation process. The planning and implementation process includes the facilitation of site visits to mentor programs, training of team members in the problem-solving court model, training of administrative staff in the use of the statewide automated case management system for problem-solving courts, and connecting county contacts with the problem-solving court network in Pennsylvania.

District court administrators whose president judge is interested in implementing a problem-solving court should contact:

**Angela S. Lowry
Problem-Solving Courts Program Administrator
Administrative Office of Pennsylvania Courts
601 Commonwealth Avenue
Harrisburg, PA 17106-1260
Phone 717-231-3300**

D. PACJIS

1. Generally

The AOPC has deployed a vendor-provided Problem-Solving Adult and Juvenile Courts Information System (PAJCIS). PAJCIS provides a case management system for problem-solving courts in judicial districts with operational programs. PAJCIS also provides reports and performance measures needed by both the judicial districts and the AOPC to assess the effectiveness and impact of problem-solving courts statewide.

PAJCIS is used by adult and juvenile drug courts, DUI courts, family drug courts, mental health courts, veterans courts, and other more unique categories of problem-solving courts such as truancy, sex offender, prostitution, and domestic violence courts. PAJCIS is web-based and the primary users of the system include designated court and county probation staff, court coordinators, prosecutors, defense counsel, treatment providers, case managers, and judges assigned to a problem-solving court. In addition, some restricted access may be provided to third-party agencies (e.g. ancillary service providers, evaluators, etc.). The level of access is determined by role. Access can be modified by the county court in collaboration with the AOPC. The AOPC Problem-Solving Courts Program Office is the PACJIS system administrator and has full access.

2. Performance Measures

PAJCIS provides an easy-to-use case management system for Pennsylvania judicial districts with one or more problem-solving courts. The system provides a comprehensive problem-solving courts outcome database and provides a unified system of performance measures for problem solving courts. All of the data needed for the performance measures reports are entered into PAJCIS and reports can be generated at the push of a button.

a. Adult drug and DUI courts

With technical assistance from the National Center for State Courts (NCSC), the AOPC brought together a group of drug court experts from around the Commonwealth to produce a set of statewide performance measures for Pennsylvania's adult drug and DUI courts. These experts elected to incorporate the core National Research Advisory Committee (NRAC)-recommended performance measures into a performance measure system for the Commonwealth. In addition to these core measures, the group elected to include several measures related to social functioning, accountability, core functions and operations, and timeliness of processing.

b. Veterans courts

Although veterans courts are based on the successful drug court model, there are distinguishing features to these programs that must be recognized. In acknowledgment of the difference, in 2014 the AOPC brought together a group of program experts from around the Commonwealth to assist in the development of a set of statewide performance measures for Pennsylvania's veterans courts similar to those used to for the drug and DUI courts. Working with the assistance of the NCSC, the group elected to adopt the core measures developed in 2006 by the NRAC to assess the performance of drug courts as a starting point. The work group then

began the process of building upon those core measures in developing the measures needed to assess the performance of veterans courts.

c. Mental health courts

Through membership on a national advisory group to the NCSC, performance measures have been identified and piloted in Pennsylvania for mental health courts.

§ 5.08 FINES, COSTS, FEES, AND RESTITUTION

In criminal matters, defendants may be required to submit payments for fines, costs, fees, and restitution. These monies are governed by statute or rules of court and may be paid into magisterial district judge (MDJ) court or common pleas (CP) court, depending on the jurisdiction of the case.

A. Fines

The sentencing authority of the MDJ and CP courts is set forth in 42 Pa.C.S. § 9721. One of the sentencing alternatives under § 9721(a) is a fine, either by itself or in conjunction with another sentence. 42 Pa.C.S. § 9726. The maximum amounts of fines which a judge may order are set forth in 18 Pa.C.S. § 1101.

B. Costs

The costs to be charged are set forth in 42 Pa.C.S. § 1725.1, which also provides for annual increases. Such increases and the amounts of costs are promulgated by the AOPC in [204 Pa.Code §§ 29.401 - 405](#). The updated annual costs are also published to the HELP system of the Magisterial District Judge System (MDJS). An MDJS Bulletin published in November or December of each year announces the upcoming annual changes to the cost table. Since costs are not included in the general sentencing sections of Title 42, there is arguably no authority that permits a judge to waive or otherwise forgive them.

C. Fees

There are numerous statutory fees that may be applicable. Examples include: Judicial Computer System Augmentation Account, 42 Pa.C.S. § 3733(a.1); Crime Victims Compensation Fund, 18 P.S. § 11.1101; Domestic Violence, 71 P.S. § 611.13; Court Supervision Fee, 18 P.S. § 11.1102(c); ARD Administrative Fee, Pa.R.Crim.P. 316; and Restitution Administration Fees, 42

Pa.C.S. § 9728(g) & (g.1). The foregoing is not an exhaustive list as there may be other pertinent fees and costs. See [204 Pa.Code §§ 29.401 - 405](#) for further guidance on fees.

D. Restitution

According to 18 Pa.C.S. § 1106 and 42 Pa.C.S. § 9721(c), a court is required to order restitution to compensate a victim for damage or injury sustained for any crime where property has been stolen, converted, or otherwise unlawfully obtained, or its value has been substantially decreased as a direct result of the crime, or where the victim suffered personal injury as a direct result of the crime. Restitution may be made a condition of probation. The court cannot reduce the amount of restitution by any amount the victim has received from either insurance or the Crime Victim's Compensation Fund. The victim has priority of payment from the amounts collected to pay restitution. The distribution of payments is governed by the [Uniform Disbursement Schedule \(UDS\)](#).

An MDJ ordering restitution must limit it to the return of the property or its undisputed dollar amount. Where the value is disputed, the MDJ may make a determination and order a dollar amount so long as the amount does not exceed the amount of the MDJ's civil jurisdiction.

When restitution is ordered by a CP judge, the offender shall make the restitution payments to the county probation department, clerk of courts or another agent designated by the county commissioners with the approval of the president judge. When ordered by an MDJ, the restitution payments are to be made to the MDJ court.

The probation department or clerk of courts and the MDJ shall maintain records of the restitution order and its satisfaction and shall forward to the victim the property or payments made pursuant to the restitution order. Whenever the defendant fails to make restitution as provided in

the judge's order, the probation section shall notify the court within 20 days. Payment of restitution is a condition of parole. 42 Pa.C.S. § 9764(i).

E. Collections and Enforcement

1. Collections

Both the clerical procedures accessible within MDJS HELP and Clerk of Courts Procedures Manual are excellent sources in regard to the amounts of fees and costs, and the distribution of fines, fees, and costs. In addition, the UJS Portal contains a guide entitled [A Guide to Collections in the Pennsylvania Courts](#).

Under 42 Pa.C.S. § 9728(a)(1), the county probation department or other agent designated by the county commissioners with the approval of the president judge, is responsible for collecting restitution, reparation, fees, costs, fines and penalties. In addition, the Department of Corrections or the county correctional facility is authorized to make monetary deductions from inmate accounts for the purpose of collecting restitution or other court-ordered obligations. 42 Pa.C.S. 9728(b)(5).

The collecting agent is required by 42 Pa.C.S. § 9728(b.1) to maintain a file on restitution collected by the Department of Corrections or the county correctional facility. Pursuant to 18 Pa.C.S. § 1106(f), enforcement of restitution orders lies with the probation department—or other designated agent—or the MDJ.

Under 42 Pa.C.S. § 3502, the Supreme Court is responsible for promulgating regulations relating to the handling of fees, costs, and other monies: [204 Pa.Code §§ 29.401 - 405](#).

At the MDJ level, the MDJ offices collect the fines, costs, fees, and restitution and enter those into the MDJS. Restitution checks are printed and sent to the restitution recipients along with other checks disbursed to the appropriate recipients. The MDJ is responsible for the administration of his/her office, which includes the accountability of assessments recorded, monies

collected, and the timely disbursement of the funds to the appropriate recipients. By rule, the MDJ enforces the collection through the issuance of warrants and determinations of ability to pay, as well as driver's license suspension warning letters and notifications to PennDOT (DL-38s) for summary motor vehicle citations.

Upon receiving payment, the MDJ court must enter the payment into the MDJS and provide MDJS-generated receipt(s) to the remitter. In the event of computer downtime when payment is received at the MDJ court, manual receipts can be used. If so, the payment must be properly documented and eventually entered into the MDJS once the system is operational. All payments collected during the day must be deposited at the MDJ court's financial institution on a daily basis. Every month, the bank statement must be reconciled with the MDJS electronic check register.

2. Enforcement

The following is a partial list of enforcement tools that may be used:

- a.** Incarceration after a determination that the defendant is able yet refuses to pay restitution, reparations, costs, and fines. 42 Pa.C.S. § 9730(b)(2); Pa.R.Crim. P. 456 and 706.
- b.** Turning the delinquent account over to a collection agency when the defendant is able to pay. 42 Pa.C.S. §§ 9730(b)(2) and 9730.1. Statistical information on such referrals is to be made available to the Pennsylvania Commission on Crime and Delinquency. 42 Pa.C.S. § 9728(a)(2). In addition, in MDJS online help under HELP→ Documents & Resources there is a "Collection Agency – Policy and Procedures" link that may be helpful in explaining how to use a collection agency and the requirements for a case to be referred to collections.
- c.** Sentencing to a period of community service if unable to pay in full. 42 Pa.C.S. § 9730(b)(3).

d. Establish payment by installments if the defendant is unable to pay the amount in full. 42 Pa.C.S. § 9730(b)(3); Pa.R.Crim.P. 456(D) and 706.

e. Order the garnishment of wages (CP court only). 42 Pa.C.S. § 8127(a)(5)).

f. Accept credit or bank cards as the county treasurer may allow. 42 Pa.C.S. § 9730(a).

g. Authorize deductions by the Department of Corrections or county correctional facility from an inmate's account. 42 Pa.C.S. § 9728(a)(5).

h. Authorize the clerk to transmit judgments which do not exceed \$1,000 to the prothonotary for filing. 42 Pa.C.S. § 9728(b)(2).

i. The county clerk must forward all judgments in excess of \$1,000 to the prothonotary for docketing. 42 Pa.C.S. § 9728(b)(1).

j. If a defendant fails to make restitution within 20 days to an MDJ, the MDJ shall declare the offender in contempt and forward the case to the CP court. Upon such notice of failure to make restitution, or upon receipt of the contempt decision from an MDJ, the CP court shall order a hearing to determine if the offender is in contempt of court or has violated his probation and parole. 18 Pa.C.S. § 1106(f).

The CP court has the benefit of the probation department during periods of court supervision. Failure to make scheduled payments is a technical violation that can be handled administratively by probation personnel for as long as the offender remains under court supervision. The court can use the probation department as a resource to screen the offender and to recommend equitable payments based upon a substantiated evaluation of the offender's true ability to pay. Through a consent order, the period of supervision can be extended to maintain control over the offender. In situations when the offender is no longer supervised by the court,

traditional dunning letters and Rule 706 hearings may be used as an alternative to a collection agency.

After determining at a hearing that a defendant is able but refuses to pay, the court may sentence the defendant to incarceration. A violator of an offense under the Vehicle Code may be ordered to serve the obligation at a rate equivalent to \$40 per day. 75 Pa.C.S. § 6504(b). There is no statutory rate for serving time for violations under other titles.

In the case of a summary conviction in which the defendant is convicted and sentenced to jail in default of the payment of the fine and costs imposed, the costs of prosecution are borne by the county. 42 Pa.C.S. § 1725.2(b). In such a situation, the Commonwealth costs are nonpayable. 42 Pa.C.S. § 3571(c)(3). The county must pay server fees that remain to be collected. This does not, however, relieve the defendant of the obligation to pay server fees. The defendant is required to pay the server fees into MDJ court to essentially reimburse the county.

An alternative to a Rule 456 or 706 hearing for incarcerating a defendant for nonpayment is to impose an alternative sentence to be imposed in the event of nonpayment. 42 Pa.C.S. § 9758(c). When imposing an alternative sentence, the judge must be certain that the right to counsel has been addressed.

3. Importance of Internal Controls in the MDJ Courts

As this section demonstrates, MDJ courts have a significant role in the handling of funds collected by the court. It is for this reason that effective internal controls are vital. Please see § 5.03(J) (Supervision of Magisterial District Courts, Internal Controls and Financial Management in the Courts) for further information of this topic.

F. Distribution of Funds Collected

The distribution of funds collected is governed by statute. For example, the portions payable to the Commonwealth, county, and municipality are governed by 42 Pa.C.S. §§ [3571](#), [3572](#), and [3573](#) respectively.

Updates to the distribution plan of § 3571(c) (costs in MDJ proceedings) are provided by the AOPC in [204 Pa.Code § 29.403](#). In addition, the Supreme Court promulgates regulations governing the distribution and disbursement of fines, fees, costs, reparations, restitution, penalties, and other remittances imposed and collected by the criminal division of the CP courts, Philadelphia Municipal Court, and any other entity on behalf of the Court using the CPCMS. A summary of these regulations can also be found in the [UDS](#).

The use of the MDJS greatly assists the disbursement process. The MDJ courts use the MDJS to create, print, and mail weekly master account checks to the Department of Revenue (DOR) and monthly checks to the county and municipality recipients. In addition, disbursements owed to other recipients for restitution, collateral refunds, server fees and so forth are disbursed during the month. In addition to the weekly DOR checks, a Summary of Collections Report that is generated from the MDJS must be signed each month by the MDJ and forwarded to the DOR. In CPCMS, all distribution of funds is governed by the UDS cannot be overridden.

§ 5.09 INTERPRETERS AND LANGUAGE ACCESS PLANS

A. Statutory Requirements

It is the policy of the Commonwealth that no one should be put at a disadvantage in court by reason of race, national origin, ethnicity, or gender. Court interpreters are a vital tool in fulfilling the judiciary's obligation to guarantee the rights of persons with limited English proficiency (LEP) and those who are deaf or hard of hearing (DHH).

The legal basis for the courts' obligation to provide court access is rooted in Title VI of the Civil Rights Act of 1964; the American with Disabilities Act (ADA); the Rehabilitation Act of 1973; and the Pennsylvania Interpreter Act, 42 Pa.C.S. §§ 4401 *et seq.* and its implementing regulations. Since all courts receive federal money they are subject to Title VI.

The law requires that meaningful access to courts be provided to LEPs and DHH individuals. "Meaningful access" goes beyond the courtroom, and includes assistance at the courthouse, "Right to Interpreter" signage, bilingual *pro se* information, translated forms (available at <http://www.pacourts.us/forms/bilingual-forms>), and participation in court-ordered and managed programs.

B. Interpreters

In 2022, key portions of the UJS Language Access Plan were codified into the Rules of Judicial Administration at Pa.R.J.A. 260-263. These provisions set forth UJS policy to provide meaningful language access to the courts by providing timely, accurate, and effective language services at no cost to the LEP or DHH persons, whether requested or not. Pa.R.J.A. 261(A).

In addition, courts must review data about the languages for which interpreters are most frequently requested in their courts and translate vital documents in accordance with the policy

and procedures established by the AOPC. Pa.R.J.A. 261(B). If a translated document is not available, an oral translation must be provided. *Id.*

A qualified interpreter is to be provided for any court services, programs, or activities involving an LEP person and in every judicial proceeding where the LEP is a principal party in interest or any person when a court finds good cause for providing interpreter services. Pa.R.J.A. 261(C). A qualified interpreter is to provided for any court services, programs, or activities involving a DHH person and in every judicial proceeding where the DHH is a principal party in interest or any person, including a spectator, who seeks a reasonable accommodation. Pa.R.J.A. 261(D).

A good faith effort to obtain the services of an in-person certified interpreter should be made as there can be serious consequences if this is not done. *See Commonwealth v. Knox*, 142 A.3d 863 (Pa. Super. 2016) (finding that the trial court erred by failing to make a good-faith effort to obtain a certified interpreter). The determination of whether an interpreter is warranted in a particular case is within the discretion of the trial court. *In re Garcia*, 984 A.2d 506, 511 (Pa. Super. 2009). The discretion of the trial court, however, is to determine the factual question of whether an interpreter is needed; a trial court does not have discretion to decide whether a defendant who needs an interpreter has a legal entitlement to one. *Id.* Thus, where the court is put on notice that a defendant has difficulty understanding or speaking the English language, it must make clear to him or her that he or she has a right to have a competent interpreter. *Id.*

In addition, the services of an in-person interpreter should always be given preference when disposing of judicial matters. Under § 104 of the Language Access Regulations, the use of remote interpreters (*e.g.*, via phone or video) is generally restricted to circumstances where the proceeding is scheduled to last one hour or less, although if a telephone interpreter is used, the proceedings

should be short (i.e, no more than 30 minutes). Prior to using a remote interpreter, the judge must *voir dire* the interpreter to assess his/her qualifications, and if qualified, the interpreter must be sworn in using the same oath used to swear in an in-person interpreter. See [Guidelines for Procurement and Appointment of Interpreters](#) or the [Judicial Bench Card for Working with Interpreters](#) for the *Voir Dire* for Interpreters. In a remote interpreting situation, priority should be given to interpreters from the AOPC's ICP roster.

C. Judicial District Language Access Plans

Each district has a Language Access Plan (LAP) and a Language Access Coordinator (LAC) as the single point of contact for all district language access issues. The LAC oversees access to language services and compliance with all applicable laws and district policies. A district court administrator should work with the LAC to ensure that the court is in compliance with the law and that court staff have been properly trained to request and use interpreter services, bilingual forms, and other language services. In addition, president judges, district court administrators, and LACs should collaborate to modify district plans to comply with the statewide LAP.

D. Statewide Language Access Plan & Required Actions by Judicial Districts

In March 2017, the Pennsylvania Supreme Court approved a statewide LAP designed to supplement the judicial district LAPs. The plan contains required actions for both the AOPC and judicial districts. The statewide LAP also created a Monitoring and Evaluation Team to provide guidance to judicial districts on plan implementation issues as well as to monitor the plan's effectiveness.

Required judicial district actions, and the timeframe for completion, are set forth below.

- Secure the services of a provider of telephone interpreter services, if not already done.
- Include a Notice of Language Rights in district-specific hearing notices and subpoenas in the most frequently spoken non-English languages. The AOPC will develop the Notice of Language Rights.
- Utilize AOPC-developed I Speak cards (used to identify which language a court user speaks). These cards were provided to all judicial districts in their respective top five non-English languages, and are also available for printing from the UJS website, Language Access and Interpreter Page, <http://languageaccess.pacourts.us>.
- Record the language needs of LEPs and deaf and hard of hearing persons in the court's case management systems or physical case file.
- Evaluate services provided outside of the courtroom (e.g., mediation, drug and alcohol evaluations, anger management classes, etc.) and develop a protocol for providing language access to these services. In addition, courts should review their vendor contracts for court-ordered programs and include provisions requiring vendors to comply with Title VI, the ADA, and the Rehabilitation Act.
- Ensure that all court staff who regularly interact with the public are provided training on language access. AOPC has provided a short, 23-minute video on this subject.
- Evaluate local court forms and documents that are frequently used by LEPs to determine whether these should be translated into non-English languages frequently spoken in the judicial district. The judicial district LAP will be revised to reflect your form translation plans. The AOPC's Translation Policy and Procedures Manual provides guidance on this process.

- Provide biannual information to the AOPC (similar to that provided pursuant to the UJS Policy on Non-Discrimination and Equal Employment Opportunity) about complaints filed under the district LAP. The Language Access and Interpreter Program page on the UJS website includes a Language Access Complaint Form in bilingual, English-Spanish format, for members of the public to use to make the court aware of problems with language access services. District LACs should investigate and follow up on these complaints, and provide brief information on them to AOPC via a tracking log issued twice yearly.

AOPC provides a variety of useful resources such as the [Guidelines for Procurement and Appointment of Interpreters](#), which provides information on interpreter-related issues including payment, mastery levels for interpreters, and certification. Additional resources, including the Judicial Bench Card for Working with Interpreters, Quick Reference Guide, I Speak cards, Language Access Complaint form, bilingual forms, as well as complete information on AOPC's Interpreter Certification Program - the roster of interpreters qualified to work in our courts, Interpreter Program orientation and testing schedule, and brochure, "Become a Court Interpreter," can be found on the UJS Language Access & Interpreter Program webpage at <http://languageaccess.pacourts.us>.

§ 5.10 LOCAL RULES

Rule of Judicial Administration 103 provides for the promulgation of both local administrative rules and local rules of court. A local rule cannot be inconsistent with any general rule promulgated by the Supreme Court or with a statute. In addition, if the local rule corresponds to a statewide rule it must be numbered so that it is keyed to the corresponding statewide rule.

A. Implementation of Local Rules of Judicial Administration

A local rule of judicial administration must be published in the Pennsylvania Bulletin, <http://www.pabulletin.com/index.asp>, to become effective and enforceable pursuant to Pa.R.J.A. 103(c)(5). The effective date of the rule must be at least 30 days after the date of publication. At the same time the rule is published, Pa.R.J.A. 103(c)(6) requires that the adopting court: file a copy of it with the AOPC; publish a copy of the rule on the website of the court or the county; and compile the rule with the complete set of local rules no later than 30 days after publication in the Pennsylvania Bulletin. Local rules of judicial administration can be sent to the AOPC at adminrules@pacourts.us for filing. The compilation of local rules must be kept available for public inspection. The setting of filing fees is considered a matter of judicial administration under Pa.R.J.A. 103(c)(8), which permits rejection of a filing if the fee is not included and has not been waived.

B. Implementation of Local Rules of Procedure

Pursuant to Pa.R.J.A. 103(d)(4), all local procedural rules must be submitted to the appropriate Supreme Court Rules Committee for review to determine if the rule is not inconsistent with any general rule. The proposed rule can be submitted by email to rulescommittees@pacourts.us whereupon it will be directed to the appropriate rules committee.

The court cannot proceed with the local rule until it receives written notification of this determination.

Once notified by the appropriate rules committee that the proposed rule is not inconsistent with any general rule, Pa.R.J.A. 103(d)(5) requires that it be published in the Pennsylvania Bulletin. The effective date of the rule cannot be less than 30 days after the date of publication in the Pennsylvania Bulletin. At the same time the rule is published, Pa.R.J.A. 103(d)(6) requires that the adopting court: file a copy of the rule with the AOPC; publish a copy of the rule on the website of the court or the county; and compile the rule with the complete set of local rules no later than 30 days after publication in the Pennsylvania Bulletin. Local rules of procedure can be sent to the AOPC at adminrules@pacourts.us for filing. The compilation of local rules must be made available for public inspection.

§ 5.11 PROTECTION FROM ABUSE ACTIONS

A. Protection from Abuse Statutes

1. Protection from Abuse (PFA) Act

Protection from abuse orders are covered by the PFA Act (Act 66 of 2005), [23 Pa.C.S. § 6101 et seq.](#) Starting in 2008, Project Passport required that a model template be used for the petition, temporary order and final protection orders to improve recognition and enforcement of orders within and between states and tribes to adopt a recognizable first page.

2. Protection of Victims of Sexual Violence or Intimidation (PVSVI) Act

The Protection of Victims of Sexual Violence or Intimidation (PVSVI) Act, [42 Pa.C.S. § 62A1-01 et seq.](#), took effect July 1, 2015. Although the process is similar to that under the PFA Act, there are important differences including no relationship requirements, no firearm relinquishment provisions, and limited relief. Adults and minors may be eligible for a sexual violence protection (SVP) order, but only minors filing against non-minors are eligible for a protection from intimidation (PFI) order. What constitutes sexual violence or intimidation is specifically defined in the Act.

B. Full Faith and Credit

Protection orders from other comparable courts should be given full faith and credit. The validity of a foreign protection order shall only be determined by a court.

C. Venue

A petition for a protection order in Pennsylvania can be filed in any county, but the judge may decide to transfer the case to another county based on forum non conveniens. The plaintiff may have left the household to avoid further abuse and plaintiff's rights under this act should not be affected by a change in location. The defendant's absence from the Commonwealth should

also not affect the plaintiff's right to file for a protection order provided the court has personal jurisdiction over the defendant in accordance with 42 Pa.C.S. § 5322.

D. Protection from Abuse Database (PFAD)

How to get started on PFAD:

Go to www.pfad.pa.gov and request an account to be able to register as a new user.



The support staff from the Pennsylvania Coalition Against Domestic Violence (PCADV) will send you an e-mail with log-in instructions once they process your request. PCADV can also provide training on how to use PFAD. You can contact the Help desk at 1-888-23LEGAL for training or technical assistance. The Pennsylvania State Police also have technical support available to assist you with PFAD issues. They can be contacted at 1-877-777-3375.

Although the majority of Pennsylvania counties use PFAD for their PFA orders, Lehigh County and Philadelphia County create these orders on their own systems, and through an electronic interface, the data is sent to and available in PFAD so that PFAD is a complete statewide database for protection orders.

E. Court Responsibilities under the PFA and PVSVI Acts include:

1. Provide simplified forms and clerical assistance in English and Spanish to assist filers with the PFA, SVP and PFI Petitions pursuant to 23 Pa.C.S. § 6106(h)(1) and 42 Pa.C.S. § 62A05(e)(1). Forms in other languages may be available on the AOPC website at <http://www.pacourts.us/forms/bilingual-forms>.

Protection from Abuse / Protección contra Maltrato		
→ ARABIC	→ CHINESE	→ FRENCH
→ HAITIAN CREOLE	→ KHMER	→ KOREAN
→ POLISH	→ PORTUGUESE	→ RUSSIAN
→ SPANISH	→ VIETNAMESE	
Protection of Victims of Sexual Violence and/or Intimidation / Protección de Víctimas de Violencia Sexual y/o Intimidación*		
→ ARABIC	→ CHINESE	→ FRENCH
→ HAITIAN CREOLE	→ ITALIAN	→ KHMER
→ KOREAN	→ POLISH	→ PORTUGUESE
→ RUSSIAN	→ SPANISH	→ VIETNAMESE

2. Provide the plaintiff with written and oral referrals, in English and Spanish, to local sexual assault services in cases of sexual violence and to the local legal services office and to the county bar association’s lawyer referral service in the case of sexual violence or intimidation.

3. Schedule final hearings to be held within 10 business days of the filing of a petition pursuant to 23 Pa.C.S. § 6107 and 42 Pa.C.S. § 62A06.

4. Track statistics of PFA, SVP and PFI cases and report those to the AOPC monthly. Options for compiling these statistics include getting them from PFAD, from your county filing office, manually from Court Administration staff, or from a report created by your information technology department.

5. Ensure that SVP cases involving minors are getting properly reported pursuant to 42 Pa.C.S. § 62A05(d)(5). This section requires notification to the Pennsylvania Department of Human Services and the Children and Youth Office in your county. The notification can be done by e-mail to ra-pwact25of2014@pa.gov. You may also want to include others on the e-mail such as an administrative judge.

6. Work with the prothonotary to ensure that protection orders are being transmitted to the Pennsylvania State Police within 24 hours as required by 23 Pa.C.S. § 6105(e)(2) and 42 Pa.C.S. § 62A04(c)(3). PFAD transmits the orders electronically and the system allows the filing

office to communicate directly with the Pennsylvania State Police to resolve any issues with the orders being accepted. Once accepted, the orders are then in the Pennsylvania Central Registry and are accessible by law enforcement. It is critically important to ensure that the current order has been accepted. As an example, if the current order dismisses the protection order but does not get properly processed and is not in the Central Registry, law enforcement may falsely arrest a defendant based on the prior active order.

7. Ensure that no plaintiff seeking relief will be charged any fees under the PFA or SVPI Acts. No fees can be charged to plaintiffs filing for a protection order so they are not deterred or delayed from filing.

8. Work with the prothonotary and sheriff's offices for assessing and collecting fees from defendants. The court can assess the fees against the defendants and require them to be paid within the time frame the judge elects. The court can also waive the fees upon a finding that the defendant is unable to pay them.

9. Adopt a means for prompt and effective service of the orders pursuant to 23 Pa.C.S. § 6106(e) and 42 Pa.C.S. § 62A05(d)(1).

10. Although the final hearing should be within 10 business days, it may be sooner. It could be the next day if the case is cross-filed with another case that is already scheduled, or it could be the following week based on your court's schedule. Service is key. It is important to work with your sheriff's department or whoever will be serving the orders to make sure they understand the importance of serving the orders timely. Without timely service, the protection order will not be as effective and cases may need to be continued.

11. Provide for emergency relief by minor judiciary pursuant to 23 Pa.C.S. § 6110 and 42 Pa.C.S. § 62A09. If a party is requesting a protection order when the common pleas court is

not available (nights, weekends, holidays, etc.), arrangements must be made with the minor judiciary to be available to enter emergency orders. Emergency orders are in effect until the end of the next business day when the common pleas court is available.

12. Maintain the confidentiality of the plaintiff's contact information including permanent or temporary address, telephone number, and information about plaintiff's whereabouts as requested pursuant to 23 Pa.C.S. 6112 and 42 Pa.C.S. § 62A11 and as required by the Public Access policy effective January 1, 2022 (<http://www.pacourts.us/public-record-policies>) and Rule 1931(a) of the Pennsylvania Rules of Civil Procedure.

F. Extension or Modification of PFA Orders

An extension can be granted under 23 Pa.C.S. § 6108(e) and 42 Pa.C.S. § 62A07(d) if a proper petition is filed and the court finds that the defendant committed one or more acts of abuse subsequent to the entry of the final order or that the defendant engaged in a pattern or practice that indicates continued risk of harm. There is no limitation to the number of extensions that may be granted.

G. Indirect Criminal Contempt (ICC)

Arrests for a violation of a protection order can be without warrant upon probable cause whether or not the violation was committed in the presence of the law enforcement officer. 23 Pa.C.S. § 6113 and 42 Pa.C.S. § 62A12. If arrested, the defendant shall be taken before the court without unnecessary delay in the judicial district where the contempt is alleged to have occurred. This can be an MDJ when the court of common pleas is unavailable. The court in the county where the protection order was granted shall also have jurisdiction pursuant to 23 Pa.C.S. § 6114(a.1) and 42 Pa.C.S. § 62A14.

The court shall schedule a hearing within 10 days of the filing or charge of indirect criminal contempt. Other criminal charges may also be brought as appropriate. The ICC hearing and adjudication and the hearing and adjudication for any other criminal charges will be separate and will not preclude the other.

H. Civil Contempt

The plaintiff can file for civil contempt pursuant to 23 Pa.C.S. § 6114.1 and 42 Pa.C.S. § 62A15 alleging that the defendant has violated the protection order. The defendant shall not have the right to a jury trial, but shall be entitled to counsel since a possible sentence may include imprisonment not to exceed six months if he or she is found to have violated the protection order.

I. Return of Firearms, Other Weapons and Ammunition

A PFA Act defendant can petition the court pursuant to 23 Pa.C.S. § 6108.1 for the return of firearms, other weapons and ammunition upon the expiration of the order or a dismissal of the petition for protection from abuse. If the defendant is otherwise eligible to lawfully possess those items, the items can be returned. No fees or costs shall be required for a return of these items. The defendant can also petition the court to modify an existing order to allow for return of these items. The plaintiff must be given notice and an opportunity to be a party to that proceeding. The court shall hold a hearing within 10 business days of the date of filing of the petition.

J. Expungements

A petition can be filed to expunge a protection action. The court can refer to case law for the limits on what factual circumstances would make expunction appropriate. *See e.g., Carlacci v. Mazaleski*, 798 A.2d 186 (2002); *P.E.S. v. K.L.*, 720 A.2d 487 (Pa. Super. 1998), and *Com. v. Charnik*, 921 A.2d 1214 (Pa. Super. 2007).

§ 5.12 COURT REPORTING AND TRANSCRIPTS

The Uniform Rules Governing Court Reporting and Transcripts, [Pa.R.J.A. 4001 - 4016](#), set forth a president judge's responsibilities regarding court reporting personnel and transcripts in the judicial district. The term "Court Reporting Personnel" includes court reporters, court recorders, transcriptionists and any others, employed or contracted, who make the court record for use in any Pennsylvania court. [Pa.R.J.A. 4002 \(Definitions\)](#). For purposes of the rules, president judge means the president judge of the judicial district, his or her designee, or any judicial officer recognized by the Court Administrator of Pennsylvania as having administrative authority. Pa.R.J.A. 4002. In many instances the president judge's designee will be the district court administrator or a member of his or her office.

Important

The text of this section reflects the rules in effect at the time of publication of this version of the Manual. To ensure use of the most up-to-date rules, the reader is encouraged to utilize the links to the online version of the rules embedded within the text to ensure he or she has the most current version. The complete rules can also be found at [Pa.R.J.A. 4001 - 4016](#).

A. Qualification of Court Reporters/Recorders and Approval of Transcriptionists

1. Court Reporters and Recorders ([Pa.R.J.A. 4004](#))

a. Criteria for qualification

No person can be employed/utilized by a court as a court reporter or court recorder unless the president judge (or designee) determines that they meet the criteria for qualification in Pa.R.J.A. 4004(B) (reporters) or (C) (recorders). There are two exceptions to the qualification requirements: (1) persons already employed or utilized by a court at the time the rules are adopted; and (2) court reporters holding and maintaining a professional certification.

b. Requalification

All persons used as a court reporter or court recorder, including those who were employed or utilized prior to adoption of the rules, must be requalified as meeting the minimum criteria at least every three years. To be requalified, court reporters must complete 30 hours of continuing professional education every three years and submit proof of attendance.

In determining if the recorder should be requalified, the president judge or designee can rely on reports from the district court administrator and the judicial district's judges and quasi-judicial officers. The reports must be based on recent courtroom experience and a review of the recorder's work product for accuracy, timeliness, and quality.

A court reporter or recorder who does not meet the minimum criteria at the time of requalification has six months to comply. Any court reporter or recorder who fails to comply with requalification requirements is prohibited from serving if not requalified by the end of the six-month period.

2. Approval of Transcriptionists ([Pa.R.J.A. 4005](#))

No person or organization can be employed or utilized by a court as a transcriptionist unless approved by the president judge. The rule does not set forth specific standards for approval. In some courts using electronic recording, the county will contract with an agency to provide transcription services.

B. Employment and Duties of Court Reporting Personnel ([Pa.R.J.A. 4006](#))

1. Duties of the President Judge

A president judge (or designee) is responsible for selecting, appointing, and supervising the judicial district's court reporting personnel. The number of court reporting personnel must be adequate to support the full and unrestricted operation of the courts. The president judge (or designee) is required to assign court reporting personnel so as to cover all proceedings and produce

all transcripts in a timely manner and substantially equalize the workload of recording testimony, transcript production, and generating fees.

The president judge (or designee) is to assure compliance with the timely delivery of all transcripts as required by the rules. The president judge is also to determine the internal procedure in the district for tracking the timely fulfillment of all other requests and orders for transcripts of court proceedings in matters not under appeal.

2. Duties of Court Reporting Personnel

a. Compliance with regulations and orders; ethical conduct

Court reporting personnel are officers of the court obligated to comply with all court regulations and orders and maintain the highest standards of professional and ethical conduct.

b. Outside work

Court reporting personnel may not work outside of their official duties unless the work is permitted under the Code of Conduct for Employees of the Unified Judicial System and he or she is in substantial compliance with all rules concerning the timeliness of transcripts as determined by the president judge.

c. Access to notes

Court reporters must make some provision so that their untranscribed notes or work product can be transcribed by someone else in the event they are unable, unavailable, or unwilling to do so within the timeframes of the rules.

d. Monthly reporting

Court reporters, recorders, and transcriptionists are required to file a monthly report with the district court administrator of all ordered/requested transcripts for matters on appeal. The report is to be in chronological order and list the date of each order/request, the case name and

number, whether the transcript requires rapid completion (*e.g.*, Children’s Fast Track appeals, *see* [Pa.R.A.P. 1931](#))¹⁵, the approximate length of the record to be transcribed, the status of the transcription, and the expected date of filing of the transcript. The court reporter, recorder, or transcriptionist is to coordinate with the district court administrator (or designee) whenever courtroom coverage has to be arranged to permit that individual to complete and deliver a requested transcript in a timely manner.

3. Duties of District Court Administrators

a. Statistical reporting

The district court administrator is to provide the AOPC with a summary statistical report every quarter of all cases on appeal for which transcripts have been requested. The report will be on a form designed by the AOPC which can be obtained by email to Transcripts@pacourts.us.

b. Compliance with AOPC requests for information

All county administrative personnel are required to comply with all standing and special requests for information including information concerning transcript costs and fees and data on transcript production, delivery, and delay. This requirement encompasses not only district court administration, but also county officials who have custody of the aforementioned information.

C. Requests for Transcripts

1. Request Process ([Pa.R.J.A. 4007](#))

a. Form

Requests for transcripts are to be made on a standardized [Request for Transcripts](#) form provided by the AOPC—or a form prepared by the judicial district and approved by the AOPC—which indicates the current authorized rates.

¹⁵ A Children's Fast Track Appeal is any appeal from an order involving dependency, termination of parental rights, adoptions, custody, or paternity. Pa.R.A.P. 102.

b. Filing of request form

A request for an ordinary transcript (except those made by the Judicial Conduct Board) shall be filed with the district court administrator or appropriate filing office with copies of the request delivered to the presiding judge, the court reporter, court recorder, or transcriptionist, the district court administrator (or designee), and opposing counsel or the opposing party if unrepresented. A request for a daily, expedited, or same day transcript shall be made as provided by local rule. In an emergency, however, a party can request a daily, expedited, or same day transcript by oral motion.

c. Delivery: party request

A party who requests a transcript is required to make a partial downpayment in an amount established by local rule. Deposit checks are to be payable to the judicial district or the county, as set by local rule, and shall be delivered to the district court administrator or other court designee. Upon direction of the court's designee, the court reporter or transcriptionist shall prepare the transcript.

When the transcript is completed, the court reporter, court recorder, or transcriptionist shall notify both the requestor and court's designee and deliver a copy to the judge presiding over the matter. Once the final balance is paid, the court reporter, court recorder, or transcriptionist shall deliver the original transcript to the appropriate filing office and copies to the requesting parties.

When a party requests a transcript but cannot pay for it due to alleged economic hardship, the court shall determine economic hardship pursuant to the procedures in [Pa.R.J.A. 4008\(B\)](#). In cases of economic hardship, where the matter is under appeal or a transcript is necessary to advance the litigation, the costs of procuring the transcript shall be waived or otherwise adjusted by the court. In cases of economic hardship where there is no appeal pending or there exists no obvious

need for the transcript to advance the litigation, the requesting party must demonstrate reasonable need before the court shall waive or adjust the cost of obtaining the transcript.

d. Delivery: court or county request

When a transcript is requested and the court or the county is responsible for its cost, the court reporter, court recorder, or transcriptionist shall prepare the transcript without a deposit.

e. Sentencing hearings under 42 Pa.C.S. § 9764(b)(5)(ii)

The request provisions of Pa.R.J.A. 4007 do not apply to requests for transcripts of sentencing hearings required by law under 42 Pa.C.S. § 9764(b)(5)(ii) (Information Required Upon Commitment and Subsequent Disposition: Sentencing Colloquy). Comment to Pa.R.J.A. 4007.

2. Format of Transcripts ([Pa.R.J.A. 4010](#))

The format of both paper and electronic transcripts are standardized under Pa.R.J.A. 4010. The format standards are those of the National Court Reporters Association and are designed to assure a uniform format throughout the Commonwealth.

3. Deadline for Delivery ([Pa.R.J.A. 4011](#))

Unless otherwise ordered by the court, a transcript for matters under appeal is to be delivered within 14 calendar days of receipt of notice from the district court administrator or court's designee as required by Pa.R.A.P. 1922(a). For all other matters, a transcript is to be delivered within 30 calendar days of receipt of notice of the request as provided in Pa.R.J.A. 4007, unless an accelerated time frame is mandated by court order, law, or local rule. Transcripts prepared under the Children's Fast Track Appeal program are to be given priority.

A court reporter or transcriptionist may request an extension upon a showing of good cause. The extension request shall be made to the president judge and the extension is not to exceed 30 days. No more than one extension can be granted.

Requests for transcripts unrelated to cases on appeal or where no court order has been entered directing transcription shall not be given priority. Such transcripts, however, must be filed and delivered within 45 days, unless an extension for good cause is granted by the president judge.

4. Sanctions for Delayed Transcript ([Pa.R.J.A. 4012](#))

a. President judge

The president judge may take disciplinary action against any court reporter, court recorder, or transcriptionist where noncompliance with the rules impedes the prompt administration of justice, whether by protracted delinquency in a single case or by engaging in a pattern of delinquency in a number of cases. The president judge is responsible for ensuring that the number, proficiency, and organization of court reporting personnel in the judicial district are adequate to support the full and unrestricted operation of the courts. If transcript delay is caused by insufficient supply of court reporters or other staff resources, or inefficient management of court reporting operations, the Supreme Court may direct the president judge to take immediate corrective action.

b. Supreme Court/Court Administrator of Pennsylvania

The Court Administrator of Pennsylvania is to notify the Supreme Court of instances of unreasonable delay in preparing transcripts. The Court Administrator may recommend sanctions including disqualification of individual court reporters, court recorders, or transcriptionists. In addition, as previously stated, if the delay is caused by an insufficient supply of court reporters or other staff resources, or inefficient management of court reporting operations, the Supreme Court may direct the president judge to take immediate corrective action.

c. Appellate courts

An appellate court may enter an order compelling the preparation, filing, and transmission of the transcript and may also take disciplinary action when the failure of a court reporter, court

recorder, or transcriptionist to complete the transcript within the time limits of the rules or court order delays transmission of the complete record to the appellate court. Disciplinary action may include contempt of court or reduction of fees.

5. Certification of the Transcript ([Pa.R.J.A. 4013](#))

Court reporting personnel who take the notes, record, or transcribe the proceeding are required to certify that the transcript is true and correct and meets the format specifications established in Pa.R.J.A. 4010. If more than one person was involved in producing the transcript, each is required to certify as to his or her part of the transcript.

6. Redaction ([Pa.R.J.A. 4014](#))

On its own or upon motion of any party, the court may order the court reporter, court recorder, or transcriptionist preparing the transcript to redact confidential, personal and/or financial data or other identifiers and any information listed in Section 7.0 of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania. Redacted information shall appear in transcripts provided to the court and parties but not in any transcript filed in the appropriate filing office or provided to any other requestor, unless the court directs otherwise. The unredacted version shall be filed under seal in the appropriate filing office.

D. Costs and Fees

1. Costs Payable by a Requestor other than the Commonwealth or a Political Subdivision ([Pa.R.J.A. 4008](#))

a. Cost limits; waiver and reduction; responsibility; copies; and additional costs

The costs charged to a requesting party other than the Commonwealth or one of its political subdivisions for an original transcript are not to exceed the amounts set forth in Pa.R.J.A. 4008.

Transcript costs can be waived or reduced for economic hardship if the requestor meets the guidelines stated in the rule.

The requestor, or the party required by general rule to file a transcript, is responsible for the cost of the transcript. Costs, however, are not to be assessed against any party for transcripts prepared at the initiation of the court. If more than one party requests the transcript, or are required by general rule to file it, the cost is to be equally divided among them.

An electronic copy of the transcript is to be provided without charge to all parties other than the requestor. Paper copies may be purchased at the rate specified in Pa.R.J.A. 4008. The cost of copies prepared for the court or the filing office are included in the costs specified in the rule and are not to be charged to any party. The cost to the public for a copy of a transcript filed of record are also limited by the rule.

No additional transcript or related costs are allowed to be charged to the parties or the public other than those authorized in Pa.R.J.A. 4008, unless the Court Administrator of Pennsylvania gives written approval. An exception to this rule exists where a local rule is enacted that allows a trial judge to impose a reasonable surcharge in cases such as mass tort, medical malpractice, and other unusually complex litigation where court reporters need to significantly expand his/her dictionary.

The first requestor of a transcript is required to pay for the original transcript which is filed with the court plus the copy rate if the requestor desires a personal copy (subject to any cost-sharing with other parties). Comment to Pa.R.J.A. 4008(A). There is no entitlement to expedited, daily, or same-day delivery of transcripts. *Id.* Such services are only available where provided by the judicial district and where the court reporter has the capability of providing them. *Id.*

b. Requests for rate increases by the president judge

A president judge may request an increase of the prescribed rates by submitting a written request to the Court Administrator of Pennsylvania. Notice of the proposed increase must be published for public comment at least 30 days prior to submission of the request to the Court Administrator. To be approved, the request must establish that the judicial district faces economic hardship caused by the current rates and that the requested rates are reasonable. If the Court Administrator determines that the increase is necessary the request will be forwarded to the Supreme Court.

2. Local Rule for Fees and Procedures ([Pa.R.J.A. 4009](#))

Every judicial district is required to promulgate and publish a local rule establishing fees to be paid to for all court reporting products, the procedure for requesting a transcript, and for obtaining a full or partial fee waiver.

E. Ownership; Storage and Retention ([Pa.R.J.A. 4015](#) & [Pa.R.J.A. 4016](#))

The notes of testimony of court proceedings, stenographic notes, tapes, or other media used by court reporting personnel to record or monitor a proceeding in, or for, a court, and any transcriptions thereof, are the exclusive property of the judicial district. The rules, however, do not prohibit anyone who has lawfully obtained a transcript from making a copy.

A judicial district must provide for the archiving, storage, and retention of transcript production materials pursuant to Pa.R.J.A. 4016. Transcript production materials include transcribed and untranscribed notes of testimony, reporter and recorder log notes, tapes, other electronic or digital audio files, and any hardware, software, tools, or dictionaries. Transcript production materials are to be retained in compliance with the Supreme Court's Record Retention and Disposition Schedule with Guidelines. These materials must be protected from loss caused by personnel turnover, environmental hazards, or unsecured access.

CHAPTER 6: INFORMATION MANAGEMENT

§ 6.01 INFORMATION TECHNOLOGY (IT) MANAGEMENT

A. Developing a Court Website

1. Introduction

A website is a collection of electronic resources that are gathered together and organized for presentation to the users. Although any website vendor or even cookie cutter website builder can help you with the presentation portion (i.e., design and layout), what you really need to make a great website is great content. Furthermore, the content must be continually updated to make a court website a timely and useful resource.

2. Elements of the Development Process

- a. Ensure support from the judges**
- b. Create a website committee**
- c. Make a long-term commitment**

Developing, launching, and maintaining a court website is a long-term project that requires a long-term commitment. First, you will need a budgetary commitment to cover the initial costs, as well as on-going costs after you decide whether you plan to host the site internally or pay for a website developer/host. In addition to financial resources, you will need technical resources—whether through county IT or an outside vendor—to support the website.

- d. Know the purpose of your website**

Before you begin to design the website, its purpose must be clearly understood so that concepts and ideas that do not support that purpose are easily discarded. Therefore, consider what you want your website to communicate to the users (i.e., directions, hours, parking, departments, contacts, court calendars, court opinions, self-help forms, etc.).

e. Remember your audience

Most court websites are intended for use by attorneys and the public, not as a resource for court employees. This is an important consideration when selecting content and drafting instructions. Furthermore, you should consider that you are designing a website for users who may be unfamiliar with the vocabulary of law and the terms used in the court. For example, if an attorney writes instructions for a court process, make sure that a non-attorney understands those instructions.

f. Focus on content

The primary focus through much of the website development process should be on content. The content is what matters the most. Time should be spent gathering, reviewing, editing, proofreading and fact checking every bit of text that is to be included on the website.

g. Think about privacy and online safety issues

Think before you place employee contact information, such as photos or e-mail addresses, on the website. You may think that posting photos of the judges or department heads would be interesting, however, the security of your personnel should be considered. Also, the potential for spamming increases when a website posts e-mail addresses.

h. Keep it simple

While your webpage architecture can be as technically complicated as you want, the users see the interface, not the underpinnings. Therefore, keep the interface design and navigation as simple, clear, easy to read, and user-friendly as possible. Animations, bright colors, and random photos are probably unnecessary.

i. It is suggested that you limit the size of the committee and decide early on in the process which departments/offices are most relevant. You may want to include your row offices or other court related offices.

ii. The website committee must stay committed to the website over the long haul as the website will need constant evaluation and modification.

iii. The committee should select the content categories to be included on the website.

- If you are going to include self-help sections, consider whether your court is going to build your own county specific forms or link to the AOPC forms bank.

- Collect electronic versions of the content/text. Content and text will be used to build the website one page at a time.

- Review the content, menus, color, and layout of other court websites. Print samples and provide a list to your web developer as examples.

- Reach out to those courts with websites to get an idea of what is involved with development and maintenance. Ask whether their website was created and maintained in-house or through an outside vendor.

iv. The website committee must decide who will be building, hosting, and maintaining the website. In other words, is your county IT department going to do some or all of the work or will you be contracting with an outside vendor? Consideration must also be given to where the website will be hosted, and whether or not any custom programming will be needed (e.g., an opinion database, forms bank).

v. The website committee will need to decide the following:

- Who is going to have access to the website to make changes and updates?

- What will the procedure be for others to request changes?
- What is the procedure for posting emergency changes to the website?
- Will someone in-house be able to post delays, closings or announcements?

vi. The website committee should meet annually to review all content for accuracy as well as potential revisions.

B. AOPC IT Resources

The AOPC's IT Department offers a host of applications and services that support court administration. A few of these services are discussed below. For a complete survey of applications and services the reader should consult the Information Technology Applications & Services Catalog available on the [Judicial District Operations and Programs protected view webpage](#) (login required).

1. Common Pleas Case Management System (CPCMS)

CPCMS is a statewide system for management and maintenance of adult criminal and juvenile delinquency and dependency cases in the common pleas courts. CPCMS can also track administrative functions including accounting and collections. CPCMS also contains an integrated document management feature: Electronic Records Management System (ERMS) (*see below*).

To obtain access, a User Login Request form is available through the CPCMS Help system. The form is divided into two separate forms: the CPCMS Login Request Form and the UJS Web Portal Login Request Form, which are available as fillable forms on the Help system. For any questions concerning CPCMS, contact the Help Desk at 877-227-2672 or CCPAOPC@pacourts.us.

2. Magisterial District Judge System (MDJS)

MDJS is a statewide case management system the magisterial district judge courts as well as Pittsburgh Municipal Court. In addition to case management, MDJS has reporting and accounting functions. The MDJS accepts electronic traffic citations and certain electronically filed criminal complaints. Case information from MDJS can be sent into CPCMS when a case has been either held for court or appealed to the common pleas court. MDJS also includes ERMS (*see below*).

MDJS User ID Request forms are available in the MDJS under “Forms/Reports→Forms/Reports.” If you need assistance, the MDJS Help Desk can be reached at 800-243-5735. The Help Desk can also be reached at MDJHelpDeskStaff@pacourts.us.

3. Pennsylvania Judicial Incident Reporting System (PAJIRS)

As discussed more fully in § 4.04(A), PAJIRS is an electronic reporting system designed to capture information about any security incidents directed against judges, their families, court staff, and members of the public who have business in the courts. PAJIRS can be accessed at <https://extranet.pacourts.us/pajirs/SitePages/Home.aspx>. Included on the website are links to the PAJIRS User Guide, contact information to request access and for support, and a link to the Court Safety and Security Manual.

4. Unified Judicial System (UJS) Web Portal

The UJS Web Portal offers a range of services that a district court administrator may find useful. For example, authorized users may submit requests for senior judge or other temporary judicial assignments for common pleas and MDJ courts. In addition, eFiling through PACFile may also be available. Authorized users can also access secure common pleas and MDJ calendars as well as warrant information. For questions about the UJS Web Portal, call 717-795-2000, extension 3066.

5. Electronic Records Management System (ERMS)

ERMS is a document management tool that is currently being made available upon request for use in conjunction with CPCMS and MDJS. ERMS allows for the uploading, processing, retrieving, and viewing of documents filed in CPCMS or MDJS. For further information on ERMS, please call 717-795-2000, extension 3451 or 3025.

C. External Resources

1. Pennsylvania Justice Net (JNET)

JNET is an integrated information technology system for collecting and sharing criminal justice information. Using JNET, authorized officials can access offender records and other criminal justice information from contributing agencies. Each agency or county must have a JNET Terminal Agency Coordinator (JTAC) who serves as the point of contact for all criminal history information accessed by JNET users. The JTAC is also responsible for managing all criminal history certifications, PennDot transactions, and approving criminal history requests. Common pleas court personnel seeking JNET access should contact their county JTAC.

MDJs and their staffs seeking JNET access can contact the MDJS Helpdesk at 800-243-5735 or MDJHelpDeskStaff@pacourts.us.

D. Courts and Counties Sharing Technology: AOPC White Paper

On July 25, 2017, the AOPC released a white paper entitled “Courts and Counties Sharing Technology: Practical Considerations and Proposed Solutions.” The white paper addresses “whether the use of county-provided technology resources potentially compromises confidential judicial proceedings and operations, thus challenging the public’s trust and confidence in an independent judiciary and President Judges’ sworn duties and ethical standards established by the

Code of Conduct.” The white paper contains suggestions for addressing these concerns. The white paper was updated in 2019 to add Appendix E on Cybersecurity – Best Practices. A copy of the white paper can be found at the [Judicial District Operations and Programs protected view webpage](#) (login required).

§ 6.02 REPORTS

A. Annual Reports

The purpose of reports is to explain the productivity, accomplishments, and needs of the court on a regular basis, typically annual although; if necessary other timeframes (e.g. biennial, triennial, etc.) can be utilized. The report can be either very basic using the statistical data provided to the AOPC or it could incorporate individualized statistical reports unique to your court, possibly including a court budget report. It can also include a detailed breakdown of all court departments with descriptions, photographs and graphics.

1. Types of Annual Reports

Two types of annual reports are discussed in this section: the AOPC monthly statistical reports and the individual county annual report.

a. AOPC monthly statistical reports

A year's worth of these reports can be compiled and printed for use within your county to show a court's productivity. The reports can also be compared year-to-year to show growth in the various areas of the court. By comparing the reports, future projections or realignment of resources can be analyzed. County caseload data can be obtained from the interactive data dashboards that contain useful caseload information at <http://www.pacourts.us/news-and-statistics/research-and-statistics/dashboard-table-of-contents>. The reports include various data on the number of filings, hearings and dispositions. The AOPC reports along with the information on finances from a county budget may be sufficient to explain a court's basic needs.

b. Individual county annual report

This report would be a formal publication prepared as needed by a court. The reports can be either printed by a professional publishing company or in-house, possibly keeping costs to a

minimum. There is no one way to prepare the annual report, the following is a suggested format and the content can be adapted to topics pertinent to any court.

- **Formal cover**

The cover can be a photograph of the courthouse, a courtroom, scales of justice, county seal, or an original picture drawn by a local county artist.

- **Table of contents**

The table is beneficial for a quick look at the topics to be addressed in the report.

- **Biography of common pleas judges**

The biographies will detail the educational background and previous job experience prior to ascending to the bench.

- **President judge's message**

The content of the message is at the discretion of the author. Messages may include information on the courts' funding, achievements of the court, goals for the coming year, or highlights of the past year.

- **Court organizational flow chart**

An organizational flow chart is a useful educational tool for the public, who may be unfamiliar with the personnel and departments within the court system. It can be a general chart or one that includes all of the names of the department heads and their respective personnel.

- **Description of duties of court departments**

This section contains a brief statement of each department's functions and responsibilities; for example, court administration (budgeting, scheduling, case flow management, etc.), probation (carry out orders of the court, placement and rehabilitation of probationers and parolees), court

reporters (stenographically record all court proceedings), etc. This section may also contain court-related departments like the district attorney, public defender, clerk of courts, and prothonotary.

- **Statistical productivity reports**

These reports could include but not be limited to: number of filings, number and types of dispositions, domestic relations hearings decided by a judge or a master, number of divorce hearings and final decrees, financial reports (fines, costs, collections, etc.), and yearly comparisons and projections.

- **Goals, strategies and accomplishments of the court**

This section discusses new programs to increase efficiency and productivity (for example, a new computer system), state or national awards bestowed on the court, Law Day activities, judicial essay contests, etc.

- **Photographs, charts and graphics**

Photos can include judges, court managers, heads of departments, courtrooms, and support staff. Pictures enhance the appearance of the report. Charts and graphics can assist in making a point by showing the increase or decrease in revenue, caseload and personnel.

2. Distribution of Annual Reports

The annual report can enhance the awareness of all groups to the needs of the judiciary. The following is a suggested list of who should receive the report:

- **Other counties**

The report can be an excellent tool in networking ideas and changes throughout the state.

- **AOPC**

An annual report can provide AOPC leadership with a personal perspective of the individual courts they are dealing with in the state. The report becomes a projection of the personnel who manage the judicial system in their respective counties.

- **Court departments**

All court departments should be a part of the production of this report. It can reveal areas that need improvement in the system, show how resources need to be adjusted, and acquaint new employees with the duties of their respective offices. The report can be a source of pride to all those who take part in its publication.

- **Court-related departments**

Distribution to court-related departments allows fellow department heads and staff to familiarize themselves with the infrastructure of the court system and how departments relate and interact with one another. The report allows each department to contribute to what can be an enlightening reflection of the judiciary.

- **Civic groups**

As a part of a speaking engagement, a judge or court official may want to distribute the report to garner questions from the audience. It will also enhance the knowledge and awareness of the public to the court system.

- **Schools**

The report is an excellent educational tool. It helps students by making them more cognizant of the judiciary and its personnel.

- **County and state officials**

The annual report can be used to advocate the needs of the court. By presenting a graphic picture of the court, urgent concerns may be addressed by the people who receive a copy.

- **Pennsylvania Supreme Court Justices, Superior Court and Commonwealth Court Judges**

Since all levels of the judiciary face similar issues, sharing information can often offer a solution.

B. Individualized Statistical Reports

Unlike an annual report, which is a broad, comprehensive view of the judiciary in your district, the individualized report addresses a specific topic that may be unique to your judicial district. The following is a suggested list of individualized reports which could be expanded upon as needed in your court.

1. Types of Individualized Reports

a. Trial session statistical productivity reports

These reports could be completed at the conclusion of a trial session.

i. Criminal trial session statistical productivity report

It is suggested that this report contain types of dispositions each day, number of continuances, bench warrants, remands to MDJ, mistrials and number of cases not reached during a trial session. The report should also list the number of jury and nonjury trials with the defendant's name, charges, attorneys, date trial commenced and verdict. A running tally by month should also be included, thereby providing a comprehensive report at the end of the year. This report can be helpful during Rule 600 hearings or aid the district court administrator and district attorney in tracking dispositions and types of verdicts. The report can also be valuable in analyzing ratios between dispositions and continuances.

ii. Civil trial session productivity report

This report indicates the number and types of dispositions. It should contain the names and types of cases tried and the verdicts. A monthly tally should also be attached to the report. The report could also reveal the number of civil cases pending trial in your court.

b. Alternative dispute resolution reports

These reports show the number of hearings conducted by a master on a daily, weekly and monthly basis. They should also reflect the number of arguments on exceptions or de novo hearings heard by a judge as a result of a master's decision. The report can assist in evaluating the needs, successes and possible failures of the ADR program. The following areas of ADR should be monitored by this type of report:

- i.** Domestic Relations Hearing Officers and Masters.
- ii.** Custody Masters.
- iii.** Divorce Masters.
- iv.** Mental Health Hearing Masters
- v.** Juvenile Hearing Masters.
- vi.** Arbitration Boards (these reports should also include number of

agreed awards, settlements and appeals).

c. Case management reports

i. Age of pending cases

Cases should be tracked from their inception in the judicial system. A report that indicates date of filing of a complaint in any type of court action is one of the most valuable tools in monitoring case flow management. It assists in tracking a case through the entire judicial process.

ii. Types of cases filed

A court should be aware, for example, of the number of medical malpractice cases that are filed for tracking purposes. Courts which have instituted differential case flow management are cognizant of the value of this report so that cases can be placed in a certain track immediately and time frames can be set for discovery, depositions and trial date certainty. It is also helpful to know what percentage of criminal cases consist of DUI, rape, burglary, etc. This report could indicate a pattern of crime and as a result, concentrated efforts can be made to fast-track certain types of cases.

iii. Distribution of cases to judges

This report is especially useful when implementing an individual calendar. It enables the court manager to ensure an equitable distribution of cases to a judge.

iv. Time study analysis

A report indicating the length of time between case events can be most enlightening to court managers. Cases should be tracked from date of filing and a time study could indicate a problem area in the history of a case. Time studies can also be an instrument to track average length of trials, time it takes to file a master's report, or entry of a court order.

v. Disposition comparison

This report can show a comparison between continuances and dispositions during a trial session. It can also be utilized to compare the numbers and types of dispositions in a court from year to year.

vi. Jury utilization reports

These reports, which include the number of anticipated voir dres versus the number of actual voir dres and number of jurors sent to voir dire versus jurors actually needed for voir dire, can assist the court manager in improving techniques and communication in their jury system.

d. Financial reports

The following is a list of various types of financial reports that will help evaluate the needs of the court. It is by no means a comprehensive list of reports, just a suggestion that can be expanded upon to meet the needs of your court.

- i.** Comparison each year of court appointed counsel fees
- ii.** Costs of contracted personnel versus hourly personnel
- iii.** Juror costs - parking, mileage fees
- iv.** Capital cost comparisons
- v.** Outstanding fines and costs
- vi.** Number of support checks issued, arrearage reports
- vii.** Costs of housing a prisoner versus electronic home confinement

2. Distribution of Individualized Reports

The distribution of an individualized report will depend on its nature and the determination of whether the report is for internal or external use should be made by the president judge prior to releasing the report to anyone.

C. AOPC Caseload Statistics Reports

1. Data Collection Overview

The AOPC statistical reports collect information on the volume and flow of common pleas cases. The data will help keep court managers informed of the number of filings and dispositions, as well as the pending inventory as it changes from month to month. These data, in turn, are used in the decision-making process by the Supreme Court and the General Assembly, as well as county commissioners. The data are also utilized by research groups, universities, the media, attorneys and the public. The National Center for State Courts also utilizes the data provided by Pennsylvania along with the other 49 states to identify trends in across the United States.

There are five statistical reports that are collected directly from the counties:

a. Civil Court Report

This report monitors the flow of civil litigation from docketing in common pleas court through arbitration and trial.

b. Family Court Report

This report follows selected domestic relations, custody, and divorce - cases.

c. Protection from Abuse Statistical Report

This report collects data on the volume and processing of protection from abuse (PFA) cases.

d. Orphans' Court Report

This report collects data on selected aspects of the work done by the orphans' court division, such as fiduciary accounts and appointment of guardians, adoptions and relinquishments and terminations.

e. Jury Managers' Toolbox Report

This report is designed to help jury managers reduce effectively manage the jury process from summons through voir dire and the selection of jurors. The toolbox can be found at: <http://www.jurytoolbox.org/Login.aspx?ReturnUrl=%2f>. Criminal, dependency, and delinquency data are taken directly from the statewide case management system, CPCMS.

2. Purpose and Use of the Reports

The purpose of each statistical report is to help court managers carefully monitor the flow of cases in the court of common pleas. This is a critical first step in identifying case management problems before they develop both at the local and state levels. These reports assist court administrators by:

- a. allocating judicial resources;
- b. establishing planning initiatives; and
- c. developing case management policies.

As each county has different business practices, it is important for the district court administrator and other managers using these reports, to have a detailed knowledge of their county's case management data.

3. Submitting the Reports

The statistical reports use a traditional input-output inventory model to relate filings and dispositions to the number of cases pending. This inventory model is key to monitoring monthly changes in the pending caseload. This model provides the information necessary for reviewing the effectiveness of administrative procedures as well as the current allocation of case processing resources.

Reports are submitted using an eForm, and submitted via email to statistics@pacourts.us. All reports are due the 15th of the following month (i.e., January's reports are due by February 15th), and should be submitted monthly to insure that reporting is kept up to date. As for jury data, all data should be entered into the Jury Managers' Toolbox by the 15th of the month as well. There are no monthly data submissions required for criminal, dependency, and delinquency caseloads, as this information is provided directly to the Research Department by the AOPC Information Technology (IT) Department. Should you fall behind in reporting or require assistance in completing the reports, please contact the Department of Research & Statistics at 215-560-6300.

4. Preliminary Report

The Preliminary Report consists of the data submitted during the year by each county along with data provided by CPCMS. The data are listed by report type, and includes both individual monthly data as well as an annual total. In addition to providing the new cases filed and cases processed, the criminal, civil, dependency, and delinquency reports also track case aging data that are necessary in identifying cases moving too slowly through the court system. This information is useful for charting the pace of these cases through the court over time.

Prior to sending the Preliminary Report to the county for verification, AOPC reviews the data submitted in order to insure accuracy. It is at this time, questions may be asked about the data that have been submitted. These questions give AOPC an opportunity to become familiar with policy and procedures in each county where the caseload statistics are concerned. This review assists AOPC in insuring that each county is counting the same thing in the same manner, thus making county-to-county and statewide comparisons valid.

Once reviewed by AOPC, a copy of the report is sent to the president judge and the district court administrator for verification. It is at this time that those responsible for submitting the data—e.g. prothonotary, orphans' court clerk, etc.—work with district court administration to insure the accuracy of the data.

5. Publication of the Data

Upon verification of the Preliminary Report by the county, AOPC publishes The Caseload Statistics of the Unified Judicial System of Pennsylvania report. The report lists the annual data for each county's criminal, civil, family, and orphans' courts, along with PFA and jury yield and utilization. The report also contains data from other courts, including the Supreme Court, Superior and Commonwealth courts, as well as for the MDJ courts and the Philadelphia Municipal Court. Together, the statistical information represents the combined statewide totals.

The reports can be viewed online on the UJS website and are available for printing. AOPC also provides each county with their personal County Caseload Display. These booklets make available the current publishable data along with a 10 year picture of the filing trends for each case type. It also provides analysis on how a county compares to other counties of the same size. In addition to the data in book format, AOPC also provides data dashboards. The dashboards offer yet another way to view the data. See <http://www.pacourts.us/news-and-statistics/research-and-statistics/dashboard-table-of-contents>.

§ 6.03 COMMUNITY AND MEDIA RELATIONS

A. How to Communicate with the Community and Media

How best to communicate with court stakeholders (e.g., the public, the media, attorneys, local government officials, etc.) is an important question court officials must ask themselves. Key components of this question are determining who should communicate and how they should communicate (i.e., by what medium do stakeholders prefer to receive information).

1. Court Information Officer

The court information officer is the spokesperson for the court, exclusively. Most district court administrators assume this role on behalf of the president judge in their judicial district. In many county governments, the county executive has a public information officer. The courts should have their own spokesperson who conveys the court's desired message, often in concert with the county public information officer.

2. Means of Communication

a. Websites and webpages

Many courts across the Commonwealth have invested in a court "owned" and designed website for their judicial district and nearly all have at least created a court page(s) placed on the county government's website. The information to be posted on these forums can include anything that promotes the business of the court (e.g., statistical data that shows cost savings or low pending caseload to name two). These websites also provide valuable information to court stakeholders and are a means of communicating a desired message to a wide audience in a short period of time. Still, many of these websites do not encourage or even permit (excluding those who may add a comment section or page) stakeholders to place information directly on the website. This type of

communication has been referred to in the past as Web 1.0. For additional information on court websites, *see* § 6.01(A).

b. News releases and news advisories

A news release should address the five questions that begin with a W: who, what, when, where, and most important, why at the outset. In addition, answering the question of how will prove beneficial to the reader. Make your statements clear and concise and include contact information at the end of the release. An example of a news release:

Main Elements of a News Release

Date/Timing → News for Immediate Release
Feb. 8, 2012

Headline/Title → **Pennsylvania Supreme Court accredits first Drug Court to recognize quality and accountability**

Location/ Intro paragraph (lede) → **HARRISBURG** — The Supreme Court of Pennsylvania today accredited the first problem-solving court in the Commonwealth as part of an effort to promote statewide standards and boost integrity in adult drug and alcohol treatment programs that serve as alternatives to jail for eligible defendants.

5 W's – who, what, where, why, when → Recognition of the Lancaster County Court of Common Pleas Drug Court Program came today during a special ceremony where Justice Seamus P. McCaffery was the main speaker. Justice McCaffery was appointed by Chief Justice of Pennsylvania Ronald D. Castille as liaison to Pennsylvania's problem-solving courts initiative.

“Accreditation complements the existing value of Pennsylvania’s problem-solving courts program by boosting performance standards and guidelines at no cost to the Commonwealth’s citizens,” Justice McCaffery said. “Lancaster County, and others seeking this designation, ought to be commended for making a commitment to quality and accountability. Accreditation is a demonstration of that commitment.”

Contact info → (For more info: <http://www.pacourts.us/NR/rdonlyres/F15BF8CB-44E7-43CC-BC64-7F5A9C769577/0/DrugDULAccredProgram.pdf>)
Media contact: Art Heinz, 717-231-3317
www.PACourts.us follow us on twitter

A news advisory alerts the media to an upcoming event such as a press conference, graduation (treatment court), educational opportunity (workshop), speakers’ forum, etc. The advisory should contain a brief headline followed by the process you use to issue a press release:

answer the five Ws and provide contact information. A news advisory differs from a news release because the advisory is not an article with quotes and facts, rather it is purely an alert.

An example of a news advisory:



News Advisory

Governor: Gov. Wolf to hold budget press conference.

Harrisburg, PA – Today, Governor Wolf will hold a budget press conference.

WHAT: Governor Wolf will hold a budget press conference.

WHEN: Wednesday, March 23, 2016; 1:00 PM

WHERE: Governor's Reception Room

DATE: Wednesday, March 23, 2016

TIME: 12:45 to 1:30 (Eastern)

Media contact: Jeff Sheridan, 717-783-1116

The court could use news advisories to announce community events such as a naturalization court ceremony, swearing-in of elected officials or any other event that places the court in a favorable light.

c. Publications (i.e., brochures, pamphlets, etc.)

Examples of such publications include materials explaining the judicial system as a whole or specific aspects of it to the public. Another example could be the individual annual report discussed in § 6.02(A)(1)(b).

d. Op-ed articles in local media

e. Social media

Courts should consider all forms of electronic communication since the majority of news we seek individually and collectively arrives in this format. Today many of our community members, particularly millennials and generation Xers, do not seek out information through websites or read pamphlets or even search for a video; rather they consult with “friends” on social media networks. Courts have been traditionally slow to accept this means of communicating yet it can provide a valuable service to those we seek to reach as well as receiving feedback and ideas on how to improve our court services. The Supreme Court currently has a Twitter account that it uses primarily as a means of disseminating information in a timely (as in instantaneous) manner to the public. A social media presence for courts is also vital in the event of an emergency and provides access to information for both the individual and the court organization.

B. Media Relations: High Profile Matters

Communicating with the mainstream press as well as individual bloggers—particularly in reference to high profile (i.e. “spotlight”) events—creates a unique set of challenges for court administrators and president judges. The following website contains additional tips on meeting the needs of the media while upholding the rule of law and the right to a fair trial.

<http://www.ncsc.org/hpc>

Before you respond to questions from the press that have given you or your president judge pause for concern, contact the AOPC Communications Office.

AOPC Department of Communications and Intergovernmental Relations

717-231-3300

or

communicationsoffice@pacourts.us

§ 6.04 PUBLIC ACCESS TO INFORMATION

A. Financial Records: Right to Know Law and Pa.R.J.A. 509

The Right to Know Law, 65 P.S. § 67.101 *et seq.*, guarantees the public the right to obtain public records from state and local agencies within the Commonwealth. The law guarantees legislative records from the Pennsylvania General Assembly and financial records from Pennsylvania's Unified Judicial System.

On May 14, 2007, Rule 509 of the Rules of Judicial Administration was adopted by the Pennsylvania Supreme Court. Rule 509 allowed for the development of a process that would provide uniformity for the request for and access to judicial financial records. The rule provided access to financial records that noted the use of public funds appropriated to the Unified Judicial System, including the purchase of services, supplies, or equipment.

Rule 509 of Judicial Administration includes the following court offices:

- Court Administration
- Magisterial District Judges and Personnel
- Domestic Relations Section
- Probation and Parole Department
- Clerk of Courts/Prothonotary
- Any additional court offices, as deemed necessary by the respective judicial district.

B. When Access is not Permitted under Pa.R.J.A. 509

The following records are not accessible to the public under Rule 509:

- Records that are restricted by federal law, state law, court rule, court order, or court policy

- Records that include a person's social security number, home address, home phone number, date of birth, operator's license number, e-mail address, or other personal identification information
- Records that include financial institution account numbers, credit card numbers, personal identification numbers (PINs), and account passwords
- Records that would present a risk to personal security, personal privacy, or the fair, impartial, and orderly administration of justice, as determined by the Court Administrator of Pennsylvania

C. Establishment of Policies and Procedures for Financial Records

In order to maintain the efficiency of and compliance with the release of financial records, the development of policies and procedures should be completed within county court administration offices. Each judicial district should develop policies and procedures that meet the needs of their respective judicial district, while complying with Pa.R.J.A. 509. The policy and procedures should include instruction on:

- Receiving a records request
- Response to a records request
- Documentation of the request/response
- Receipt and processing of an appeal notification

In addition to the development of policies and procedures, a Judicial District Records Manager and Judicial District Appeals Officer should be identified. While policies and procedures may differ among judicial districts, the following should be noted and followed:

- Pa.R.J.A. 509 shall be used in response to ALL records requests.

- A response must be sent within 10 business days, from the day of receipt of the request. The response may be a completed response for records or a request for a 30-day extension. If an extension is requested, a reason for extension and an anticipated date of a response shall be included.

- If a request is denied, the following shall be included in the denial notice:
 - o Initial request
 - o Response to request
 - o Reason(s) why requested information is not granted, per Rule 509
 - o Information regarding the appeals process/contact information for Appeals Officer

Officer

Upon receipt of an appeal notification the following shall be completed:

- A copy of the appeal notification will be provided to the designated records manager
- The original appeal notification will be submitted to the designated appeals Officer
- Individuals named in the initial request will be notified of the appeal and will be provided with a copy of the appeal notice
- The designated appeals officer will respond to the appeal notice/requestor within 15 business days of the receipt of said notice

In addition to the development of policies and procedures, information regarding each judicial district's policies/procedures, designated records manager, designated appeals officer, and all contact information shall be listed on the county court website.

As previously mentioned, courts are only required under the Right to Know Law and Pa.R.J.A. 509 to provide access to financial information. Counties, however, are subject to broader

disclosure requirements under the Right to Know Law. This can be problematic if court information is in the possession of county government (e.g., court emails and documents on a county server, records pertaining to judicial equipment such as cell phones, and salary information for court-supervised employees, etc.) To assure that the county does not improperly divulge court-related information, the president judge and district court administration should insure that the county officials understand that any requests for court information should be directed to the court Rule 509 officer for review and response. *Grine v. County of Centre*, 138 A.3d 88 (Pa. Cmwlth. 2016).

D. Case Records Public Access Policy

The public's right to access court proceedings and records is grounded in United States and Pennsylvania Constitutions, and the common law. These constitutional and common law rights are not absolute and may be qualified by overriding interests.

Recognizing the importance of the public's access to the courts AOPC developed statewide policies governing access to court records. At the heart of the policy is that certain cases, information, and/or documents found in case files deserve some safeguarding. The Public Access Policy governs access to: (1) official paper case records of appellate courts, courts of common pleas, and Philadelphia Municipal Court; (2) images of scanned or e-filed documents residing in the three statewide case management systems; (3) images of scanned or e-filed documents residing in the case management systems of the judicial districts; and (4) case record information posted online by judicial districts via their own “local” case management systems. This approach ensures a more equitable and systematic approach to the case records filed in and maintained for the trial and appellate courts. The Case Records Public Access Policy of the Unified Judicial System of Pennsylvania can be found at: <http://www.pacourts.us/public-records/public-records-policies>.

The policy places the responsibility upon litigants and attorneys to safeguard confidential information in the documents they file with the court. The policy provides that a court or custodian is not required to review any filed document for compliance. A party's or attorney's failure to comply with these protocols shall not affect access to the case records that are otherwise accessible. However, upon a motion or *sua sponte*, a court may impose appropriate sanctions upon a party or attorney for failing to comply with the procedures.

The policy previously gave each judicial district the option of choosing one of two ways of having filers handle confidential information. The default approach under § 7.0(C), i.e., the use of a [Confidential Information Form](#) containing the information outlined in § 7.0(A) that is not to be included in the filing itself. Alternatively, courts could adopt a local rule or order permitting the filing of documents in redacted or unredacted versions. As of January 1, 2022, however, the redacted/unredacted option is no longer available. For further information, consult the Public Records Policies webpage: <http://www.pacourts.us/public-records/public-records-policies>.

CHAPTER 7: MISCELLANEOUS MATTERS

§ 7.01 CONSTABLES

A. What is a Pennsylvania Constable?

A constable is a local elected official who serves a six-year term. In 2nd and 3rd class cities and boroughs subdivided into wards, one constable is elected in each ward. Boroughs not subdivided into wards and townships other than first class townships elect one constable. First class townships elect two constables.

Constables belong to the executive branch of government but there is no official oversight of them. They are not employees of the Pennsylvania judiciary and the Supreme Court regards them as independent contractors. Constables perform duties outlined by statute and are compensated based on a fee schedule established by the Pennsylvania General Assembly.

Constables may perform services for the courts, primarily serving the magisterial district judge (MDJ) courts. To do so, however, constables must first be certified by the Pennsylvania Commission on Crime and Delinquency (PCCD) through the Constables' Education and Training Board (CETB). *See* 44 Pa.C.S. § 7142(a) (stating “no constable or deputy constable shall perform any judicial duties nor demand or receive any fee, surcharge or mileage provided by this subchapter unless he has been certified under this subchapter”).

B. Duties of a Constable

Constables are required to follow all laws, rules, regulations, certifications and procedures outlined in the statutes. Additionally, if performing services for the courts, constables must adhere to the Pennsylvania Unified Judicial System (UJS) Constable Policies, Procedures and Standards of Conduct policy issued in 2013 (see Appendix 7.01-A). In addition to the UJS policy, many

counties have individualized constable handbooks that outline local rules and procedures specific to their jurisdiction.

1. Protecting the Polls

Constables are required by Pennsylvania statute to maintain order at election polling places and ensure that no qualified elector is obstructed from voting. Constables are the only “peace officers” permitted at the polls on Election Day. The fee for performing this duty it is not paid by the judiciary; instead constables seeking to be paid for protecting the polls should be referred to the county executive or voter services.

2. Performing Services for the Courts

Constables may serve the court, but are not required to do so. When serving the judiciary, constables may serve any judicial process including warrants from summary to felony cases, conducting levies, performing evictions, and serving protection from abuse (PFA) orders. Constables may also perform transport duties and courtroom security. Each judicial district determines how constables are utilized but as they are independent contractors there is no requirement that a judicial district must use a constable that has been duly elected or appointed and certified by the CETB. Most judicial districts give the MDJ the authority to determine which constables will receive work from their court. However, the constables utilized must be properly certified, insured and bonded. Each district court administrator maintains a list of constables and deputy constables authorized to perform judicial duties.

C. Compensation of Constables

Constables are paid for their services by fees which are specified by statute and paid by the defendant in criminal cases or the plaintiff in civil cases. Each county differs regarding how payment is made to the constable. In some counties fees are collected by the court and referred to

the county for payment. Other counties require payment for services to be made directly by the court collecting the fee. Constables are provided with IRS Form 1099s by the county or MDJ court. Each judicial district is required to develop a payment sheet to be used by all constables seeking compensation for services performed. The payment sheet is signed by the appropriate judicial authority that is in a position to verify that a service was performed.

D. Appointment of Constables and Deputy Constables

1. Constables

Individuals may petition the court of common pleas to be appointed to fill vacant constable offices. Residency requirements apply to these positions. Your local voter services office may be of assistance to verify if a position is vacant. Appointed constables must also complete CETB certifications and file required insurance and bond information before performing court services.

2. Deputy Constables

Deputies serve based on need, at the pleasure of elected constables with the approval and appointment by the court of common pleas. A constable seeking a deputy must first petition the court and must show a justifiable need. Deputies must meet and follow all laws, rules, regulations, certifications, and procedures required of elected constables. Residency requirements apply to this position. Appointed deputy constables must also complete CETB certifications and file required insurance and bond information before performing court services

E. Requirements for Certification

The CETB trains and certifies constables and deputy constables. The training and certification processes that the CETB implements are outlined in 44 Pa.C.S. §§ 7141-7149. The CETB operates with the oversight and staff support of the PCCD. The program is continuously improved and modified to keep in step with the changing constables' needs and their role in the

criminal justice system. The training is provided by various regional contractors. The CETB's Bureau of Training Services supervises and coordinates their activities and ensures proper curriculum development and delivery as well as timely and accurate constable certification and recertification. The cost to attend training is the sole responsibility of the constable.

F. Constable Review Board

The Constable Policies, Procedures and Standards of Conduct encourage each judicial district to form a Constable Review Board (CRB) to resolve disputes related to a constable's performance of judicial duties. The county shall develop its own filing procedures, guidelines, including notice and opportunity to be heard, and timetables for decisions recognizing the unique composition and needs of each judicial district and how they utilize constable services. The CRB may impose or recommend to the appropriate authority relief, sanctions, suspension or other disciplinary action up to and including forwarding a recommendation to terminate use of a constable's services.

A county CRB does not have the authority to remove a constable or deputy constable from office. Any findings of suspected criminal activity or violations shall be forwarded to the county's district attorney. The president judge of the judicial district will be notified of any referrals forwarded to the district attorney.

It is recommended that CRB be composed of the following:

- A judge of the court of common pleas or MDJ
- The district court administrator or special courts administrator
- A certified constable and an alternate (to be used if there is conflict)
- The county controller or his/her designee.

§ 7.02 RECORD RETENTION

A. Overview

The Supreme Court of Pennsylvania is responsible for establishing records retention and disposition schedules and procedures for all court records created and maintained by the Unified Judicial System (UJS). The retention and disposition of court records is governed by statutes and Supreme Court enactments.

The County Records Act (Act), 16 P.S. §§ 13001 *et seq.*, requires that schedules for certain court records created or maintained by county officers be promulgated in consultation with the county records committee (CRC).¹⁶ The CRC is responsible for creating records retention and disposition schedules for county officers and is composed of 16 members, including the Chief Justice of Pennsylvania or his/her judicial representative, a member of the Pennsylvania Historical and Museum Commission (PHMC), as well as county officers, an attorney, and a member of the public.

The CRC, with the assistance and cooperation of the PHMC, approves and updates records retention and disposition schedules covering the records held by prothonotaries, clerks of courts, clerks of the orphans' court, registers of wills, sheriffs, coroners, district attorneys, and jury commissioners, or their home rule equivalents.¹⁷ These schedules are issued in accordance with the Act and the authority delegated to the CRC by Pa.R.J.A. 507(a).

The Supreme Court has adopted records retention schedules for both the appellate (204 Pa.Code §§ 209.1-209.2) and the common pleas courts, magisterial district courts, and

¹⁶ The record retention schedules promulgated by the County Records Committee are only applicable to county offices of counties of the second through eighth classes. In order to foster uniformity among these offices, Pa.R.J.A. 507(a)(2) was added in 2001, specifically listing the offices in first class counties that must also comply with the record retention schedules promulgated by the CRC. Note to Pa.R.J.A. 507.

¹⁷ The CRC also schedules all records maintained by county administrative and fiscal officers -- commissioners, controllers, treasurers, and auditors, or their home rule equivalents. Schedules for these purely non-judicial offices are issued solely under authority granted by the County Records Act.

Philadelphia and Pittsburgh Municipal courts (204 Pa.Code § 213.51). The records of these offices may be disposed of in accordance with Pa. R.J.A. 507(b). A copy of the revised Record Retention and Disposition Schedule with Guidelines applicable to the non-appellate courts can be found [here](#).

Pursuant to Pa.R.J.A. 507(c), when disposing of records, system and related personnel in judicial offices not covered by (a) or (b) of the rule must submit to the Administrative Office of Pennsylvania Courts (AOPC) and the PHMC duplicate copies of a record disposal certificate form and a written statement explaining the nature and the content of the records. After consultation with the PHMC, the AOPC may authorize the destruction of such records, either with or without the retention of a permanent copy.

B. Authority

1. Pa.R.J.A. 507 - Record Retention Schedules

Rule 507 indicates those offices that are scheduled by the CRC and directs offices scheduled by the Supreme Court to retain and dispose of records in conformity with prescribed directives of the Court. Rule 507 also provides for disposition of records of non-scheduled offices. See [Pa.R.J.A. 507](#).

2. Supreme Court Order of April 6, 1990, adopting a records retention schedule for appellate courts

The record retention schedule for the appellate courts can be found at [204 Pa.Code §§ 209.1 and 209.2](#).

3. 42 Pa.C.S. §§ 4301 – 4327

These provisions generally requires all system and related personnel shall establish and

maintain such records as shall be required by law. These statutory provisions also require the Supreme Court to prescribe schedules setting forth the conditions under which the records may be disposed of and the requirements of such schedules. *See*

[https://govt.westlaw.com/pac/Browse/Home/Pennsylvania/UnofficialPurdonsPennsylvaniaStatutes?guid=N3EA0184C3F9C4D69B3B2AB86FD763976&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/pac/Browse/Home/Pennsylvania/UnofficialPurdonsPennsylvaniaStatutes?guid=N3EA0184C3F9C4D69B3B2AB86FD763976&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default)).

4. 16 P.S. 13001-13006 (County Records Act)

Created the CRC and its powers and duties and authorized the PHMC to assist and cooperate with it. The Act also defined county records and authorized the disposition of certain county records by county officers. The CRC's primary responsibility is to develop records retention and disposition schedules for each county office. County officers are authorized by the Act to dispose of records in accordance with schedules and guidelines which have been approved by the CRC.

C. Disposal Procedures

1. Pa.R.J.A. 507(a): Offices Scheduled by the CRC (common pleas prothonotaries, clerks of courts, clerks of orphans' courts, register of wills, district attorneys, sheriffs, coroners, jury commissioners, or their home rule equivalents). When an office covered under Pa.R.J.A. 507(a) seeks to dispose of records, the following procedures should be followed:

- a.** The office determines the need to dispose of records.
- b.** Consult the County Records Manual to determine what, if any, retention period has been established for these records.
- c.** Complete the county Records Disposal Certification Request form following procedures set forth in the County Records Manual.

d. Forward the original and one copy of the disposal form to the PHMC for review (see the contact information for the PHMC in the box at the end of this section).

e. Return the completed disposal form by the PHMC to the initiating officer for appropriate action.

f. For information on microfilming standards and optical imaging guidelines, contact the PHMC. *See also* 42 Pa.C.S. §4323 (Form of Recordation).

2. Pa.R.J.A. 507(b): Offices Scheduled by the Supreme Court (appellate courts, courts of common pleas, magisterial district courts, Philadelphia Municipal Court, Pittsburgh Municipal Court). The records created and maintained by these offices may be disposed of in accordance with Pa.R.J.A. 507(b).

Pursuant to the Supreme Court's Record Retention and Disposition Schedule with Guidelines (Schedule), the district court administrator, with the approval of the president judge, designates a record retention officer to coordinate the disposition of records within the judicial district. No records may be destroyed without the approval of the Record Retention Officer.

Notwithstanding the disposition schedules set forth in the Schedule, no record which is otherwise eligible for disposition shall be destroyed if the district becomes aware that the record may be needed for pending litigation.¹⁸ Additionally, records subject to audit must be retained for periods listed in the Schedule and must be audited and all findings resolved before such records may be destroyed.¹⁹ Applicable federal and state statutes and administrative regulations may necessitate retaining records for a longer period of time than indicated in the schedule.

a. Disposal procedures: non-permanent records

¹⁸ Supreme Court of Pennsylvania Administrative Office of Pennsylvania Courts Record Retention & Disposition Schedule with Guidelines (For Courts of Common Pleas, Magisterial District Courts, Philadelphia Municipal Court, and the Pittsburgh Municipal Court), Revised January, 2014. Section 2.4.1.

¹⁹ *Id.* at §2.4.2.

When an office covered by Pa.R.J.A. 507(b) seeks to dispose of non-permanent records, the Schedule requires that the following procedures be followed:

- i. The office determines the need to dispose of records.
- ii. The office consults the Schedule.
- iii. A request to destroy non-permanent scheduled records must be

submitted by the record custodian requesting permission to dispose of the records to the judicial district record retention officer utilizing a UJS Disposal Log for Non-Permanent Records form. The record retention officer reviews the Records Disposal Log form for completeness and shall grant written permission to dispose of such non-permanent records upon ascertaining that the applicable retention period as set forth in the Schedule has been met. Written approval from the AOPC is not necessary before destroying non-permanent records as identified in the Schedule. A log of individual disposition actions involving non-permanent records must be maintained. Copies of the approved Records Disposal Log form shall be forwarded to the AOPC by the judicial district's record retention officer by January 31st of each year (see the AOPC contact information in the box at the end of this section).

NOTE: A PDF form for "Unified Judicial System Disposal Log – Non-Permanent Records" is available at: <http://www.pacourts.us/assets/files/setting-850/file-171.pdf?cb=aaca2b>.

b. Disposal procedures: permanent records

If the records are of a permanent nature, the record custodian must:

- i. Forward a completed original UJS Scheduled Court Records Disposal Certification Request to the judicial district's records retention officer for signature, who in turn must forward the form to the AOPC for approval.
- ii. Upon receipt of the Disposal Certification Request form, AOPC

determines whether an advisory opinion should be solicited from the PHMC. If so, the AOPC will forward a copy of the form to the PHMC for review, and shall consider the recommendation of the PHMC in deciding whether to grant or deny the request.

iii. If the AOPC deems that an advisory opinion is not necessary, it shall determine whether to grant the request based upon a review of the form. The AOPC will send a copy of its determination to the record retention officer. The record retention officer sends a copy of the AOPC's determination to the record custodian that requested leave to destroy the records, with instructions for their disposal.

NOTE: A PDF form for "Unified Judicial System Scheduled Court Records Disposal Certification Request" is available at: <http://www.pacourts.us/assets/files/setting-850/file-172.pdf?cb=ebddc8>.

iv. For information on microfilming and archiving permanent records, see Section 3 of the Schedule.

v. In April 2017, the PHMC, Bureau of State Archives, County Records Committee revised its guidance on the use of electronic media to store permanent records, authorizing the use of PDF/A for offices governed by the County Records Manual. See <http://www.phmc.pa.gov/Archives/Records-Management/Documents/RM-2002-County-Records-Manual-2017-Update.pdf> and <http://www.phmc.pa.gov/Archives/Records-Management/Documents/RM-Guidance-Form-Permanent-Recordation-Judicial-County-Offices.pdf>.

c. Disposal of damaged records

The Schedule also has provisions for disposal of damaged records. Despite periodic risk assessments, some records may be damaged before the expiration of their retention period by unforeseeable natural disasters. In such a case, an assessment must be immediately conducted to

determine the potential for their recovery. Only after an appropriate determination has been made that the damaged records cannot be salvaged or restored should their disposal be requested. The request to dispose of damaged records must be made by the district court administrator, after consultation with the official responsible for the records and the record retention officer and at the conclusion of the evaluation process necessary to determine the records' salvageability. *See* § 2.7 of the [Schedule](#) for detailed instructions concerning the evaluation and disposal of damaged records.

d. Unscheduled or pre-1910 records

If the records are not on the schedule or if they are pre-1910, then one original is sent to the AOPC and one copy is sent to the PHMC for review. After reviewing the form, the PHMC forwards its recommendations to the AOPC for final determination.

3. Pa.R.J.A. 507(c): Non-Scheduled Offices

When disposing of records, system and related personnel in offices not covered under Pa.R.J.A. Rule 507(a) or (b) shall submit to the AOPC and to the PHMC duplicate copies of a record disposal certification form and a written statement explaining the nature and the content of the records. After consultation with the PHMC, the AOPC may authorize the destruction of such records, either with or without the retention of a permanent copy.

**Administrative Officer of Pennsylvania Courts
1515 Market Street, Suite 1414
Philadelphia, Pennsylvania 19102
ATTN.: Records Retention Officer**

**Pennsylvania Historical and Museum Commission
Division of Archival and Records Management Services
P.O. Box 1026
Harrisburg, Pennsylvania 17108-1026**

§ 7.03 COURT-RELATED ORGANIZATIONS

A. Pennsylvania Association of Court Management (PACM): <http://www.pacm.org/>.

The Pennsylvania Association of Court Management (PACM) is discussed in § 0.04 of the Introduction to this manual.

B. Pennsylvania Conference of State Trial Judges (PCSTJ): www.pcstj.org

The mission of the Pennsylvania Conference of State Trial Judges (PCSTJ) is to promote the administration of justice throughout the Commonwealth by researching and disseminating to its members information of interest to the judiciary. The PCSTJ presents and conducts meetings of the members and those interested in law and legal procedures; develops and promotes the enactment of legislation enhancing the desirability of judicial service; or improves legal procedures or substantive law of interest and concern to the judiciary. The PCSTJ also works with other organizations, such as bar associations and law schools to promote projects designed to improve the administration of the law. The website linked to above contains no public information beyond an explanation of the PCSTJ's mission and an email address for inquiries; a password is required.

C. National Association for Court Management (NACM): www.nacmnet.org.

The National Association for Court Management (NACM) provides court management professionals the opportunity to increase their proficiency while working with colleagues to improve the administration of justice. NACM has over 1,700 members from the United States, Canada, Australia, and other countries. NACM is the largest organization of court management professionals in the world with members from all levels and types of courts.

D. Mid-Atlantic Association for Court Management (MAACM): www.maacm.org.

The Mid-Atlantic Association for Court Management (MAACM) is a professional organization made up of individuals committed to the fair and effective administration of justice through improved management of our courts. Founded in 1993, MAACM was created to provide accessible and affordable quality-driven educational programs in a regional setting. MAACM has a membership of more than 700 court professionals from its member states of New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, and Washington DC.

E. Supreme Court of Pennsylvania Rules Committees: www.pacourts.us/courts/supreme-court/committees/rules-committees.

The Supreme Court of Pennsylvania has established seven procedural rules committees and one evidentiary rules committee to provide advice and make recommendations for rules governing particular substantive areas. Rules committees are made up of judges and attorneys appointed by the Supreme Court. The members are not paid for their work and typically serve a three-year term with a maximum of two terms. Persons interested in serving on a committee can find more information on the specific committee's website, links to which are supplied below.

Committees typically meet quarterly to consider issues brought forward by the Supreme Court, judges, attorneys, employees of the Unified Judicial System, members of the legislative and executive branches of government, and citizens. Although committee meetings are not open to the public, the public is welcome to submit written comments about rules. The committees also monitor developments in the federal courts and in other states for potential impact on Pennsylvania court procedure.

Below is a list of the rules committees. Each is also a link to the respective committee's website.

1. [Appellate Court Procedural Rules Committee](#)
2. [Civil Procedural Rules Committee](#)
3. [Committee on Rules of Evidence](#)
4. [Criminal Procedural Rules Committee](#)
5. [Domestic Relations Procedural Rules Committee](#)
6. [Juvenile Court Procedural Rules Committee](#)
7. [Minor Court Rules Committee](#)
8. [Orphans' Court Procedural Rules Committee](#)

F. Special Court Judges Association of Pennsylvania (SCJAP): www.scjap.org.

The Special Court Judges Association of Pennsylvania (SCJAP) is the professional association for MDJs and Philadelphia Municipal Court judges. The website linked to above contains no public information; a password is required.

G. Pennsylvania Prothonotaries' and Clerks of Courts' Association (PAPCCA):
www.papcca.org.

The Pennsylvania Association of Prothonotaries and Clerks of the Courts (PAPCCA) has been in existence since 1928 when then-President Wilson Wert, of Lehigh County, hosted the first conference in the Allentown. According to its website, the purpose of the PAPCCA is to engage

elected and appointed prothonotaries and clerks of court statewide in communicating and preserving the purposes of these offices.

H. Domestic Relations Association of Pennsylvania (DRAP): <https://drap-pa.org/>

The Domestic Relations Association of Pennsylvania is non-profit corporation composed of child support professionals dedicated to improving child support services in Pennsylvania. DRAP has over 1,400 members with representatives from each of the 67 county Domestic Relations Sections (DRS) or Family Courts, and the state Bureau of Child Support Enforcement (BCSE). In addition to an annual training conference, specialized training and information sharing is provided throughout the year.

I. Pennsylvania Court Reporters Association (PCRA): www.pcra.com

The Pennsylvania Court Reporters Association was established in 1994 to advance the interests and general welfare of court reporting, captioning, and other related skill applications. Membership types include those actively engaged as court reporters, as well as others involved in the court reporting field as students, retirees and those who provide products, services and education to court reporting professionals.

J. County Chief Adult Probation and Parole Officers Association of Pennsylvania (CCPPOAP): <http://ccappoap.com/>

According to its website, is dedicated to advance the field of adult probation and parole. On particular initiative is the advancement of Evidence-Based Practices for community corrections. The CCPPOAP seeks to represent its members on issues impacting county adult probation departments.

K. Pennsylvania Council of Chief Juvenile Probation Officers (PCCJPO): www.pachiefprobationofficers.org.

The Chief Juvenile Probation Officers Association was established after a comprehensive statewide meeting in 1967 attended by 22 Chief Probation Officers and others interested in establishing standards for probation services and to represent their ideas and desire to improve the juvenile justice system. Among its stated purposes and objectives is to speak out collectively on topics such as services to delinquent and dependent children, training, research, standards, professional status, and compensation.

L. Pennsylvania Pretrial Services Association (PPSA): www.papretial.org.

The Pennsylvania Pretrial Services Association (PPSA) was established in 1995. PPSA has been organized to educate practitioners and the general public about pretrial services, to promote and disseminate research and act as a forum for new ideas in pretrial service, to provide technical assistance in establishing new pretrial services agencies, and overall, to promote the establishment of professional pretrial services throughout the Commonwealth of Pennsylvania.

M. County Commissioners Association of Pennsylvania (CCAP): www.pacounties.org.

The County Commissioners Association of Pennsylvania (CCAP) was founded in 1886 and is an affiliate of the National Association of Counties (NACo). Prior to 1994, CCAP was known as the Pennsylvania State Association of County Commissioners. CCAP is the voice of county government, a statewide, nonprofit, nonpartisan association representing all of Pennsylvania's 67 counties. CCAP membership includes county commissioners, council members, county executives, administrators, chief clerks and solicitors.

N. Registers of Wills and Clerks of Orphans' Court Association of Pennsylvania:

<https://rwocap.org/>

The Registers of Wills and Clerks of Orphans' Court Association was formed in 1927. The object of this group is to bring into closer association and cooperation the various members of the 67 counties in Pennsylvania. The purpose is to promote greater efficiency in the administration of their offices and to work together on legislation for the general benefit and welfare of their offices and the citizens of our Commonwealth.

§ 7.04 COURT-RELATED ROW OFFICES

A. Prothonotary

Court-related functions of the prothonotary include being the repository of all court records, maintaining indices of all case filings, filing and docketing of all case related documents, issuing all processes necessary by means of which jurisdiction is asserted over the individual or subject matter of the litigation, entering and issuing the processes necessary for the enforcement of all orders, judgments and decrees. Non-court functions include maintaining separate indices and dockets for municipal liens, federal and state tax liens, secured transactions, and in some counties, processing passport applications.

B. Clerk of Courts

The clerk of courts performs the same function for the court as the prothonotary with respect to the filing, indexing and docketing of criminal cases, receives and refunds bail and issues commitments to and discharges from custody. The record maintenance responsibilities also extend to the juvenile court cases as well. Non-court related functions include maintaining records relating to county owned roads and bridges, issuing private detective licenses, keeping records of constables, elected and appointed, and other miscellaneous proceedings.

C. Register of Wills/Clerk of the Orphans' Court

This office maintains all records, including dockets and indices relating to adoptions, incapacitated persons estates and decedents and trust estates called for audits or otherwise requiring some type of court involvement. The probate of wills, issuance of letters testamentary or administration, collection of inheritance taxes and the issuance of marriage licenses are examples of non- court related functions.

D. Sheriff

Historically, the office of Sheriff has been responsible for serving of all initial process in civil cases and enforcing all orders, judgments and decrees. The sheriff also provides transportation of inmates of the county prison to and from court and the delivery of prisoners to correctional facilities. Collateral court related functions include execution of bench warrants, fugitive warrants and providing a certain level of courthouse security. In some counties, the sheriff may also be involved in the collection of delinquent fines, fees and costs.

§ 7.05 COURT'S DUTIES ON ELECTION DAY

On Election Day at least one judge of the court of common pleas is required to be in continuous session for each county of the Commonwealth from 7:00am to 10:00pm. 25 P.S. § 3046. In two-county judicial districts, the assigned judges are to sit at the courthouse of the county in which the judge or judges reside. *Id.* The court session can last beyond 10:00pm if the process of the court "will be necessary to secure a free, fair and correct computation and canvass of the votes cast at said election." *Id.* In one-judge judicial districts the court does not need to sit between 12:00 p.m. and 2:00 p.m. or 5:30 p.m. and 7:00 p.m. *Id.*

It is advisable to post the coverage or duty schedules and any other local procedures for election matters. As election matters are time-sensitive, it is important that any notice of appeal be transmitted immediately to the Commonwealth Court.

Contact Information:

- Department of State, Bureau of Commissions, Elections and Legislation Hotlines: 717-346-0462, 717-783-1657 or 717-346-9016.
- Emergency Absentee Ballot information: www.votespa.com
- Department of State Resources (for guidance only, not binding):
<https://www.dos.pa.gov/VotingElections/OtherServicesEvents/Pages/Election-Administration-Tools.aspx>

§ 7.06 CONTACT INFORMATION

A. AOPC

In addition to the individuals identified below, a useful resource for identifying AOPC personnel who can provide useful information is **A Court Administrator's Guide to AOPC Key Personnel**. The Guide can be accessed from the Judicial District Operations and Programs secure webpage, see the page's [login](#).

Geoff Moulton, Esq., Court Administrator of Pennsylvania

Contact: 717-231-3300

E-Mail: Geoff.Moulton@pacourts.us

Andrea B. Tuominen, Esq., Deputy Court Administrator of Pennsylvania

Contact: 717-231-3289

E-Mail: Andrea.Tuominen@pacourts.us

Communications:

Stacey Witalec, Director of Communications

Contact: 717-231-3300 ext. 3324

E-Mail: Stacey.Witalec@pacourts.us

Finance:

Casey Scarborough, Director of Finance

Contact: 717-231-3307 ext. 4082

E-Mail: Casey.Scarborough@pacourt.us

Human Resources:

Denise Parise, Director of Human Resources

Contact: 717-231-3309

E-Mail: Denise.Parise@pacourts.us

Information Technology:

Russel Montchal, Director of Information Technology

Contact: 717-795-2077

E-Mail: Russel.Montchal@pacourts.us

Intergovernmental Relations:

Damian Wachter, Director of Intergovernmental Relations (Acting)

Contact: 717-231-3300 ext. 3378

Email: Damian.Wachter@pacourts.us

Judicial District Operations and Programs:

Joseph J. Mittleman, Esq., Director of Judicial District Operations and Programs

Contact: 215-560-6300 ext. 6262

E-Mail: Joseph.Mittleman@pacourts.us

Judicial District Security:

Robert F. Granzow, Judicial District Security Administrator

Contact: 717-231-3300 ext. 4015

E-Mail: Robert.Granzow@pacourts.us

Legal:

John Witherow, Esq., Chief Legal Counsel

Contact: 717-231-3300 ext. 3286

E-Mail: John.Witherow@pacourts.us

Office of Children and Families in the Courts:

Sandra E. Moore, Director of Office of Children and Families in Courts

Contact: 717-231-3329

E-Mail: Sandra.Moore@pacourts.us

Judicial Education:

Stephen M. Feiler, Ph.D., Director of Judicial Education

Contact: 717-231-3330

E-Mail: Stephen.Feiler@pacourts.us

Research and Statistics:

Kim Nieves, Ph.D., Director of Research and Statistics

Contact: 215-560-6300 ext. 6835

E-Mail: Kim.Nieves@pacourts.us

B. Information Technology (IT)

Pa Courts, IT webpage:

<http://www.pacourts.us/judicial-administration/judicial-automation>

UJS Portal:

<https://ujsportal.pacourts.us/>

MDJS Help Desk:

Email: MDJHelpDeskStaff@pacourts.us

Tel: 800-243-5735

CPCMS:

Email: ccpaopc@pacourts.us

Tel: 877-227-2672

C. Rules Committees

The email addresses of the individual rules committees can be obtained by utilizing the rules committees' main page <http://www.pacourts.us/courts/supreme-court/committees/rules-committees/> or by using the appropriate link below. The committees can also be reached by telephone to their main number: 717-231-9555.

1. [Appellate Court Procedural Rules Committee](#)
2. [Civil Procedural Rules Committee](#)
3. [Committee on Rules of Evidence](#)
4. [Criminal Procedural Rules Committee](#)

5. [Domestic Relations Procedural Rules Committee](#)
6. [Juvenile Court Procedural Rules Committee](#)
7. [Minor Court Rules Committee](#)
8. [Orphans' Court Procedural Rules Committee](#)

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HISTORY OF COURT ADMINISTRATION

THE EVOLUTION OF A PROFESSION

Charles H. Starrett, Jr.

The Court Manager, Volume 1, Number 2 - Summer 1986

A Publication of the National Association

of Court Management

Court management has come of age.

Viewed from the historical perspective of those who first were thrust into this new, little known, and little respected profession, there can be no question that court management has gained maturity and, yes, even respectability.

Two informed meetings of practitioners can graphically illustrate the measure of progress.

The first was a gathering of a few trial court administrators in Miami, Florida, in 1965. Congregated in the lobby of a hotel, the court administrators, now more widely viewed as court manager, seemed obsessed with what a court executive should do. "Do you meet with the judges?" one asked. "Who prepares the court budget?" another inquired. "I don't have anything to do with setting the cases," still another observed.

How different was a similar informal session of court administrators in Denver in the fall of 1985. No longer were we saying, "What do we do?" or "I wish I could do that." The conversation was about disposition intervals, baud rates of computer equipment, and the advisability of converting to zero-based budgeting.

Twenty years ago, the almost universal opinion was that all a court executive needed was a law degree. The conventional wisdom held that any lawyer worth his salt could manage a court. Little thought was given to the need for job descriptions, regression analysis, records management, or other proven tools for directing an organization. In smaller courts it was not unusual to find that the court administrator was a former judicial secretary. After all, a secretary would listen to a judge, and running the support system of a court wasn't thought to be much of a job, anyway. The very first assignment I received from my chief judge was to draft an order releasing a patient from a mental hospital. That hardly required administrative skills. But the next assignment did. How many cases were pending? No one, literally no one, knew. How did we find out? Our dilemma led us to our first halting steps in the field of electronic data processing.

Another brand new court administrator discovered that his first task was to deliver to each judge of his court a round robin questionnaires/order that would authorize the hiring of a clerk. Today, the court administrator in that jurisdiction screens and selects lay staff and presents such appointments only to the chief judge for approval.

Court managers were a closely knit group in the mid-sixties. There were so few of them, and they felt very lonely. Thus, they sought solace from their counterparts in other courts. But that process brought on a practice that is going on today in a more formalized way--the exchange of information on how various matters are handled in various courts.

Even as it became apparent that court executives, particularly in the larger, urban courts, were supposed signs of modernization, a controversy erupted. Shouldn't all such executives be lawyers? What about hospital administrators, they're not lawyers.

Gradually, chief judges and judicial committees began to realize that managing a court required more than knowledge of how to write an opinion or file a brief. There was the matter of dealing with labor unions and assessing employee effectiveness. Judges came to understand that if you must deal with a funding source, you must be armed with statistics and other information to support your position. And then there was the advent of the computer age in the courts. Few judges, indeed, few lawyers, understood the abilities and limitations of automated data processing; they certainly did not know how such equipment worked. The obvious answer was to hire someone experienced in these fields or to train someone from the court staff to assume these responsibilities.

The first formal organization supporting professional management of the courts, particularly on the state level, was the Conference of State Court Administrative Officers. This was followed in Los Angeles, California, in 1965, by the formation of the National Association of Trial Court Administrators, now the National Association for Court Management. Many judges and court administrators were disappointed at the level of support that LEAA (Law Enforcement Assistance Administration) gave the courts in comparison with its financial aid to enforcement and corrections. But one positive thing LEAA did for the development of court administration was to fund a number of court management positions and to sponsor national and regional conferences on court management.

At what many regarded a much too deliberate pace, the level of expertise of the individual court manager increased, and a phenomenon occurred: experienced court managers moved from one court to another. This was a positive and demonstrable sign of judges' recognizing that court management was, indeed, a profession.

The first trial court managers were limited in their responsibilities. Some were little more than housekeepers; some merely keepers of statistics; and some acted primarily as super secretaries to chief judges. One of the major problems was that most lawyers--and chief judges are lawyers--were reluctant to delegate responsibility. They had not learned that to delegate was not to lose power.

The early days in trial court administration, even state court administration, were exciting times. Virtually everything a court manager did was a first. In a sense, he or she was setting precedent each time a new responsibility arose. Old timers on court staffs resented what they perceived as the "interference" of the "interloper;" even judges were wary of this new court personality.

What the emerging court administrator had to do was convince his or her chief judge that not only did the administrator bring a measure of expertise to the job, but by delegating responsibility a chief judge actually gained greater control of his organization, his court. Advocates of court administration also had to convince judges that there need not be contention between the judges and a court executive. The judges set policy, executives and managers implemented that policy. Many judges were slow to understand this principle, and they were equally slow to understand that the additional information a court executive supplied to them made their management policy decisions all the more likely to be proper.

The march toward respectability was not without its bumps. On one occasion some sixty or so court administrators gathered for a meeting in a western city only to be informed on the very first day that the court administrator in that city had been fired summarily. It turned out the incumbent was cashiered when his chief judge lost the election and the administrator was identified as the deposed chief's "man." It also developed that the administrator, while trained in his new profession, had failed to learn a lesson the very first administrators discovered from the start: if a court administrator is to be regarded as a professional, he or she must serve the entire court.

There was the case of a young court administrator who was fired after only a brief time on the job because his chief judge discovered that the court administrator was preparing a table of organization. The judge was upset; his perceived power was supposedly threatened because the court executive was trying to formalize the organizational structure. "We don't need that," the chief judge declared. "If I give an order it will be followed." The court administrator was at fault, too. He was moving a bit too fast for the times. He first should have demonstrated his ability to help the court. Then a table of organization would have been accepted.

Today, the fear of organization, of this creature called a court manager, no longer widely exists. Indeed, recently the chief justice of a large middle-western state called a meeting of some of the chief judges in the larger courts of the state. The chief's call for the meeting was accompanied by this postscript: "Bring along your court administrator, we'll need some facts."

The facts are these. Court administration is still a developing profession. But we've come a long way. The Institute for Court Management,¹ American University, and a growing number of colleges and universities now offer both graduate and post-graduate courses in

¹ The Institute for Court Management currently operates as a unit within the National Center for State Courts.

court management. The National Center for State Courts, a research and development entity created out of the need to supply supporting data and advice to court managers, has been helpful in demonstrating how modern management techniques can benefit court operations.

We have a proliferating number of books and treatises on court management. They cover budgeting, personnel practices, calendar management, delay, jury management, security, computerization, record-keeping, communications, media and community relations, and statistics. All are areas in which court managers have proven records of successes.

One aspect of managing that has been slow to develop in the courts is planning. LEAA sought with the infusion of a small amount of money to stimulate the planning process in the courts. But it was too little, too late, and not sufficiently sustained. Most court managers, most courts, do not have a planning department or even the assistance of people skilled in planning. The courts of this country will not have used the ultimate abilities of court managers until the fruits of rational, scientific, long-term analysis have been added to the toolboxes of every court executive. Professor David Saari, in American Court Management, observes: "This problem-definition capacity is not a fully developed skill, and it needs nurturing...Sensing trouble before it looms over the horizon is a critical art of management in a turbulent environment."²

That we have singled out scientific planning as a yet-to-be-developed court management process is revealing of the strides court management has made in these last twenty years. It assumes, indeed, that most other disciplines used by managers in other fields of endeavor are now regularly applied by court administrators.

Many years ago, a young court administrator was congratulated for demonstrating that he could properly serve his court by arranging reserved parking for his judges in front of the courthouse. In other words, he demonstrated that he was on the job. That sort of enterprise would go unrewarded today because far more is expected of a court executive.

Today--twenty years down the road--we now congratulate court managers for their ability to put information systems together, for their ability to install one-day/one-trial jury programs, and for many other technical tasks that once were not available to the judges and the courts.

Today, court administration is recognized as a multi-discipline profession. Its practitioners are generally credited with having the expertise needed to manage all facets of a complex, on-going organization. Court managers now regularly are asked to participate in policy-making decisions and frequently are consulted on matters concerning court structure.

Yes, court administration has arrived. Its march towards professionalism has been sporadic and sometimes wrongly directed. But court managers who have participated in that nonetheless steady advance to acceptance have every right to view the last twenty

² David J. Saari, American Court Management: Theories and Practices, Greenwood Press, Westport, Connecticut, 1982.

years as an exciting part of history. What is even more exciting, and challenging, is that there is still more to be done.

THE COURT MANAGEMENT PROFESSION:

Where Did It Come From?

Where Is It Now?

And Where Is It Going?

Edward C. Gallas and Geoff Gallas

The Court Manager, Volume 6, Number 1 - Winter 1991

A Publication of the National Association

for Court Management

Three papers prepared for the Second National Conference on Court Management by leaders of the three premier American judicial administration graduate programs³ stimulated us to construct our sense of where the court management profession came from and, given our thesis about the profession's essence and beginnings, where it is now, and where it is going. Our conclusions follow.

The Court Management Profession: Essence and Beginnings

Courts do not exist so that court managers or anyone else will have something to manage, any more than hospitals exist for their administrators, the defense establishment for its commanders, or schools for superintendents and principals. However, without effective court management, none of the ends of the American judiciary could be achieved; nor could the crucial and constitutionally protected values of judicial independence and separation of powers, crucial means to those ends, be sustained.

In fact, if not in theory, the ends of justice and liberty depend immeasurably more on effective management than on constitution, statute, or case law. Court management therefore is, and should be recognized as, a high calling. But it is not, and never could be,

³ The papers were written for the Second National Conference on Court Management, held in conjunction with the NACM Annual Conference, September 9-14, 1990, Phoenix, Ariz. See Donald E. Fuller, "Policy Implications at the Intersection of Cutback Management, Productivity and Stress," Harry O. Lawson and Dennis Howard, "Development of the Profession of Court Management: A History with Commentary," and David Saari, "Separation of Powers, Judicial Impartiality and Judicial Independence." This article, which began as a reaction to these three papers, benefitted from many conversations in both Phoenix and elsewhere. We owe special thanks to Carol Friesen for her editorial assistance.

an end in itself. This humbling paradox is court management's essence and properly defines its history, theory, and practice.

An early example that foreshadows the importance we place on court management for a just social order, the achievement of individual justice in individual cases, the rule of law, and equal protection according to due process is found in an argument presented by Jethro to Moses. As reported in Exodus 18:13-27, the predicate for Jethro's plea for improved judicial administration through attention to "humanistic" judicial selection criteria, effective judicial education, delay reduction, shorter waiting times for litigants and witnesses, ADR and differential case management is as follows:

And Jethro said unto Moses: "What is this thing that thou doest to the people? Why sittest thou thyself alone; and all the people stand by thee from morning unto evening?"

And Moses said unto Jethro: "When they have a matter, they come unto me; and I judge between one and another, and I do make them know the statutes of God, and his laws."

And Jethro said unto Moses: "The thing that thou doest is not good. Thou wilt surely wear away both thyself and the people that come before thee."⁴

As argued by Jethro some time ago, effective trial court management, even its most mundane aspects (and there are many), is fundamental to the health of the state. This is true here and now and was true there and then. A less expansive view of the field's origins, indeed its purposes, can be found in one of the three papers that prompted this article.

At first reading, the Phoenix conference article written by Harry Lawson and Dennis Howard was, to quote Yogi Berra, "deja vu all over again," as it reiterated history and propositions articulated in the first published text on court management.⁵ However, Howard and Lawson clearly go farther than the authors of Managing the Courts in developing the field's supposed historical origins, beginning at the start of this century through 1979, as well as the issue of whether court management is or is not a profession. They argue that trial courts were simple organizations in the early days, with judges riding circuit and elected clerks keeping the records. Given the absence of complexity and scale, professional court management was, therefore, not needed until recently: "there was little need for professional managers when there wasn't much to manage."⁶ For us, this is not an apt description of court management's origins or its essence. Roscoe Pound in 1906

⁴ As the careful reader of Exodus 18:13-27 will note, we have taken some liberties in the text.

⁵ See Ernest C. Friesen, Edward C. Gallas, and Nesta M. Gallas, Managing the Courts (New York: Bobbs Merrill, 1971), in particular chaps. I ("A Perspective in court Management") and VI ("The Functions and Role of the Court Executive").

⁶ Lawson and Howard, "Development of the Profession of Court Management."

would have taken issue with that evaluation,⁷ as would Plato in 350 B.C.⁸ and Jethro in an even earlier time when he asked Moses to delegate most of his administrative and calendaring responsibilities and at least some of his judicial caseload to others.

Much is missed when court management is assumed to be nothing more than a response to increased scale and complexity. Left unaddressed, for example, will be the ends being served by court managers, the constitutional means of judicial independence and the separation of powers,⁹ the need to educate court managers in these areas, including the absolute necessity for judicial oversight of court management and court managers, and the way effective state and trial court managers make it possible for state court systems and trial courts to achieve judicial independence.¹⁰

The Origins of American Court Management: An Alternative View

While discussion of the myriad, competing formulas for what makes a profession often strikes practitioners as tedious and academic, the court managers' understanding of what a professional is and whether they or others are professionals has a profound effect on how court managers understand their own and other people's jobs; the way these jobs are explained to others, including incoming chief justices and presiding judges; and, most important, how court managers go about their business.

In an early treatment of the subject, which attempted a distinction between professionals and administrators, George Staruss,¹¹ who helped design and teach the first Institute for

⁷ Roscoe Pound, "The Causes of Popular Dissatisfaction with the Administration of Justice," reprinted from the Journal of the American Judicature Society (Chicago: American Judicature Society, 1906). Pound clearly understood both court management's limitations and its necessity due to factors that both transcend and include scale and complexity.

⁸ Plato, The Laws, trans. T. J. Sanders (Baltimore: Penguin, 1970).

⁹ See Saari, "Separation of Powers," and Friesen, Gallas, and Gallas, Managing the Courts, particularly chaps. IV ("The Inherent Power of the Courts") and VI ("The Functions and Role of the Court Executive"). In a bicentennial essay, Russell Wheeler provides a superlative treatment of these issues (Judicial Administration: Its Relation to Judicial Independence [Williamsburg, Va.: National Center for State Courts, 1988]).

¹⁰ Saari, "Separation of Powers," moves from this base to advocate the appointment of "generalist" rather than "technical or specialist" managers. (Does he mean lawyers!?) His final challenge to court managers and their academic chronicles, both here and abroad, deserves repetition: "Protecting judicial independence to preserve liberty by learning more about it is an intelligent first step for those who manage courts anywhere in any capacity of administration."

¹¹ George Strauss, "Professionalism and Occupational Associations" 2 Industrial Relations, May 1963, pp. 8-10.

Court Management education program in 1970, detailed the essentials of "profession" and its values this way:

1. Entry is restricted to those who can demonstrate proficiency in regard to specialized knowledge and skills obtainable only through training, usually academic.
2. The incumbent has autonomy to decide how his function is to be performed and freedom from lay restriction.
3. There is a feeling of commitment to his calling--identifying more with members of his profession in other organizations than with his own organization.
4. Members feel and act upon a responsibility to society for the maintenance of professional standards of work--professional self-discipline and code of ethics.

A 1973 publication of the American Academy of Political and Social Science more completely addressed the specific subject of professionalism in reference to public service by adding, among other things, commitment to organizational routines that produce equal and fair distribution of public goods and services. One of the authors, a police professional, argued that professionalism in public service is not based on academic attainment, but rather on "developing (and meeting) standards of practice based on the efficient rendering of public service."¹² It would be difficult to say it better.

Lawson and Howard cover this same territory. Based on propositions and criteria articulated by Moore, Guy, Wilensky, and Caplan, they conclude that while court management is not a profession, court managers are "professionals" and "probably (members) of an emerging profession."¹³ We agree.

In addressing this same subject at an Institute for Court Management graduation ceremony in 1974, our senior author, using uncharacteristic understatement, said, "Court

¹² Nesta M. Gallas and William T. Smith, "What It Takes to Make a Professional in the Public Services," Monograph #15 American Academy of Political and Social Science (February 1973), p. 20. A powerful set of practice-oriented standards for trial courts are articulated in Commission on Trial Court Performance Standards, Trial Court Performance Standards with Commentary (Williamsburg, Va.: National Center for State Courts, 1990).

¹³ See Wilbert E. Moore, The Professions: Roles and Rules (New York: Russell Sage Foundation, 1970); Mary E. Guy, Professionals in Organizations--Debunking a Myth (New York: Praeger Publishers, 1985); Harold L. Wilensky, "The Professionalization of Everyone!" I.XX The American Journal of Sociology 2 (September 1964); and Theodore Caplan, The Sociology of Work (New York: McGraw-Hill, 1954).

management is not a profession; to perceive it as such is nonsense. It is a specialization, a very important specialization in the management of complex organizations...that requires policy, decisional and behavioral skills, all of which depends on the ability to use power and to manage conflict constructively." Given this orientation, it is difficult to trace the field's legacy as Howard and Lawson do. Besides overlooking ends and means that transcend scale and complexity, their history neglects state trial courts and, to an unexpected degree, the profession's managerial dimensions.

In his 1929 treatise, Willoughby defined the court management profession narrowly to comprise only chief justices as general managers and administrative judges as business directors of related court divisions.¹⁴ Thus limited, the profession would be unable to respond effectively to enduring trial court performance standards. Some ten years later, the ABA Committee on Judicial Administration, still constrained in its view of court management, proposed that a management position be created at the state court level for a single judge with assistants to help carry out administrative "details" (duties).¹⁵ Likewise, the 1948 ABA Model Act generally construed the nonjudge court management profession as a state-level enterprise, where the professional court manager was a state-level assistant or secretary to the "judicial head of the system" (presumably the chief justice, although a judicial council or conference was mentioned).¹⁶

The work described in the Model Act, though it included substantial state-level budgetary responsibilities (at a time when only very limited judicial-funding responsibilities were generally located at the state level), was largely clerical, statistical, and routine rather than managerial. The court executive position as we understand it and have seen it in many places, at both the state and trial court levels, is very different from what was prescribed in the ABA Model Act.

Overlooked in these early expositions are the state trial courts, especially those in metropolitan areas, where the truly challenging and persistent problems for the nation's judiciary are concentrated. With the possible exceptions of Connecticut (1937) and New Jersey (1947),¹⁷ neither the responsibility for trial court funding nor the direct or even

¹⁴ W. F. Willoughby, Principles of Judicial Administration (Washington, D.C.: The Brookings Institution, 1929). Willoughby and other sources discussed below are cited favorably by Lawson and Howard.

¹⁵ See American Bar Association, The Improvement of the Administration of Justice, a Handbook Prepared by the Section of Judicial Administration, 3rd ed. (Chicago: American Bar Association, 1952) p. 27.

¹⁶ American Bar Association, Model Act to Provide for an Administrator of the State Courts (National Conference of Commissions on Uniform State Laws)(Chicago: American Bar Association, 1948).

¹⁷ The history of these developments is recorded in part in Saari, "Separation of Powers;" Lawson and Howard, "Development of the Profession of Court Management," and the sources they cite; Friesen, Gallas, and Gallas, Managing the Courts; ABA,

indirect supervision of trial court performance was generally located at the state level until the early 1970s.

The issues that gave rise to the still emerging court management profession and to recent developments in state-level funding and increased state oversight of trial courts were not merely changes in scale (increased caseloads) and procedural complexity. Rather, the accelerated development of the court management profession as a field of practice, with serious intent, resulted from uneven trial court performance within and across states; the chronic underfunding of trial courts by municipal and county officials; weak and even corrupt local court management; ever-worsening backlogs, times to disposition, and waiting times; and undue and inappropriate interference in trial court functions by local executive and legislative agencies and personnel, many of whom were the primary litigants in the trial courts. These were the challenges that brought about needed reforms, including "professional" state and trial court managers.

The most effective champions for needed change were courageous and frustrated trial court presiding judges. They included trial court leaders led or joined by state supreme courts, particularly courts headed by state chief justices with trial court or local political experience (for example, Arthur Vanderbilt in New Jersey); the trial court bar; an informed media; public interest groups; and enlightened elected officials—both legislative and executive, state and local. As the reform effort gained ground, trial court demands for resources increased awareness of the separation of powers clauses in most state constitutions and the resulting inherent power of the courts doctrine.¹⁸ Both appellate and trial judges realized this required the separation of management control from agencies outside the court as well as lawyers practicing within the courts.

The trial and presiding judges who participated in, indeed spearheaded, most of the needed reform campaigns and later directed their implementation used rhetoric that emphasized

- a crisis in public trust and confidence in the trial courts' fairness, independence, and accountability;

Improvement of Justice; and Arthur Vanderbilt, The Doctrine of Separation of Powers and Its Present Day Significance (Lincoln: University of Nebraska Press, 1953). The field's early history, however, needs and deserves much more extended treatment. With respect to funding authority, the authoritative source on early developments, as pointed out by Saari and Lawson and Howard, is Carl Baar, Separate but Subservient (Lexington, Mass.: Lexington Books, 1975).

¹⁸ Saari, "Separation of Powers," provides an excellent and comprehensive treatment of both substance and source material here. For background on the developments alluded to here, see also Friesen, Gallas, and Gallas, Managing the Courts, particularly chap. IV ("The Inherent Power of the Courts"); Vanderbilt, Doctrine of Separation of Powers; and James Carrigan Inherent Powers of the Courts (Reno, Nev.: National College of the State Judiciary, 1973).

- decreasing judicial morale;
- increasing financing problems;
- legitimate, widespread public criticism of delay; and
- increasing contention and complexity in local government/court relationships.

In one documented case study,¹⁹ the frustrations of "leading edge" trial judges led to a study funded by a private foundation²⁰ that proposed an until then largely ignored remedy--creation of a trial court executive. This recommendation was enthusiastically endorsed by the judges of the nation's largest court of general jurisdiction in 1958. Enabling legislation, the first of its kind, was introduced and adopted authorizing the appointment of an executive officer by the Los Angeles Superior Court. This provided the court with authority "to delegate any administrative powers as are now or hereafter by law...vested in or required by (the) court."²¹

This far-reaching and innovative grant of authority, with provision for delegation of management responsibilities, was immediately supplemented by rules of the court and given the effect of law. In delegating duties that exceed what many, if not most, trial court managers have today, the basic statute permitted, and the rules specifically delegated, control of managerial functions, including

- administrative control of all nonjudicial activities;
- establishment of court divisions as deemed advisable;
- assignment, supervision, and direction of all nonjudicial employees of the court;
- creation and implementation of a personnel system;
- preparation and administration of the court's budget;

¹⁹ See, in general, Richard Gable, "The Case of the Los Angeles Superior Court," in Edward C. Gallas and Nesta M. Gallas, eds. *Symposium on Judicial Administration*, XXXI *Public Administration Review* 2, March/April 1971, pp. 133-143, hereafter cited as Gable, "L.A. Superior Court;" and Friesen, Gallas, and Gallas, *Managing the Courts*, Appendix A.

²⁰ Holbrook Foundation, "A Survey of Metropolitan Trial Courts, Los Angeles Area," 1956.

²¹ California Government Code, Section 69892.1.

- maintenance of all accounting, property control, and payroll records;
- representation of the court in negotiations concerning courtrooms and their maintenance;
- collection of statistical data, reports, and recommendations, including legislation concerning the judicial and nonjudicial business of the court;
- liaison with the governor, the state legislature, county board of supervisors, the county administrative office, the county clerk, the sheriff, the state bar, local bar associations, the district attorney, and civil groups;
- service as secretary to the court and attending all meetings of the court and all committees of the courts' judges;
- service as jury commissioner; and
- preparation of an annual report, including recommendations to improve the administration of the court.

Functions not delegated to the trial court executive included authority to decide cases, make judicial assignments, and assign cases to judges. As a matter of practice, however, the assignment of cases and even judicial assignments were made by the executive officer and designated administrative staff in accord with general direction from administrative judges in the jurisdictional and geographical subdivisions of the court. The law establishing this far-reaching authority of the court to delegate its responsibilities to a "professional" manager was the first in the nation, and its implementation resulted in seven years of major reorganization, realignment of responsibilities, and confrontation with funding agencies.²²

The success of that effort, among many other factors, encouraged other courts in California and elsewhere to delegate major trial court executive responsibilities to persons with demonstrated management skills and experience. In some cases this was done without the benefit of specific legislation.

In 1968 and 1969, Sen. Joseph Tydings of Maryland, sponsored legislation (that was adopted by the Congress and signed into law) that required qualified managers in the federal judiciary and relieved "judges of many of their present administrative duties and freed them to apply their legal art to a more prompt disposition of the judicial business." The legislation was opposed by some who believed there were very few qualified persons to fill the new posts. In meeting these objections, Tydings gave credit to the work done in state courts at both the state (for example, in New Jersey, by Edward B. McConnell) and

²² See Gable, "L.A. Superior Court."

local levels: "While it is true that formal training programs have not existed in the past, that absence did not deter the tremendously effective work of a number of court administrators in state courts."²³ Most of the duties and responsibilities of the federal circuit executives described in the federal legislation were taken almost verbatim from the duties delegated to the executive officer of the Los Angeles Superior Court by its rules of court.

As a footnote to the above history concerning "recent" beginnings, it is of interest to recall that as of 1958 there was only one trial court "administrator" and as late as 1965 there may have been as few as six trial courts with truly professional managers located in California, Arizona, Oregon, Washington, and Pennsylvania.²⁴ The six came together in Beverly Hills to charter the National Association of Trial Court Administrators (NATCA). NATCA grew to about 350 members by 1980 and, in 1985, officially merged with the National Association for Court Administration (NACA) (founded in 1968) to form the National Association for Court Management (NACM). NACM now has almost 2,000 members.

The Future

The 1985 merger of NATCA and NACA²⁵ holds the still-to-be-realized promise of extending the powerful ethos of court management professionalism to thousands of still unwashed de facto and de jure court managers--every elected clerk and appointed court administrator in the nation's 2,449 general jurisdiction and 14,126 limited jurisdiction courts.²⁶

¹⁰ See Joseph Tydings, "The Courts and Congress;" Gable, "L. A. Superior Court," pp. 113-120; and Senate Report 91-262, 91st Congress, First Session. As is well known, however, there is a lingering feeling and some evidence that the promise of federal circuit positions may have, until perhaps recently, exceeded their practical effects. See John T. McDermott and Steven Flanders, The Impact of the Circuit Executive Act (Washington, D.C.: Federal Judicial Center, 1973).

¹¹ For background on these developments as told by one of the six pioneers see Charles H. Starrett, Jr., "The Evolution of a Profession," 1 The Court Manager 2 (Summer 1986), pp. 5-6 and 14. As detailed by Lawson and Howard, the actual count, as reported by Fannie Klein, "The Position of Trial Court Administration in the States," 51 Judicature 9 (April 1968), p. 334, was much greater than six. As is true today, the distinction between title and function is important.

¹² For information and background concerning the 1980 NACA/NATCA merger, see Bobby Branum, Gus LiCari, Gordon Griller, Terry Aragon, Sam Grice, and Donald Cullen in 13 Court Crier: The Journal of the National Association for Court Administration 1 (March 1984), pp. 1-2, and Donald Cullen 1 The Court Manager 1 (October 1985), pp. 1-2.

¹³ For the most current and accurate sources of information concerning the number of state trial courts, their jurisdiction, and their location by state, see State Court Organization 1987 and State Court Caseload Statistics: Annual Report 1989

The gap between the number of practicing trial court managers and the number of NACM members indicates the work that remains to be done. Recent studies of the pace of litigation in 39 urban state trial courts of general jurisdiction²⁷ likewise provide a sense of urgency about needed improvements in the nation's trial courts and their management. There is little reason for complacency; much, much more needs to be done in the future than was achieved in the past. The nature of these challenges should give pause to those who wish merely to consolidate past success and programs already in place.

According to our very smudged crystal ball,²⁸ the seven issues that most need to be addressed in the next five to ten years by the organized profession, and in daily court management practice, are

- mounting overloads in state trial courts most recently experienced as periodic, sudden, and persistent surges in drug-related cases--criminal, domestic relations, and juvenile (including dependency and neglect);
- legitimate public demands for improved judicial system accountability and performance, particularly at the trial court level;
- continued development of viable alternatives to the adversarial system and court and litigant dependence on paid advocates for finding the truth and resolving disputes;
- new forms and degrees of management by the de jure leaders of the nation's courts, trial and appellate judges;²⁹

(Williamsburg, Va.: National Center for State Courts, 1991). The Annual Report series is updated annually and State Court Organization 1991 has been proposed for funding.

¹⁴ A report funded by the Bureau of Justice Assistance on the case disposition time performance of 39 urban trial courts of general jurisdiction in 1987 will soon be available in John Goerdts, Chris Lomvardias, and Geoff Gallas, Reexamining the Pace of Litigation in Urban Trial Courts (Williamsburg, Va.: National Center for State Courts, forthcoming). The study demonstrates that while several courts were close, none of the 39 urban courts meets the ABA Disposition Time Standards adopted in 1985 on either the criminal or civil side. See also, John Goerdts, Chris Lomvardias, Geoff Gallas, and Barry Mahoney, Examining Court Delay: The Pace of Litigation in 26 Urban Trial Courts (Williamsburg, Va.: National Center for State Courts, 1989), and Barry Mahoney et al, Changing Times in Urban Trial Courts (Williamsburg, Va.: National Center for State Courts, 1988).

¹⁵ There was comprehensive discussion of "The Future and the Courts" at an excellent conference sponsored by the American Judicature Society/State Justice Institute in San Antonio in May 1990. For a report on the issues discussed there, see The Future and the Courts Conference: Summary (Williamsburg, Va.: National Center for State Courts, 1990), and James A. Dator and Sharon Rogers, The Future and The Courts Conference: Executive Summary (Chicago, Ill.: American Judicature Society, 1990).

- the impact of changing demographics (gender, race, age, and literacy) on the court's business, and when, where, and how it delivers its services and manages its human resources;
- "new" science, particularly genetics and genetic engineering, in its effects on the law, caseloads, evidence, procedure, and sentencing; and
- technology--both its downstream effects on the nature of litigation and its potential to improve court services upstream, particularly those related to expedition and timeliness and access to justice.

Some undoubtedly would view these seven challenges as more of the same, while others will find new direction in them. Either way, these issues will require, at the least, the adaptation of current court practice and procedure and, more likely, wholesale change.³⁰ As was true in the past, reliable responses will not come from legislation, case law, or administrative edict alone. Management, both systemic and mundane, is required. An early apologist for the court management profession, in 350 B.C. Plato said: "It is obvious to anyone that legislation is a tremendous task, and that when you have a well-constructed state with a well-framed legal code, to put incompetent officials in charge of administering the code is a waste of good laws, and the whole business degenerates into farce. And not only that, the state will find its laws are doing it damage and injury on a gigantic scale."³¹

Our reading from the Phoenix Second National Conference on Court Management is that one of the seven future issues listed above has the most currency today: the evolving relationship between judges and professional court managers. In particular, the field appears to face two related questions: 1) is there already or will there be a reaction by judges to the growing "professionalization" of court management, and 2) should judges report to court managers? In a paper focused on state court administrators, Cameron, Zimmerman, and Darling maintain that court managers must be legally trained and, ideally, former judges.³² For reasons argued at length some time ago, we do not accept

¹⁶ For an early warning signal to nonjudge court managers, see the text below and James Duke Cameron, Isaiah H. Zimmerman, and Mary Susan Darling, "The Chief Justice and the Court Administrator: The Evolving Relationship," in 113 Federal Rules Decisions 439, West Publishing Co., 1987.

¹⁷ A most perceptive writer on these realities, Leonard Sayles, was a teacher and designer of the initial Institute for Court Management education program and is currently a member of the ICM advisory council. See Sayles, Leadership: What Effective Managers Really Do...and How They Do It (New York: McGraw-Hill, 1979), and "Leadership for the Nineties: Challenge and Change," in 10 Issues and Observations 2, Center for Creative Leadership (Spring 1990), pp. 8-10.

¹⁸ See Pound, "Causes of Popular Dissatisfaction," pp. 221-222.

¹⁹ See Cameron, Zimmerman, and Darling, "The Chief Justice and the Court Administrator."

these propositions.³³ The important point, however, is that many judges now believe that 1) court managers have usurped judicial authority, 2) all court managers should be lawyers, and even 3) court managers ideally will have been judges before their appointment as court managers.

This takes us to the second question: should judges report to court managers? For us the answer is clearly and decisively no. Moreover, the current court manager and presiding judge executive team concept is unduly narrow. Judicial involvement in state and trial court management must be expanded to include all judges and every aspect of the court's day-to-day management. Implemented properly, increased judicial involvement in trial court management will improve trial court performance, increase both the acceptance and accountability of professional trial court managers, and neutralize fears that court managers unduly usurp judicial authority. As a matter of policy, judges do not and should not report to court managers. As a matter of practice and necessity, more judges need to become more involved in day-to-day court management both as leaders of trial court committees and projects and as committee members and project team participants with court managers and their staff as committee and project leaders. This, rather than either the appointment of judges as court managers or judges reporting to nonjudge managers, is how court management theory and practice is, and should be, evolving.

We conclude with a thesis and direction from a now permanently retired manager, Billy Martin. First, the thesis: the ambiguities and uncertainties now at work in the nation's courts will continue and even increase. These challenges will be faced most competently and most reliably by court managers who understand both the essence of their high calling and their own and their profession's limitations. Competence, reliability, understanding, and humility failing, however, there is Billy Martin's wisdom: "a professional is somebody who keeps showing up and keeps coming back."

Court managers have always been around, are here now, and will always be present. As a matter of practical necessity, or ever-increasing scale and complexity, it is a job that someone always shows up to do. More important, when done right, court management clearly contributes to "Justice...the end of government...the end of civil society."³⁴

In sum, it is our view that the past was OK, the present shows promise, and the future needs to be even better. Further, as was true in the past and is true today, the prime focus of our profession's effort must be the improved performance of the nation's state trial courts,³⁵ particularly trial courts that serve urban jurisdictions. This, and the field's service to the ends of justice and liberty, is the profession's legacy and the challenge by which it is best described and measured.

²⁰ See Friesen, Gallas, and Gallas, Managing the Courts.

²¹ James Madison, Federalist No. 51 in Roy Fairfield, ed. The Federalist Papers (Baltimore: The John Hopkins University Press, 1981), p. 162.

²² See Gallas and Smith, "What It Takes to Make a Professional."

Unified Judicial System of Pennsylvania



Hiring Guidelines for Filling State-Level District Court Positions

Employees of the UJS shall make all hiring, employment, and supervisory decisions in compliance with the UJS Code of Conduct, UJS Policy on Non-Discrimination and Equal Employment Opportunity, Rules of Judicial Administration, and all applicable state and federal laws.

- ☐ Contact AOPC Director of Judicial District Operations and Programs, Joe Mittleman, to secure approval to fill an existing vacancy or add a position to the current complement.
- ☐ Review [update as necessary] the position's job description and send to Matthew Gray, AOPC HR. (Reference Information Sheet #1)
- ☐ Discuss and coordinate position posting and advertising options with Matthew Gray.
- ☐ Review resumes, interview applicants (prior to the interview, contact AOPC HR for a copy of each candidate's AOPC Employment Application), conduct professional reference checks, and select final candidate for position. Discuss the starting salary offer with Joe Mittleman. (Reference Information Sheets #2-5)
- ☐ Extend a **verbal** "conditional" offer of employment to selected candidate. Secure information needed to complete a criminal history check of candidate. (Reference Information Sheet #6)
- ☐ Upon the completion of a satisfactory criminal history check, request Rule 503 hiring approval from the Court Administrator of Pennsylvania and send a copy to Joe Mittleman and Denise Parise, AOPC Director of HR. Include recommended starting salary, candidate's resume, AOPC application, summary of professional reference checks, results of criminal history check, and other materials necessary to support your recommendation. (Reference Information Sheet #7 and Sample Letter #1)
- ☐ Upon receipt of Rule 503 approval from the Court Administrator, extend a written final offer to the selected candidate. Final offers of employment should, at a minimum, include specific references to the position being offered, the starting salary, the starting date of employment, and compliance with the UJS Code of Conduct. (Reference Information Sheet #6 and Sample Letter #2)
- ☐ Send copy of final offer of employment letter with candidate's signature to Matthew Gray, as well as any and all interview notes. (Reference Information Sheet #10)
- ☐ AOPC HR will send welcome letter and all in-processing forms.

Unified Judicial System of Pennsylvania



Information Sheet # 1

The Job Description

A “Job Description” is a listing of the job duties and responsibilities that are currently assigned to any given position in an organization. Job descriptions simply list each employee’s duties, with an indication as to how much time they generally spend doing each task / function that is listed on the job description.

General Instructions:

1. Please complete “Section I – Purpose of Position.”
2. Please complete “Section II – Duties and Responsibilities”. The “Example of Duty Statements” provided is a guide to explain the importance and frequency of each duty as noted in the far right columns.
3. Please complete “Section VI – Necessary Special Requirements”
4. Please return the completed Job Description form to AOPC HR.

All other sections will be completed by AOPC HR based on the classification and compensation system currently in place for the Judiciary.

General Guidelines

Suggestions for completing the Duty Statement List -

- ◆ List those duties and responsibilities that are performed by the position and those which management will reasonably expect to have performed over the next twelve months, or whenever the need arises.
- ◆ Write each duty statement as a sentence beginning with an action verb in the present tense. Verbs such as “assists, examines, handles, prepares, processes, researches, reviews,” and “is responsible,” are too ambiguous and general to be used alone. The use of these or similar verbs requires full explanation about *how* the employee assists, examines, or is responsible.
- ◆ Attempt to have each duty statement contain the answers to these questions: Who? Performs what action? To accomplish what immediate result? With what tools? Upon what instruction?
- ◆ Include or describe in this section any “Necessary Special Requirements” the employee must meet. These are usually certifications, licenses, or registration required by law or regulation. Examples would be: Certification of admission to the Bar of the Supreme Court of Pennsylvania, a driver’s license, or certification as a Certified Network Engineer.
- ◆ If you do not have enough space to list all of the duties and responsibilities on the form itself, please add second page.

Information Sheet # 1 (con't)

Example of Duty Statements

Importance: 1=Critical 2=Important 3=Incidental

Frequency: 1=Every Day 2=Every Few Days 3=Every Few Weeks 4=Every Few Months

Duties and Responsibilities	Importance			Frequency			
	1	2	3	1	2	3	4
Conducts analysis of computer systems and process requirements associated with the XYZ Project; and prepares feasibility and cost-comparison studies and recommends modifications and improvements.	X				X		
Prepares and constructs Conceptual Design and site visit data; and provides input on the software used and the content of documents.	X				X		
Develops user procedure manuals and guides for user instruction.		X				X	
Prepares and maintains the XYZ Project documentation library.		X					X
Develops general and detailed logic flowcharts for XYZ Project processes.		X				X	
Develops written data processing instructions for operations personnel		X				x	

If you have questions relating to the Job Description please contact:

Michael Sponsler
Senior Compensation Analyst
Administrative Office of PA Courts
Human Resources
PO Box 61260
Harrisburg, PA 17106-1260
(717) 231-3309
mike.sponsler@pacourts.us

JOB DESCRIPTION

Name of Incumbent (Leave blank if a vacant or new position):		Official Job Classification Title:	
Judicial District # / County Name:	Department, Section or Court:	Working Job Title:	
Position is: <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Temporary <input checked="" type="checkbox"/> Full-time <input type="checkbox"/> Part-time	Complement Control Number:	Normal Work Hours:	

Section I -- Purpose of Position:

This section provides a brief general summary of the principal purpose or function of this position and establishes a context for the position within the organization.

Section II – Duties and Responsibilities:

This section describes the position's major **duties and responsibilities**. The legend below provides a guide to explain the importance and frequency of each duty as noted in the far right columns. *Duties listed as a "1" or "2" in importance or frequency are considered "essential functions" for this position.*

Importance: 1=Critical 2=Important 3=Incidental

Frequency: 1=Every Day 2=Every Few Days 3=Every Few Weeks 4=Every Few Months

Duties and Responsibilities	Importance			Frequency			
	1	2	3	1	2	3	4

This Job Description in no way states or implies that these are the only duties to be performed by the employee occupying this position. Additional duties may be assigned as dictated by operational needs.

Additional Pages Are Attached:	Yes:		No:	
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Section III – Physical Requirements:

This section provides a list of the physical activities, efforts and demands for this position which the incumbent must be able to perform. Example: Lifts boxes weighing up to 60 pounds.

For HR Use:

Section IV – Supervision Received:

This factor is used to measure the degree to which the accountability, discretion, and resourcefulness required of the employee are limited by control of the work from other sources, the structure of the job, the supervisor, or technical assistance.

For HR Use:

Section V – Scope and Effect of Actions and Decisions:

This factor measures the role of the position in attaining the overall objectives of the work unit and producing the products or services of the work unit and/or UJS program. This factor identifies “who” and “what” are directly affected by the actions an employee takes or decisions made in the performance of the predominant duties.

For HR Use:

Section VI – Necessary Special Requirements:

This section lists any certifications, licenses, or registrations the employee may be **required** to possess. For example: Admission to the Bar, a valid driver's license, certification as a Certified Network Engineer.

Section VII - Position Content Certification:

Preparing Human Resources Analyst's Signature: Michael Sponsler

Title: Senior Compensation Analyst

Date: _____

I certify that to the best of my knowledge all statements contained within the Job Description are correct.

Approving Authority's Signature: _____

Title: _____

Date: _____

Unified Judicial System of Pennsylvania



Information Sheet # 2

Acceptable Interview Questions

What you may, and may not, ask job applicants.

The following chart lists many subjects that **cannot** be raised or discussed with job applicants. It is extremely important to understand that you may not discuss these critical subject areas with applicants even if they volunteer the information, or otherwise raise the subject through their responses to other non-related topics.

Subject	What you may ask . . .	What you may not ask . . .
Name	What is your full name? Do you have work records under a different name?	You may <u>not</u> ask any question about an applicant's name that would serve to identify their marital status, national origin, ancestry, or religion.
Age	If you are you under age 18, can you furnish a valid work permit?	You may <u>not</u> ask any questions about the applicant's age, age group, date of high school graduation, or any other question that would serve to identify their age.
Race / Color	None	You may <u>not</u> ask any questions about an applicant's race or color, or any questions that would serve to indicate or establish the applicant's race or color.
Marital Status	None	You may <u>not</u> ask any questions that would serve to identify an applicant's marital status. (e.g., Do you go by Mrs., Miss, or Ms.? Where does your spouse work?) You may <u>not</u> ask about children, childcare, or childcare arrangements.
Sex, Sexual Orientation, or Gender Identity or Expression	None	You may <u>not</u> ask any questions regarding the sex, sexual orientation, or gender identity or expression of the applicant.
National Origin, Ancestry, Religion, or Creed	None	You may <u>not</u> ask the applicant any questions that would serve to identify their national origin, ancestry, religion, or creed. (e.g., You may <u>not</u> ask about the birthplace of their parents, grandparents, etc.; if or where they attend church; or their membership in certain fraternal organizations.)
Citizenship	Are you legally eligible to be employed in this county?	You may <u>not</u> request any information regarding an applicant's citizenship, immigration status, or legal right to work except as noted in column two of this form.
Personal Health, Physical Condition, or Disability	Are you able to perform the essential functions of the job as it has been described, with or without reasonable accommodation?	You may <u>not</u> ask any questions relating to the health, physical condition, or disability of the applicant. (e.g., You may <u>not</u> ask questions related to pregnancy, current or prior illnesses, leave use, workers' compensation claims, etc.).

Subject	What you may ask . . .	What you may not ask . . .
Education	<p>What academic, professional, or vocational schools have you attended, and/or what training have you received that is relevant to your ability to perform the duties of this position?</p> <p><i>Note: You may also ask about grades and specific coursework to the extent that these questions are directly related to the applicant's ability to perform the duties of the job. (If you ask these questions of one applicant, you should ask them of all applicants.)</i></p>	<i>You may <u>not</u> ask the applicant about the nationality, racial, or religious affiliation of the schools they have attended.</i>
Criminal Record	None	<i>You may <u>not</u> question applicants about arrest and/or conviction records.</i>
Military Service	Have you been in active military service? If so, what were the dates of your active military service? What type of military discharge did you receive (e.g., honorable, general, etc.)?	<i>You may <u>not</u> ask applicants if they belong to the military reserves or national guard, and may <u>not</u> inquire as to their intent to enter into active military or reserve service.</i>
Residence	<p>What is your current address and phone number?</p> <p>How long have you lived at your current residence?</p>	<i>You may <u>not</u> ask questions regarding prior residences or questions about any aspect of the neighborhood in which the applicant currently resides.</i>
Availability to Work	Are you normally available to work during the regular working hours specified for this position? (If applicable to the position being filled) would you be available to travel and/or work overtime as required by the duties of this position?	<i>You may <u>not</u> ask applicants if they are available to work particular religious holidays. You may <u>not</u> ask applicants about childcare, or childcare arrangements. You may <u>not</u> ask applicants about military reserve or national guard obligations.</i>
Photographs	None	<i>You may <u>not</u> photograph job applicants, and/or request photographs of job applicants prior to making a conditional offer of employment.</i>

Unified Judicial System of Pennsylvania



Information Sheet # 3

SAMPLE INTERVIEW QUESTIONS

Select those questions you prefer, and those that are most appropriate for the position. However, please note that all candidates being considered for the same position should be asked the same questions.

Technical Abilities

- What specific expertise and skills would you bring to this position?
- What makes you stand out above your peers?
- Describe a project that you found challenging and explain your specific contributions to its success.
- Applying your skills and experience, explain the contributions you can make if we hire you?
- Rate your competence in using computer software / hardware. What types of projects have you completed using each program?
- How would you rate your business writing and speaking skills? What kind of writing and / or speaking have you done?
- Describe a typical day in your current position.

Past Employment / Experience

- What are the broad responsibilities of your current / most recent position?
- Tell me about your most recent performance evaluation.
- What aspects of your job are the most crucial?
- Tell me about the culture at your last company. In what type of culture/environment do you function best?
- What would your current / most recent supervisor say about you?
- Describe the major accomplishments in your current / most recent job?
- What do you like most / least about your current / most recent job?

Behavioral Competence / Attitude

- Describe the amount of structure, direction and feedback that you need to excel.
- What is your personal definition of success / growth?
- How do you approach your work from the standpoint of balancing your professional career with your personal life?
- What motivates you?
- What makes you most valuable to your supervisor?
- Do you prefer to work in a team environment or do you excel independently?
- In what areas do you typically have the least amount of patience at work?
- Tell me about a time when you were under pressure. How did you handle it?
- Do you prefer to work in a job where each day you know exactly what to expect or one which is constantly changing? Why?
- Describe your ability to multi-task.
- How have you motivated yourself to complete a task that you did not want to do?
- Describe when you or a group that you were a part of was in danger of missing a deadline. What did you do?
- Think about a difficult boss, professor or other person. What made him or her difficult? How did you successfully interact with this person?
- Do you initiate action or wait to see what needs to be done?
- How easy is it for you to change your way of doing things?
- Tell me about a time you made a mistake. How did you handle it?
- What do you do for fun?

For Management Positions

- What leadership positions have you held? Describe your leadership style.
- Describe your mentoring / training style.
- Do you naturally delegate responsibilities, or do you expect your direct reports to come to you for added responsibilities?
- Provide an example of your ability to facilitate progressive change.
- How do you typically stay in the information loop and monitor your staff's performance?
- How do you confront subordinates when results are unacceptable?
- How many people have you supervised?
- What qualities does a good manager possess?
- How do you motivate your employees?
- As a manager, what do you find is the most difficult thing you have to do?
- What would people who have worked for you say about you?

For the Recent College Graduate

- How did your college education prepare you for a career in [industry / job title]?
- What qualifications or experience do you have beyond academics that qualify you to make a smooth and successful transition to our organization?
- Why did you choose your [college / major]?
- How does your GPA reflect your ability to succeed in business?

General

- Why are you searching for a new position?
- Tell me why you are the best fit for this position.
- What are your strengths / weaknesses?
- What skill area do you want to improve upon in the next year?
- What is the greatest asset you'll bring to this organization?
- Why do you want to work here?
- What do you know about our organization?
- What criteria are you using to evaluate the organization for which you hope to work?
- What do you see yourself doing five years from now?

Closing Questions

- What questions can I answer for you to help you come to an informed decision?
- At what salary would you accept a potential job offer?
- What would you like to know about us and / or this organization?
- How much notice would you need to give your present employer?

Unified Judicial System of Pennsylvania



Information Sheet # 4

Telephone Reference Check

Candidate's Name:	Title of Position Applying For:
Name of Reference:	Reference's Position Title:
Reference's Company:	Reference's Telephone:
Name of Person Completing Reference Check:	Date Reference Check Performed:

Note: The same questions should be asked of all references for all candidates competing for the same employment position.

Suggested Questions for General Use:

1. How do you know the candidate and for how long?

--

2. Describe the type of work he/she did during your association.

--

3. How was his/her work assigned and reviewed at that time?

--

4. Please rate him/her as an oral communicator.

--

5. Please rate him/her as a written communicator.

--

6. Please rate his/her computer, technical, administrative, or other job-specific skills.

7. How would you describe the quality and consistency of his/her work ethic, and his/her work product?

8. Does he/she complete assignments on time and meet established deadlines?

9. Can he/she make decisions or recommendations independently? "When the heat is on?"

10. In your view, would he/she work more effectively operating independently, or as a member of a team? And, why?

11. What is his/her greatest professional strength?

12. What is his/her greatest professional weakness?

13. Do you have other thoughts or comments that would be helpful?

Unified Judicial System of Pennsylvania



Information Sheet # 5

Starting Salary Guidelines

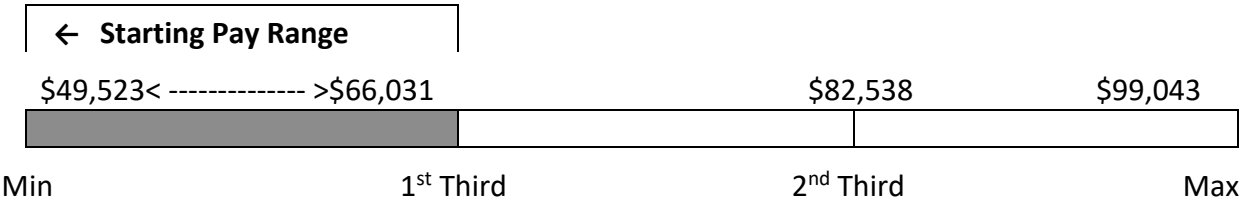
Starting salary recommendations should be discussed with Joe Mittleman prior to extending a conditional offer or requesting RJA Rule 503 approval for the selected candidate.

Starting Salary Range

The standard range for starting salaries under the District Employee Pay Plan will be the first third of the designated pay band for the position being filled.

For example:

The starting salary range for a District Court Administrator, Level II would be as follows:
Designated Pay Band = Band “G” = \$49,523 to \$66,031 (CY 2019)



Starting Salary Guidelines

Starting salary recommendations falling within the starting salary range referenced above will generally be approved provided that the recommended salary:

- (1) is deemed to be commensurate to the candidate’s qualifications and experience; represents a fair and reasonable amount in relation to the candidate’s current salary; and
- (2) is appropriate when viewed against the existing pay levels of experienced incumbent personnel within the same classification in that judicial district and in other comparable judicial districts. [The pay levels of incumbent subordinates will **not** be used as justification for setting starting salaries higher than would otherwise be appropriate.]

Starting salaries above the normal starting range may be allowed on a case-by-case basis depending on the candidate’s qualifications and experience. All such offers must, however, be approved in advance by the Court Administrator of Pennsylvania, or his/her designee.

Unified Judicial System of Pennsylvania



Information Sheet # 6

Offers of Employment

"Conditional" Offers of Employment

When you have identified a final candidate, a verbal conditional offer may be extended *provided a starting salary offer has been discussed and approved by Joe Mittleman*. Topics covered during this offer include, (1) the position title, (2) the compensation package (annual salary and retirement), (3) an overview of the benefit package, and (4) UJS Code of Conduct. AOPC HR can extend the conditional offer if requested.

All applicants for state-level positions within the Unified Judicial System of Pennsylvania must undergo a criminal history check to confirm their suitability for judiciary employment.

To insure the thoroughness and reliability of such checks, it is necessary to obtain the applicant's full name, date of birth, and social security number. It is, however, improper to request such information from applicants prior to extending a bona fide offer of employment. With this in mind, it is only appropriate to request this information from the candidate **after** the "conditional" offer of employment has been extended and accepted.

Upon Rule 503 approval and the completion of a satisfactory criminal history check, a final offer of employment can then be extended to the candidate.

"Final" Offers of Employment

Final offers of employment must be in writing, and must include:

- the position being offered;
- the designated starting salary;
- the agreed upon starting date of employment; and
- requirement to abide by the provisions of the UJS Code of Conduct

A sample offer of employment letter is included in this packet. AOPC HR can customize the offer letter for the district upon request. (Reference Sample Letter #2)

Send a copy of the offer letter with candidate's acceptance to Matthew Gray, AOPC HR.

Unified Judicial System of Pennsylvania



Information Sheet # 7

RULE 503 STAFF

(a) Supreme Court Appointments. The Supreme Court may appoint and remove the executive personnel of the Administrative Office and such district court administrators and other personnel of the system as may be necessary and proper for the prompt and proper disposition of the business of all courts and justices of the peace.

(b) Other Appointments. Subject to the approval of the Supreme Court, the Court Administrator may appoint and remove such personnel of the Administrative Office and such appellate and district court administrators, and their staffs, as are authorized for the system. After no more than a six-month probationary period, no appellate court administrator, district court administrator, deputy court administrator or special courts administrator may be removed without the prior written approval of the Court Administrator. In the event of a vacancy in the position of appellate court administrator, district court administrator, deputy court administrator or special courts administrator in any of the Judicial Districts of the Commonwealth, the position shall be filled by the President Judge or, in such Districts where there are Administrative Judges, by the majority vote of the President Judge and Administrative Judges, only with the written approval of the Court Administrator of Pennsylvania. If no such approval is obtained, further candidates for the position(s) shall be presented until such approval is obtained. In no case shall an “acting” court administrator or “acting” deputy or special courts administrator be put in place for longer than six months without the written approval of the Court Administrator being sought and received.

Amended Oct. 10, 1979, effective Oct. 20, 1979; June 7, 1996, effective Sept. 1, 1996.

Unified Judicial System of Pennsylvania



Information Sheet # 8

Summary of Pay and Benefits

Salary and Paid Leave

All judiciary staff are paid on a bi-weekly basis. Presuming adequate funding, salary increments may be granted as cost-of-living increases or merit increases based on performance. Regular full-time judiciary staff earn paid annual, sick and disability leave on a daily basis. Specific leave accruals are as follows:

13 Holidays per Year

16 Sick/Disability Leave Days per Year

Vacation Leave varies by length of service

(0-2 years of service = 12 days/year)

Retirement Programs

▪ ***Pennsylvania State Employees' Retirement System (SERS)***

Judiciary staff must participate in the SERS retirement program. New employees hired on or after 1/1/2019 are automatically enrolled in a "hybrid" plan where a portion of their retirement benefit comes from a defined benefit (DB) pension plan that features guaranteed monthly payments after they retire, and a portion comes from the amount of money they accrue from their personal investment choices in a straight defined contribution/investment (DC) plan. The employee contribution rate is 8.25% of gross pay. In their first 45 days of service, new employees may elect one of two optional plans; a hybrid plan with lower contribution and monthly pension rates or a straight defined contribution/investment 401(a) plan that does not include a guaranteed monthly pension after retirement. The employee contribution rate for the optional plans is 7.5% of gross pay. Specific information regarding these retirement plans is available on the SERS website at www.SERS.pa.gov.

New employees who contributed to SERS during employment *prior to 1/1/2019* have a "footprint" in the retirement system and will be re-enrolled in the plan to which they were previously contributing.

Staff who meet minimum service and other plan requirements may be eligible to enroll for retiree health insurance coverage for themselves and their eligible dependents.

▪ ***Commonwealth of Pennsylvania's Voluntary Deferred Compensation (IRC Section 457) Plan***

Judiciary staff may defer federal income taxes on an additional portion of their salary (up to \$19,000 in 2019) by contributing to this supplemental retirement savings plan. The program offers many investment options with varying risk levels. Funds may only be withdrawn after the participant leaves state service except in certain emergency situations.

Health Insurance Plans

Judiciary staff, their spouses, and eligible children are offered a comprehensive health insurance program which consists of medical insurance supplemented by a specialized benefits package. Participation in the Judiciary Health Insurance Program requires a cost-share. An IRS section 125 plan allows staff to have cost-share payroll deductions taken on a pre-tax basis.

- ***Medical Insurance Plan***

Active staff are offered comprehensive medical insurance coverage for themselves and their eligible dependents beginning on their first day of judiciary service under a preferred provider organization (PPO).

- ***Specialized Insurance Plans***

Active staff and their eligible dependents enrolled in the medical insurance plan are also covered by several specialized insurance plans, including dental, vision and prescription drug programs.

Life and Disability Insurance Plans

- ***Commonwealth of Pennsylvania's Term Life Insurance Plan***

After 90 days of service, judiciary staff receive employer-provided life insurance equal to their annual salary (up to \$50,000). This coverage can be converted to private insurance upon leaving judiciary service.

- ***Supplemental Life Insurance Plan***

Judiciary staff have the opportunity to purchase up to 5 times their salary (to a maximum of \$500,000) in additional life insurance coverage. Up to 3 times their salary (to a maximum of \$250,000) of coverage may be purchased without the need to meet medical underwriting requirements if the employee applies for coverage within their first 31 days of judiciary service. Life insurance coverage may also be purchased for an employee's spouse (subject to medical underwriting) and dependent children. Premiums are paid via payroll deductions.

- ***Disability Insurance Plan***

Judiciary staff have the opportunity to purchase disability insurance coverage without the need to meet medical underwriting requirements if they apply for coverage within their first 31 days of judiciary service. Premiums are paid via payroll deductions.

Additional Benefit Plans Available

- ***Employee Assistance Program (EAP)***

Employees and eligible dependents have access to an EAP that offers confidential family, legal, financial and psychological counseling.

- ***Dependent Care Account Program***

Judiciary staff may request pre-federal tax payroll deductions for the reimbursement of qualified dependent care expenses as allowed by IRC Section 129. Enrollment is conducted each calendar year and any deductions not used for expenses incurred in that calendar year ***must be forfeited*** by the participant.

- ***Qualified Transportation Expense Program***

Judiciary staff may request pre-federal tax payroll deductions for the reimbursement of qualified parking and transit pass expenses as allowed by IRC Section 132 (f).

All provisions of the judiciary benefit programs are subject to change at any time.

Unified Judicial System of Pennsylvania



Information Sheet # 9

AOPC Contacts for Hiring Process

Geoff Moulton
Court Administrator of Pennsylvania
Administrative Office of Pennsylvania Courts
PO Box 61260
Harrisburg, Pennsylvania 17106-1260
Phone: (717) 231-3300

Joseph J. Mittleman, Esq.
Director of Judicial District Operations and Programs
Administrative Office of Pennsylvania Courts
Suite 1414, 1515 Market Street
Philadelphia, Pennsylvania 19102-2077
Phone: (215) 560-6300

Human Resources
Administrative Office of Pennsylvania Courts
Pennsylvania Judicial Center
PO Box 61260
Harrisburg, Pennsylvania 17106-1260
Phone: (717) 231-3309

Human.Resources@pacourts.us

Denise Parise
Director of Human Resources

Hiliary Bower
Assistant Director of Human Resources

Matthew Gray
Human Resources Analyst

Unified Judicial System of Pennsylvania



Information Sheet # 10

Documenting the Hiring Process

The AOPC hiring policies require that we follow merit based, non-discriminatory hiring practices to ensure that job applicants receive fair and equal consideration for job openings. Such practices are not enough, however, to protect you or the judiciary from charges of inappropriate or discriminatory hiring practices. True protection results from being able to properly **document** non-discriminatory practices.

With this in mind, AOPC Human Resources maintains files on all State-Level District Court and AOPC hiring actions to ensure that our practices are properly documented and defensible. This effort is designed to protect you as a hiring manager, and the judiciary as the employer. Your cooperation in this effort is critical and greatly appreciated.

➤ ***Specifically, for every applicant interviewed, forward the following materials to AOPC HR:***

- The signed AOPC Employment Application (w/any attachments).
- All interview notes and related documents (e.g., testing materials including scores, etc.).
- All notes taken and comments recorded during reference checks.
- All correspondence, memorandums, e-mails, etc. sent to, or received from, the applicant.
- All internal correspondence, memorandums, e-mails, etc. related to the hiring process and/or the selection of a final candidate.

Please Note

ALL of these materials will be subject to legal discovery in the event of litigation.
Please keep this in mind as you take those actions necessary to properly document
the hiring process.

Unified Judicial System of Pennsylvania



Sample Letter # 1

Requesting Rule 503 Hiring Approval

Date

Geoff Moulton
Court Administrator of Pennsylvania
Administrative Office of Pennsylvania Courts
PO Box 61260
Harrisburg, Pennsylvania 17106-1260

Dear Mr. Moulton:

Pursuant to Rule 503 of the Rules of Judicial Administration, I am requesting your approval to extend a final offer of employment to Jane Doe for the position of Deputy District Court Administrator, Pay Band F, in the 36th Judicial District of the Unified Judicial System of Pennsylvania. I am recommending an annual salary of \$40,000.

Provide a summary of the reasons for selecting the candidate (including the candidate's relevant education and work experience/skills). For example:

Ms. Doe has a Bachelor's degree in Public Administration and has been employed as an office manager for the 36th Judicial District. In that role, she is responsible for maintaining the court and office calendars, setting trial schedules, and supervising a staff of 4. The results of Ms. Doe's criminal history check were satisfactory. Provide a summary of professional reference checks and anything else necessary to support your recommendation.

A copy of Ms. Doe's application and resume is attached for your review and consideration. If you have any questions or would like to discuss this request further, please contact me at (717)555-1212.

Sincerely,

President Judge
36th Judicial District of Pennsylvania

Initials

Enclosures

cc: Joseph J. Mittleman, Esq. , Director of Judicial District Operations and Programs
Denise S. Parise, Director of Human Resources

Unified Judicial System of Pennsylvania



Sample Letter # 2

Final Offer of Employment Letter

Date

PERSONAL AND CONFIDENTIAL

Mr. Smith
123 Coca Drive
Your city, USA 12347

Dear Mr. Smith:

I am pleased to extend to you an offer of employment as a «workingtitle» (Pay Band «PB»), in the «JudDistNumber» Judicial District of the Unified Judicial System of Pennsylvania (UJS). The effective date of your appointment will be «effdate». Your annual salary will be \$«AnnualSalary»; paid to you on a biweekly basis.

Pursuant to Rule 503 of the Pennsylvania Rules of Judicial Administration, initially, you will be employed on probationary status. Upon the successful completion of your probationary period, you will be appointed to regular employment status. Please understand, however, the Pennsylvania Judiciary is an “at will” employer. This means your employment may be terminated at any time if such action is determined to be in the best interest of the UJS. As a result, it is important to understand that this letter does not offer any guarantee of permanent employment.

In addition, as a judiciary employee, you will be required to abide by, and acknowledge receipt of, the UJS Personnel Policies, including the employee Code of Conduct. You will receive information regarding this requirement via email shortly after your first day of employment; however, the Code of Conduct is available for review at any time on the Human Resources page of the UJS website (www.pacourts.us).

To accept this employment offer, please sign and date the enclosed copy of this letter and return it to this office as soon as possible. Your signature will confirm your understanding and acceptance of the terms and conditions of this offer. We recommend that you retain a copy of this original letter for your records.

If you have questions related to this employment offer, you may direct them to «SuperNameTitle», at «SupvPhoneNumber». I am confident «MrMsSupervisor» will be happy to assist you in any way possible.

Sincerely,

President Judge
«71st» Judicial District of Pennsylvania

JJ/jj
Enclosures

I hereby confirm my acceptance of the position offered and agree to the terms and conditions outlined herein.

Signature

Date

Supervisor Guidelines: Completing Annual Performance Evaluations

- Begin consideration of each factor at a 6; then move up or down the scale to determine if the employee has earned a higher or lower rating based on the definitions. *[See Figure 1]*
- Consider each performance factor individually. Someone can receive a low rating of 3 in one category and still receive an 8 in another.
- **Ratings of 1-3 and 7-10 require specific, measurable examples of work performance during the evaluation period**, not simply a description of the employee's expected duties and responsibilities. The specific examples must be clear, concise, detailed, relevant to the category in question, and based on activities within the 12-month evaluation period. *[See Figure 2]*
- You must evaluate a minimum of seven (7) duties in Section 1, and you must evaluate all (6) competencies in Section 2.
- Ensure form is signed and dated by all parties. Return completed form to AOPC/HR.
- **Forms not completed properly will be returned to you for additional information/clarification.**

[Figure 1]

Rating	Definition	Specific Examples Required
1	Performance that consistently fails to meet acceptable performance standards and reasonable expectations and improvement has not occurred	YES
2 - 3	Performance that often fails to meet acceptable performance standards and reasonable expectations and requires significant improvement.	YES
4 – 5	Performance that often meets performance standards, but needs to improve with respect to the quality and/or consistency of the work or the work product, and/or with respect to the dependability and/or attitude of the employee.	NO
6 (starting point)	Performance that fully and consistently meets all performance standards. Judiciary personnel are expected to be motivated, hard-working and dependable employees who are both willing and able to perform the many varied tasks assigned to them in their respective positions of responsibility. This is the level of performance to be expected of most employees.	NO
7 – 8	Performance that consistently demonstrates a high level of commitment and initiative that often exceeds reasonable expectations and normally acceptable standards of performance. For example, developing new and innovative policies and/or procedures; showing initiative in identifying and suggesting solutions to problems; undertaking additional work; or demonstrating special teamwork and/or leadership skills.	YES
9	Performance that reflects a high degree of commitment and creative thinking in the face of difficult circumstances requiring outstanding work performance and resulting in a particularly notable work product or result. Exceptional performance is most often driven by special circumstances, and is usually limited to those cases where an employee has been confronted with a complex problem or issue which they were able to address, overcome, or prevent.	YES
10	Performance that reflects an extraordinary and sustained high degree of dedication, innovation, and creative thinking in the face of rare circumstances requiring uniquely superior work performance and resulting in a distinguished work product or result. This rating is limited to those specific cases where an employee has been confronted with an unusually difficult problem or issue which they were able to address, overcome, or prevent.	YES

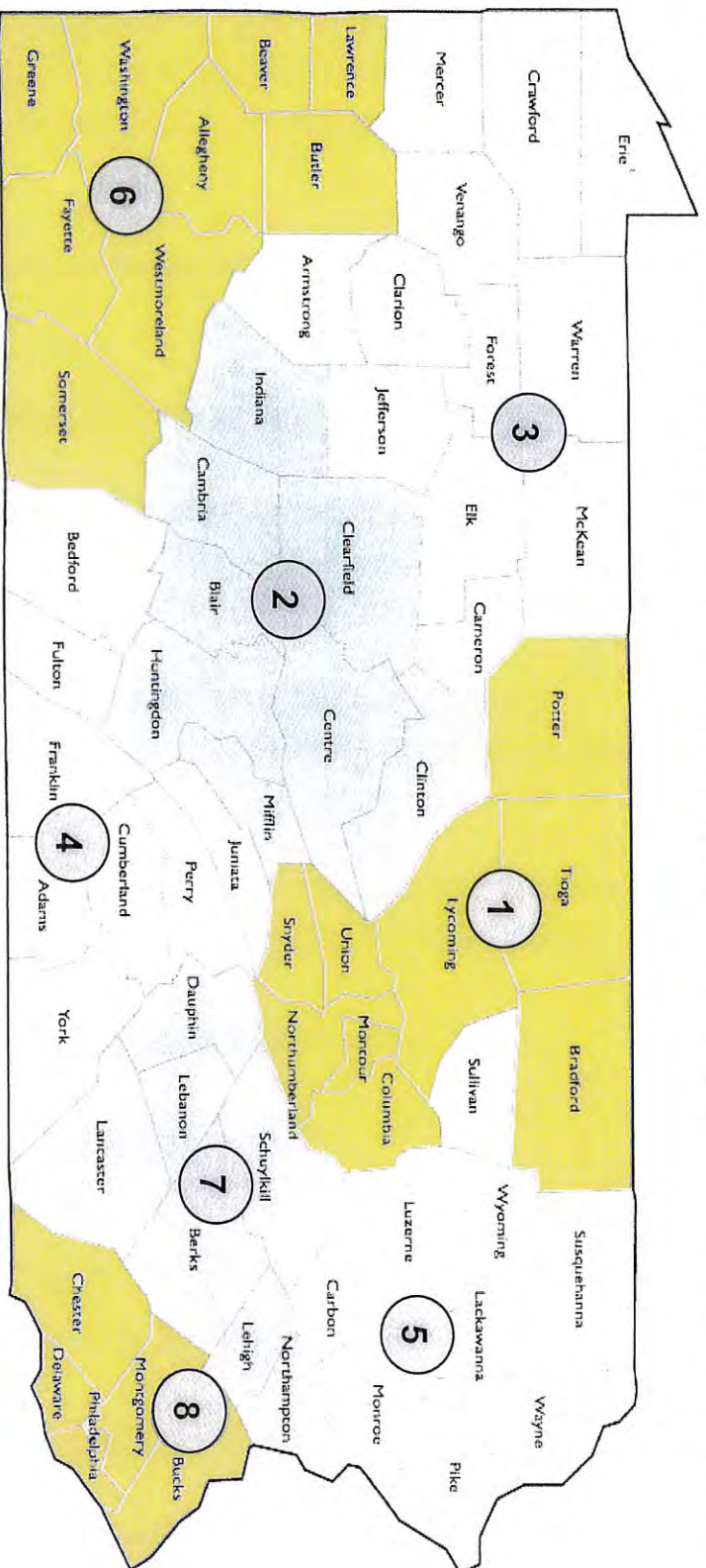
[Figure 2]

Remark (Unacceptable)	Required Specific Example (Acceptable)	Suggested Rating
Lacks knowledge of basic office procedures	Despite over 5 years of experience with this court, is unable to answer simple questions of the general public on issues such as Right-to-Know requests, or to attorneys regarding local rules procedures; also, the lack of software skills necessitates additional time spent on basic tasks such as creating mail merges	2-3
Needs to improve here	Failed to research, develop and submit statistical reports before deadline to AOPC; is able to maintain all calendars, but was unwilling to assist in design and implementation of annual court calendar; did make recommendation to improve efficiency in scheduling PFA cases which was very helpful	4-5
Manages a \$5M budget	Submitted accurate annual court budget before deadline with recommendations on how to reduce expenditures on office supplies and fleet vehicle repairs by 15%; ensured all invoices were promptly paid without incurring additional fees	6-7
Supervises five employees	Provided effective mentoring and coaching to 5 employees; maintained a positive culture within department; completed all performance evaluations on-time; has weekly team meeting to communicate objectives and ensured they were met	6-7
Supports judges as needed	Supports all 8 MDJ offices effectively; creates all reports for language access and public access; manages payroll for county court employees and ensures all leave requests are entered on central calendar; conducted 2 internal investigations this year with favorable outcomes for all involved; recruited, hired and trained a new law clerk	6-7
Uses good judgement	Due to space limitations in an aging courthouse, identified courtroom challenges and proposed solutions to ease overcrowding, including relocating the jury assembly room to create two small courtrooms instead of one large one and updating the sound system to more effectively manage PFA hearings	7-8
Handles all jury management duties	Coordinated communications to approx. 500 jurors / month, a 5% increase from prior year; reduced juror no-shows by 50%; implemented changes to the juror donation program resulting in an \$11,000 increase in donations to local charities; created a juror exit questionnaire to survey jurors on their experience; accepted additional duties as a result of the elimination of the jury commissioners, resulting in improved caseflow	7-8
Excels in this area and handles all projects	Has become known for expertise in Language Access Plan & ADA matters, both of which are complex and often involve litigants/attorneys who are impatient or argumentative; saw 20% increase in requests for these services, and they were effectively handled with care and dignity; trained 1 new language interpreter	7-8
Is exceptionally courteous	Diplomatically and gracefully handled 3 complaints by argumentative individuals soured by their juror experience and 4-6 other complaints from displeased families of incarcerated inmates at the county prison; often dealt with upset or anxious individuals in explaining processing & scheduling of DUI cases and is able to diffuse those situations to everyone's benefit	7-8
Runs like clock work	Excels at creative problem resolution and manages complex projects, including the development of processes involving transcript requests, tracking and DUI Central Court; served as liaison to state Health Dept. and assisted in developing a new program to help families/individuals adopt a foster child; schedules quarterly visits to each MDJ office to assess their needs to ensure their court runs smoothly; is currently planning the implementation of security systems at each court	7-8
Often makes constructive suggestions	Created daily transport list to coordinate transport of defendants to courthouse which eliminated major delays and problems with court proceedings that have occurred in the past; reassigned the clerical duties that law clerks had been performing to the administrative assistant so that the law clerks could focus fully on legal research and writing; altered work schedules for admin staff to ensure coverage throughout the day, improving customer service	7-8

[Figure 2]

Remark (Unacceptable)	Required Specific Example (Acceptable)	Suggested Rating
Has a major role in HR issues	Instrumental in researching and implementing a new county-wide time and attendance system; communicated necessity of system to ensure buy-in; assisted in rewriting personnel policies, and lead training to managers and staff on all changes; after many contentious meetings, successfully negotiated bargaining agreement with county commissioners to cover all probation department employees	8-9
Capable of handling my requests	Despite constantly changing priorities and an increased workload due to three high profile trials this year (one which had national media attention), has innate ability to anticipate my needs to ensure court ran smoothly at all times; worked tirelessly to accommodate two senior judges; with broad knowledge of internal policies, handled 4 employee investigations and two complaints efficiently and all parties were satisfied with the respective outcomes	8-9
See comment above	Has excelled in negotiating with judges and other court employees on numerous initiatives, such as revising the flex-time policy and implementing new procedures on purchasing office equipment; wrote Invitation To Bid to secure proposals for new service agreements on computer software and hardware as well as a Request For Proposal for new copiers and printers; created positive team environment after years of distrust among employees; demands accountability of employees based on results, trust, honesty and having a positive reputation	8-9
Gets the job done	Applied creative thinking and analysis in developing new ways to meet demands of growing court, i.e. implementing video conferencing to decrease demand on conference room use and reduce transport costs by 25%; eager to hear all sides of an issue and worked toward a successful resolution with two employees to resolve a personality conflict; developed and led a training program for new supervisors and managers	8-9
Maintains & improves court system to high standards	Worked closely with PD, DA & PJ to evaluate criminal court case flow to increase efficiency; results include revising the start times for arraignment court because there was too much time between report times and identifying cases for senior judges during jury trial sessions; assisted in the development of a new custody process for newly filed complaints to ensure forms were revised to meet new confidentiality requirements under the Public Access Policy	8-9
Manages court facilities and involved in new construction project	Collaborated with county commissioners to relocate an MDJ and identify office space for a new CP judge; with an increasing caseload over the past 6 years, especially jury trials, worked diligently to rearrange already overcrowded spaces; most importantly, advocated for the courts to the commissioners on a 3-year construction project that will add 50,000 sq ft to the courthouse, i.e. attended public presentations, led planning meetings with court department heads, reviewed proposed courtroom models, and provided input into the facility/space design; meanwhile, demolition has started, parking is limited, creative scheduling changes are required almost daily, but still communicates pro-actively and positively with all employees	9-10
Is a well-respected negotiator and communicator	Spent countless hours working with a private accountant (hired by the commissioners and who did not understand government accounting processes) to answer their questions, provide them all the financial data and reports they needed, and guide them through the process efficiently despite skepticism from key stakeholders; mediated ongoing tension and a lack of trust among the row officers as a result of the audit; negotiated a peace agreement between the judges and the commissioners who refused to speak to each other; assumed duties of managing the annual budget formerly handled by the PJ, including attending weekly meetings with department heads and monthly presentations to the commissioners; with much dedication, researched and validated each invoice and time card to ensure accuracy and timeliness	9-10

EMERGENCY REGIONAL ADMINISTRATIVE UNITS



1st Unit

Bradford (42)
Columbia (26)
Lycoming (29)
Montour (26)
Northumberland (8)
Poter (55)
Tioga (4)
Snyder (17)
Union (17)

2nd Unit

Blair (24)
Cambria (47)
Centre (49)
Clearfield (46)
Clinton (25)
Huntingdon (20)
Indiana (40)
Mifflin (58)

3rd Unit

Armstrong (33)
Cameron (59)
Clarion (18)
Crawford (30)
Elk (59)
Erie (6)
Forest (37)
Jefferson (54)
McKean (48)
Mercer (35)
Venango (28)
Warren (37)

4th Unit

Adams (51)
Bedford (57)
Cumberland (9)
Franklin (39)
Fulton (39)
Juniata (41)
Perry (41)
York (19)

5th Unit

Carbon (56)
Lackawanna (45)
Luzerne (11)
Monroe (43)
Pike (60)
Sullivan (44)
Susquehanna (34)
Wayne (22)
Wyoming (44)

6th Unit

Allegheny (5)
Beaver (36)
Butler (50)
Fayette (14)
Greene (13)
Lawrence (53)
Somerset (16)
Washington (27)
Westmoreland (10)

7th Unit

Berks (23)
Dauphin (12)
Lancaster (2)
Lebanon (52)
Lehigh (31)
Northampton (3)
Schuylkill (21)

8th Unit

Bucks (7)
Chester (15)
Delaware (32)
Montgomery (38)
Philadelphia (1)

(Judicial district in parentheses)

DCA Emergency Planning Checklist

- ☐ Update and file verification of CP court's EAP and COOP with AOPC, Judicial District Operations and Programs Department. This should be done by March 1 of each year. Note: See Pa. R.J.A. No. 1951.
- ☐ Conduct and participate in routine Local Court Security Committee meetings. Note: See Pa. R.J.A. No. 1954 A.
- ☐ File security incident reports (PAJIRS) no later than the close of business on the day any reportable action occurs. Note: See Pa. R.J.A. No. 1954 B.
- ☐ Design and participate in EAP and COOP trainings/exercises. Note: See Pa. R.J.A. No. 1951 (A) (1).
- ☐ Collaborate at least semi-annually with colleagues within Supreme Court designated Emergency Regional Unit. Note: See Pa. R.J.A. No. 1953.
- ☐ In an emergency requiring the activation of the court's COOP plan, DCA shall notify AOPC/Court Administrator of PA of such action and file an After Action Report with AOPC upon the resumption of normal operations. Note: See Pa. R.J.A. No. 1952 (C) (3) (G) and (4).
- ☐ Conduct biennial court security facility assessments. Note: See Pa. R.J.A. No. 1954 (c) and PA UJS of PA Court Safety & Security Manual Chap. 7: Court Facility Assessments
- ☐ Conduct court security and safety orientation and training for all employees. Note: See Pa. R.J.A. No. 1954 (D).
- ☐ Communicate with court staff and vital court stakeholders the key aspects of the COOP plan. Advise what stakeholders can expect of each essential staff member noted in the COOP plan and what is expected of the stakeholders, e.g. their role in court operations. Note: See Pa. R.J.A. No. 1951 (A) (1) (4)

Template for Court Facility Emergency Action Plan

***“What to do
IF.....”***

AOPC

ADMINISTRATIVE OFFICE of PENNSYLVANIA COURTS

EMERGENCY REPORTING AND EVACUATION PROCEDURES

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EMERGENCY ACTION PLAN FOR:

Facility Name: _____

Facility Address: _____

Facility Telephone: _____

Date Prepared: _____

REPORTING AN EMERGENCY

Call emergency phone number applicable for your court facility. Many times this will be the court security office, sheriff's office, or "911."

That number is: _____

FACILITY EVACUATION PROCEDURES

Evacuation is required when the fire alarm sounds, when an evacuation announcement is made, or when ordered. Exit the facility via the nearest exit. Refrain from using electronic devices during the evacuation process.

The designated assembly point is: _____

EMERGENCY LOCKDOWN PROCEDURES

- Turn off cell phone ringer
- Go to nearest room or office
- Close and lock the doors
- Cover the door windows
- Stay calm and quiet
- Do not answer the door
- Call emergency phone number applicable for your court facility. That number is:

Provide the following information to the operator:

- Your name
 - Location of incident and your exact location
 - Number of assailants
 - Physical description/Identification of assailants
 - Number of persons involved and/or injuries
 - Provide as much information as you have
 - Keep line open. DO NOT HANG-UP
- Wait for first responders to assist you out of the facility

MEDICAL EMERGENCY

All facility occupants should know the location of first aid kits, and location of Automated External Defibrillator (AED).

Location of first aid kits: _____

Location of Automated External Defibrillator (AED): _____

- Call emergency phone number applicable for your facility. That number is:

- Provide the following information:
 - Nature of medical emergency
 - Location of the emergency (address, building, room number)
 - Your name and phone number from which you are calling
 - Keep line open. DO NOT HANG-UP
- Do not move a victim unless absolutely necessary
- Assist victim as appropriate until trained responders arrive
- If applicable for your court facility, call the following personnel trained in CPR and First Aid to provide the required assistance prior to the arrival of the professional medical help:

Name: _____ Phone: _____

Name: _____ Phone: _____

FIRE EMERGENCY

When fire is discovered:

- Activate the nearest fire alarm (if installed)
- Call emergency phone number applicable for your court facility. That number is:

Upon being notified about the fire emergency, occupants must:

- Remain calm
- Leave the building using the nearest designated evacuation routes
 - Take jackets or clothing necessary for protection from the weather
 - Close windows and doors, but do not lock doors
 - Leave office lights on
 - If you are away from office or courtroom when the alarms sounds, you should exit the facility and proceed to the designated location
 - Refrain from using electronic devices during evacuation process
- Assemble in the designated area (specify locations)_____
- Remain outside until the competent authority (designated official or designee) provides further instruction or announces that it is safe to re-enter
- If you become trapped due to smoke, heat, flame or other hazard:
 - Leave office/courtroom door closed
 - Call emergency phone number applicable for your court facility. That number is:
_____ and let them know your location
 - Hang an article of clothing, large enough for first responders to see, in or out of the window if possible
 - Stay close to the floor

POWER LOSS

In the event of power loss to a facility, certain measures should be taken:

- Remain calm
- Call emergency phone number applicable for your court facility. That number is:

- Unnecessary electrical equipment and appliances should be turned off in the event that power restoration would surge causing damage to electronics and effecting sensitive equipment
- Know where emergency flashlights are located
- Provide assistance to visitors and staff in your immediate area
- If in an unlighted area, proceed cautiously to an area that has emergency lighting
- If you are in an elevator remain calm; Use the elevator phone or your cell phone to alert the authorities
- If facility must be evacuated, follow Facility Evacuation Procedures

BOMB THREATS

Most bomb threats are transmitted via the telephone. However, they are also conveyed via mail, electronically (email) or in person. Regardless of how the threat is made, the following steps should be followed.

- Remain calm. Listen carefully. Be polite and show interest.
- Call emergency phone number applicable for your court facility. That number is: _____ . This can be done by you or someone else.

BOMB THREAT CHECKLIST

Your Name: _____ Date: _____ Time: _____

Caller's Identity Sex: Male _____ Female _____

Adult or Juvenile: _____ Approximate Age: _____

Method of transmission: phone: _____ Mail: _____ Email: _____ In person: _____

Voice Characteristic		Speech		Language	
<input type="checkbox"/> Loud	<input type="checkbox"/> Soft	<input type="checkbox"/> Fast	<input type="checkbox"/> Slow	<input type="checkbox"/> Excellent	<input type="checkbox"/> Good
<input type="checkbox"/> High Pitch	<input type="checkbox"/> Deep	<input type="checkbox"/> Distinct	<input type="checkbox"/> Distorted	<input type="checkbox"/> Fair	<input type="checkbox"/> Poor
<input type="checkbox"/> Raspy	<input type="checkbox"/> Pleasant	<input type="checkbox"/> Stutter	<input type="checkbox"/> Nasal	<input type="checkbox"/> Foul	<input type="checkbox"/> Other
<input type="checkbox"/> Intoxicated	<input type="checkbox"/> Other	<input type="checkbox"/> Slurred	<input type="checkbox"/> Other		
Accent		Manner		Background Noises	
<input type="checkbox"/> Local	<input type="checkbox"/> Not Local	<input type="checkbox"/> Calm	<input type="checkbox"/> Irrational	<input type="checkbox"/> Factory	<input type="checkbox"/> Animals
<input type="checkbox"/> Foreign	<input type="checkbox"/> Other	<input type="checkbox"/> Rational	<input type="checkbox"/> Incoherent	<input type="checkbox"/> Machines	<input type="checkbox"/> Quiet
<input type="checkbox"/> Race		<input type="checkbox"/> Deliberate	<input type="checkbox"/> Emotional	<input type="checkbox"/> Music	<input type="checkbox"/> Voices
		<input type="checkbox"/> Righteous	<input type="checkbox"/> Laughing	<input type="checkbox"/> Office	<input type="checkbox"/> Airplanes
		<input type="checkbox"/> Angry		<input type="checkbox"/> Traffic	<input type="checkbox"/> Party
				<input type="checkbox"/> Trains	

PRETEND DIFFICULTY HEARING – KEEP CALLER TALKING-IF CALLER SEEMS AGREEABLE TO FURTHER CONVERSATION, ASK QUESTIONS LIKE:

When will it go off? Certain Hour _____ Time Remaining _____

Where is it located? Building _____ Area _____

What kind of bomb? _____

What kind of package? _____

How do you know so much about the bomb? _____

SEVERE WEATHER AND NATURAL DISASTERS

Tornado:

- When a warning is issued by sirens or other means, seek inside shelter and consider the following:
 - Small interior rooms on the lowest floor and without windows
 - Hallways on the lowest floor away from doors and windows and:
 - Rooms constructed with reinforced concrete, brick or block with no windows
- Stay away from outside walls and windows
- Use arms to protect head and neck
- Remain sheltered until the tornado threat is announced to be over

Flooding and Water Damage Procedures:

- Notify court security, sheriff's office or facilities management at: _____
- Explain location and severity of the leak
- If there are electrical appliances or electrical outlets near the leak, use extreme caution. If there is any possible danger, leave the area
- If you know the source of the water and are confident in your ability to stop it, do so cautiously
- Take only steps needed to avoid or reduce immediate water damage
- If the facility must be evacuated, follow facility evacuation procedures

Blizzard:

If indoors:

- Stay calm and await instructions from the Emergency Coordinator or the designated official
- Stay indoors!
- If there is no heat:
 - Close off unneeded rooms or areas
 - Stuff towels or rags in cracks under doors
 - Cover windows at night
- Eat and drink. Food provides the body with energy and heat. Fluids prevent dehydration.
- Wear layers of loose-fitting, light-weight, warm clothing if available

Earthquake:

- Stay calm and await instructions from the court security, deputy sheriff or facilities management
- If indoors, drop, cover and hold. Protect yourself from falling objects such as light fixtures, books, and shelves
- Stay away from windows. Do not stand in doorways
- If possible, get under a desk or table
- During the shaking do not run for exits or attempt to leave the facility; Do not use elevators
- If outside, move away from structures, power lines or other hazards
- Assist people with disabilities in finding a safe place
- Evacuate as instructed by court security, deputy sheriff or facilities management

When shaking stops:

- Check for injuries to people in your area; Do not attempt to move seriously injured persons unless they are in immediate danger
- Check for safety hazards such as facility damage, fire, or gas leaks
- Evacuate following facility evacuation procedures
- Call court security or deputy sheriff to report any serious emergency

ACTIVE THREAT PROCEDURES

If you are involved in a situation where someone has entered the area and is actively harming a person(s), the following instructions should be followed:

RUN

- If possible, exit the facility immediately
- Notify anyone you may encounter to exit the facility immediately
- Call emergency phone number applicable for your court facility.
That number is: _____

Provide the following information to the operator:

- Your name
- Location of incident and your exact location
- Number of shooters (if known)
- Identification of shooters (if known)
- Number of persons involved and/or injuries

HIDE

If exiting the building is not possible:

- Go to nearest room or office
- Close and lock the doors
- Cover the door windows
- Stay calm and quiet and act as if no one is in the room
- Do not answer the door
- Call emergency phone number applicable for your court facility
That number is: _____

Provide the following information to the operator:

- Your name
 - Location of incident and your exact location
 - Number of shooters
 - Physical description/Identification of shooters
 - Number of persons involved and/or injuries
-
- Wait for first responders to assist you out of the facility

FIGHT

As a last resort, take aggressive action:

- Throw items
- Yell and scream
- Commit to your action, survival might depend on it

HOSTAGE SITUATION PROCEDURES

If you hear or see a hostage situation:

- Immediately remove yourself from any danger and call emergency phone number applicable for your court facility. That number is: _____

Provide the following information:

- Your name
- Location of incident and your exact location
- Number of hostage takers
- Physical description/identification of hostage takers
- Any weapons the hostage takers may have

If you are taken hostage:

- Remain calm, be polite and cooperate with your captors
- Do not attempt escape unless there is an extremely good chance of survival
- It is safer to be submissive and obey your captors
- Do not complain, avoid being belligerent, and comply with all orders and instructions
- Do not draw attention to yourself with sudden body movements, statements, comments, or hostile looks
- Observe the captors and try to memorize their physical traits, voice patterns, clothing, and other details that can help provide a description later

In a rescue situation:

- Do not run. Drop to the floor and remain still. If that is not possible, cross your arms, bow your head, and stand still. Make no sudden moves that a tense rescuer may interpret as hostile or threatening
- Wait for instructions and obey all instructions you are given
- Do not be upset, resist, or argue if a rescuer isn't sure whether you are a terrorist or a hostage
- Even if you are handcuffed and searched, do not resist. Just wait for the confusion to clear

SUSPICIOUS MAIL/PACKAGES PROCEDURES

Common features of suspicious mail/packages:

- There may be liquid leaking from package
- They tend to have hand-applied postage
- They have excessive postage
- They are addressed to a position, not a person
- There may be no return address
- They are often hand written or have a poorly typed address
- They tend not to be in business format envelopes
- There may be misspellings of common words
- They may have restrictive markings such as “confidential”, “personal”, etc.
- They may have excessive weight and /or feel of a powdery or foreign substance
- There may be foreign post marks and/or writing

If you believe you have received suspicious mail/package:

- Do not open it
- Isolate the mail/package
- Call emergency phone number applicable for your court facility. That number is:

- If possible, without leaving the area, wash affected areas of skin with warm water
- Remain at the location until First Responders arrive

If you do open suspicious mail/package:

- Immediately set the item down at the location where it was opened
- Isolate the mail/package
- Call emergency phone number applicable for your court facility. That number is:

- Do not leave the area and do not allow others into the area
- If possible, without leaving the area, wash affected areas of skin with warm water
- Wait for instructions from First Responders

You should not do the following:

- Pass the mail/package to others to look at
- Disturb any contents inside by handling the suspicious mail/package
- Ignore the threat; it must be treated as real until determined otherwise
- Leave the area until instructed to do so

NUCLEAR, BIOLOGICAL AND CHEMICAL INCIDENTS

- Call the emergency phone number applicable for your court facility and follow any instructions they might provide. That number is: _____
- Turn off all fans or ventilation units in the area
- Do not touch the item or substance
- Do not try to clean up the item, substance, or immediate area
- Cover the item or substance with an empty trash can or receptacle that can contain the item or substance
- Do not let anyone enter the area except for emergency responders in order to avoid further contamination.
- Potentially contaminated people should be isolated and then decontaminated by removing affected clothing and washing affected skin areas with soap and water
- Write down the names and contact information of all persons who have touched the item or substance and have this information available for the court security officer or deputy sheriff
- Wait for further instructions by trained emergency responders



Criminal Aspects of the Sovereign Citizen Movement in the United States



Cover: Sovereign citizens falsely believe affixing more than \$20 in postage stamps, regardless of the amount due, triggers the Seventh Amendment protection that a common law jury will resolve any dispute exceeding \$20 in damages. Upside down placement of the US flag stamp is intentional.

What is a sovereign citizen?

The sovereign citizen movement in the United States is comprised of US citizens who openly reject their citizenship status and claim to exist beyond the realm of government authority. Affiliates may use this self-appointed status to justify threats, violence, or crime, including theft and fraud. Moreover, anyone can subscribe to the ideology as it transcends racial, political, religious, and gender demographics.

Followers of the sovereign citizen movement may:

- Self-identify as state citizens, “freemen on the land,” “flesh and blood” men or women, foreign nationals or diplomats, indigenous peoples, or simply as sovereign;
- Present official-looking identification which may wrongly imply authority or government recognition of sovereign status;
- Organize “common law” courts which issue judgments against public officials;
- Reject state-issued identification, including driver licenses and license plates;
- Fail to pay legitimate debts including taxes, mortgages, or other loans;
- Aggressively question the authority of individuals who enforce laws at all levels, including police or employees of the court;
- Reject US currency in lieu of gold, silver, or realistic-looking but fraudulent financial instruments.



Fraudulent identification card showing Apostille and the seals of Montana and the US Department of State.

Sovereigns justify these actions by selectively interpreting history and the US Constitution, in combination with various conspiracy theories.

Claims include:

- The US is under martial law, or controlled by secret societies or foreign financiers;
- Federal and state governments have no authority because they are corporations;
- Some US Constitutional amendments are invalid;
- Decisions made by financial institutions are often illegitimate and unenforceable;
- Individuals born in the United States can use their birth certificates to access secret US Treasury bank accounts;
- Sovereignty is sanctioned by the US Constitution.

Force and Violence

Sovereign citizen ideology is generally non-violent; nevertheless sovereign citizen *extremists* use force or violence to advance this ideology in violation of federal law. In the past, sovereign extremists have procured illegal weapons and explosives or engaged in shootings and armed standoffs with law enforcement, due to strong ideological beliefs. Although violent incidents occurred during traffic stops or service of a legal process, a potential for violence also exists during interactions with public officials.

Official license suspension
which has been rejected and
returned by a sovereign citizen.

STATE OF GEORGIA
P.O. BOX 1000
2 GEORGIA: 311
(404) 521-1000

OFFICIAL NOTICE

**Who are you.
Where did you
come from.
I don't know you.
Do you have an
oath of office to
protect my rights?
If not, I refuse to
accept this as true and
return it to you for discharge
and ensure of this matter**

TO: [Name] [Address] [City] [State] [Zip]

IF DISSENTING TO THE OATH OF OFFICE

PERIOD OF DISSENT: [Date] to [Date]

Any person who is not a citizen of the State of Georgia is entitled to claim a refund of the fee paid for the Oath of Office. The fee is refundable if the person is not a citizen of the State of Georgia. The fee is refundable if the person is not a citizen of the State of Georgia. The fee is refundable if the person is not a citizen of the State of Georgia.

Date: [Date] 2024/12/20

Signature: [Signature]

Interacting with Sovereign Citizens

Sovereign citizens view contact with officials in government and the private sector (particularly finance and real estate) as a negotiable commercial transaction regulated by the common law and the Uniform Commercial Code (UCC). Sovereign citizens record these transactions through voluminous, legalistic documents (sometimes even prepared on legitimate forms) that are easily identified by their language. Often fraudulent, these documents may reflect attempts to avoid legitimate debt, transfer assets illegally, or fraudulently attach liens to the property of perceived enemies.

Unique markers include:

- Names spelled in capital letters or oddly interspersed with colons or dashes;
- Misplaced references to the Bible, Magna Carta, US Constitution, US Supreme Court decisions, or treaties with foreign governments;
- Signatures followed by phrases such as "under duress," or "without prejudice," TDC (Threat, Duress, or Coercion), the copyright symbol ©, or reference to a section of the Uniform Commercial Code;
- Personal seals, stamps, or red thumb prints;
- Bracketed ZIP codes;
- The phrase "Accepted for Value."

Notaries and Recorders

Although sovereigns fail to recognize most government authority, they seek official certification and registration of documents with local authorities, state or federal agencies, and courts. Validation by a notary public or through an Apostille is considered critical to sovereigns who falsely believe this process legitimizes document content.

Fraudulent Identification Documents

Sovereigns produce and sell documents to use in lieu of government identification. These sometimes professional looking credentials may falsely imply diplomatic status, official authority, and come in a variety of forms such as: "right to road travel" documents, licenses, passports, "warrants," or badges.



Fraudulent diplomatic credentials showing US State Department seal.

Some sovereign citizens engage in a range of ideologically-driven financial crimes, including debt elimination schemes, forgery, tax, mortgage, and securities fraud.

- Asset transfer to a third party (e.g. religious organization, unrecognized indigenous group, private corporation) as a means to illegally avoid taxes or foreclosure;
- Advance fee schemes which falsely promise to eliminate debts or reverse foreclosure actions;
- Purchases made with realistic looking but worthless documents known as "bills of exchange" or "bonded promissory notes;"
- Debt (credit card, automobile, education, mortgage) transfer to the US Treasury, through a process known as "redemption"

Fraudulent
100 billion
dollar bond.

PRIVATE REGISTERED BOND FOR SETOFF NON-NEGOTIABLE			
VALUE: \$100,000,000.00 (One Hundred Billion) US Dollars			
RE: CERTIFICATE OF LIVE BIRTH COMM-DOMINION			
ACCEPTED FOR VALUE AND EXEMPT FROM DOWRY			
DEPOSITED TO US TREASURY AND CHARGED TO SERENOR AND 0000-0000-0000			
John Doe 123 Main Street Anchorage, Alaska AK 99501 Non-Domestic without the U.S.	ISSUE DATE: August 27, 2011 BOND NUMBER: RE000000000US REGISTERED MAIL NO. RF000000000US		
PAY TO THE ORDER OF: THE UNITED STATES DEPARTMENT OF THE TREASURY c/o TIMOTHY F. GUTHNER, FIDUCIARY, for the benefit of John Doe - Principal 1500 PENNSYLVANIA AVE NW WASHINGTON, DC 20520			
Attention: TIMOTHY F. GUTHNER, RESPONDENT			
<p>Understand, the undersigned, John Doe, hereby accepts for value the corrected bond Certificate of Live Birth Number 0000000000 and all instruments thereon and bonds, being the only legitimate receipt of said Bond being the only note to have any value, issue and stand, having thus confirmed legitimacy of the same. This is in accordance with Uniform Commercial Code, and Heavy Iron Statutes 192 of 43 June 1992, and UCC, 1-309 and Public Law 75-424.</p>			
BOND OWNER			
<p>Please Appointee shall stand as co-signer herein; the USPO Respondent Name System E.E. 000-000-0000 US has future appointments prepared and to be used as a set off license against any bills, notes, or claims, due to this date, against JohnDoe, 0000000000 of any bills, notes, or claims, due to this date, against JohnDoe, 000-000-0000. Edition to: JohnDoe, 0000000000 of any interest U.S.C. § Financing Instruments, said claimant to have been "accepted" and endorsed by JohnDoe.</p>			
<p>Please release my bills, notes, or claims, and the like, against JohnDoe [see Certificate of Live Birth] on the JERD DOB: 000-000-0000 to any, charge, issue and close any such receipts, and return the money as the Principal. John Doe, at the above pay location, PAYMENT OF CERTIFICATE OF THE TREASURY, THE UNITED STATES DEPARTMENT OF THE TREASURY, shall have three (3) days from the day of receipt of this Bond, or returned by the Time of Receipt of notice in the US POST OFFICE, POSTMASTER PAID. Receipt, or delivery the Bond by returning the Bond to the Principal, with its signature of all deficiencies, at the registered mailing address by non-postable post. Failure to return the Bond to reach their complete Acceptance and Honoring of this Bond, the Assumed addresses, and preparations, to discontinue until the Lien, via PAY/FIVE (5) CENTS PER SECONDARY OF THE U.S. TREASURY, and THE UNITED STATES DEPARTMENT OF THE TREASURY, is in effect, as of the Terms and Conditions contained herein.</p>			
<p>This Bond shall be integrity, as an asset as first with the death of the aforementioned principal. This Bond expires as the instrument John Doe requires. Void unless published by law.</p>			
Servey #1 - Ballot Doc E numberings 017 0 0000000000 171 Main Street Anchorage, Alaska AK 99501 Non-Domestic without the U.S. 	Survey #2 - Miss Doe Telephone (1) 0 0000000000 171 Main Street Anchorage, Alaska AK 99501 Non-Domestic without the U.S. 	John Doe - Principal Telephone (1) 0 0000000000 171 Main Street Anchorage, Alaska AK 99501 Non-Domestic without the U.S. 	
Witness #1 - William Doe 123 Main Street Anchorage, Alaska AK 99501 Non-Domestic without the U.S. 	Witness #2 - Jane Doe 123 Main Street Anchorage, Alaska AK 99501 Non-Domestic without the U.S. 		

Intimidation and Obstruction

When challenged by officials, sovereign citizens may attempt to distract or stop perceived adversaries.

Methods include:

- Claiming officials have no authority or are out of jurisdiction;
- Demanding officials produce an oath of office or bond prior to engaging in a contractual relationship;
- Filming interactions (which may be later posted to the Internet);

Warrant for Arrest Failure to Appear

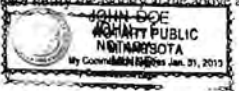

YOU ARE HEREBY COMMANDED to arrest Judge Jane Doe
789 Main Street, Anytown, MN 12345

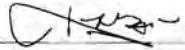
Pursuant to the attached subpoena


Under Minnesota Statue 359.11 Taking Depositions

(In taking depositions, the notary shall have the power to compel the attendance of and to punish witnesses for refusing to testify as provided by statute or court rule.
All sheriffs shall serve and return all process issued by any notary in taking depositions
History: (6949) RL s 2664; 1983 c 359 s 47; 2005 c 10 art 2 s 4)

Please notify the Notary at the above address when warrant is executed to arrange for a deposition.


SEAL

SEAL



Notary No.1


Notary No.2

Fraudulent arrest warrant issued against a sitting judge.

- File frivolous lawsuits or liens;
- Engaging the services of an illegitimate-"common law" court.

Although powerless, "common law" courts issue subpoenas, indictments, warrants, and assess fines for bogus damages such as "copyright infringement" ("unauthorized" use of a sovereign name) or "kidnapping" (arrest).

Some sovereign citizens collect personal information on perceived adversaries to prepare frivolous lawsuits and liens or for use by illegitimate "common law" courts. Individuals who have had negative encounters with sovereigns should examine their credit histories periodically to identify the presence of fraudulent liens.

Indicators of Sovereign Citizen Activity

Language:

- Conveyance, machinery, road machine, personal use recreational vehicle (*instead of car, vehicle, motor vehicle*);
- Guests, friends, family (*instead of passengers*);
- Traveling, journeying, moving (*instead of driving, operating, transporting*);
- Public right of way (*instead of road or street*)
- Abode, living, housekeeping, domicile (*instead of residence*);
- Inhabitant, Non-Resident, Non-Domestic (*instead of resident*);
- Non-Commercial (*instead of public*).

False documents and misused government forms:

- Notary Certificate of Service;
- Promissory Note, Indemnity Bond, International Bill of Exchange;
- UCC Financing Statement;
- Power of Attorney, Copyright notice;
- Notice of Security Agreement;
- IRS Forms 1099-OID, 56, 1040, W-8BEN, GSA OF90, OF91;
- Declaration of Status or Nationality;
- Maritime Lien;
- Fraudulent identification, license plates or diplomat credentials.

Each indicator by itself may be lawful conduct or behavior and may also constitute the exercise of rights guaranteed by the US Constitution. In addition, there may be a wholly innocent explanation for conduct or behavior that appears suspicious in nature. For this reason, no single indicator should be the sole basis for law enforcement action. The totality of behavioral indicators and other relevant circumstances should be evaluated when considering any law enforcement response or action.

Notations found on documents:

- [name-middle name:surname]; ©; TM;
- Signature in red ink followed by "under duress," "without prejudice," "without recourse," "authorized representative," "ARR" (All Rights Reserved), or UCC 1-207, UCC 1-203, or UCC 1-308";
- Zip code in brackets;
- United States written as "united States" or UNITED STATES;
- Reference to a "Natural Person," a "Flesh and Blood" man or woman, or "Secured Party";
- Reference to an "Artificial Person" or a "Strawman";
- Documents stamped with the phrase "Accepted for Value".

The federal government has successfully charged sovereign citizen criminals and extremists under the following statutes:

Statute	Description	Maximum Penalty
18 U.S.C. § 485	Counterfeit coins or bars	15 years + fine
18 U.S.C. § 486	Uttering gold or silver coins	5 years + fine
18 U.S.C. § 513	Counterfeit securities	10 years + fine
18 U.S.C. § 514	Fictitious financial obligations	25 years
18 U.S.C. § 713	Use of likeness of the great seal of the US	6 months + fine
18 U.S.C. § 876	Mailing threatening communications	20 years + fine
18 U.S.C. § 1017	Use of a government seal	5 years + fine
18 U.S.C. § 1341	Mail fraud	20-30 years + \$1,000,000
18 U.S.C. § 1343	Wire fraud	20-30 years + \$1,000,000
18 U.S.C. § 1344	Bank fraud	30 years + \$1,000,000
18 U.S.C. § 1521	Retaliation against a Federal judge or Federal law enforcement officer	10 years + fine
26 U.S.C. § 5861	National Firearms Act violations	10 years + \$10,000
26 U.S.C. § 7201	Attempt to evade or defeat tax	5 years + \$100,000
26 U.S.C. § 7202	Willful failure to collect or pay tax	5 years + \$10,000
26 U.S.C. § 7206	Filing false tax returns	3 years + \$100,000



Sovereigns use certain stamps to falsely create contractual relationships or attempt to compel the US government to pay debts.



Personal seal emblazoned to mimic ancient symbology.

Created January 2012



**Report information regarding
sovereign citizen criminal activity to local police
or the FBI at www.fbi.gov/contact-us.**

2016 District Court

Secretary Meeting

Agenda

1. Veteran's Court Flowchart
2. PSA – Pretrial Risk Assessment Directions
3. GTL- Video Scheduling
4. Postage
5. Misc. Issues/Procedures
 - a. Form 8300 – updated procedure
 - b. Details tab on MDJS
 - i. Interpreters
 - ii. Disability requests
 - iii. Veteran status
 - c. Bulk Access – request and payment forms
 - d. Media Communication Tips
 - e. Make a list of where everything is located in the office:
 - i. Banking
 - ii. Cases
 - iii. Mark the cabinets
 - iv. Supplies
 - f. Signing the Treasurer Allegheny County Monthly Report
 - g. Read email
 - h. Schedule remaining vacation time
6. Questions

Thank you all for attending

**Magisterial District Courts
Annual Training and Education Session**

October 14, 2016

9:00 am – 12:00 pm

Fifth Judicial District Court Administration

Frick Building, Training Center

437 Grant Street

340 Frick Building

Pittsburgh, PA 15219

9:00 am – 9:15 am Welcome and Overview

Presenter: The Honorable Jeffrey A. Manning, President Judge, Fifth Judicial District

9:15 am – 9:45 am Fifth Judicial District Magisterial District Court Veterans Diversion Program

Presenter: Angharad Stock, Esquire, Deputy Court Administrator, Special Courts

9:45 am – 10:15 am Language Access Update

Presenter: Lisa Herbert, Esquire, Deputy Court Administrator

10:15 am – 11:00 am Focus on Attendance

Presenters: Cynthia Stoltz, Esquire

Erin Williams, MDJ Resource Specialist, Department of Human Services

11:00 am – 12:00 am Pretrial Services Bail Review and BAU Review

Presenters: Janice Dean, Director of Allegheny County Pretrial Services

Dr. Martone,

**Magisterial District Courts
Training and Education Session
May 29, 2015
10:00 am – 3:00 pm**

**Allegheny County Bar Association
Conference Center Auditorium
920 City County Building (9th Floor)
414 Grant Street
Pittsburgh, PA 15219**

10:00 am – 10:15 am Welcome and Overview
Presenter: President Judge Jeffrey A. Manning

10:15 am – 11:00 Truancy Discussion
Presenter: Bruce Noel

11:00 am – 11:30 am DHS Truancy Referrals
Presenter: Erin Williams, MDJ Resource Specialist, Department of Human Services

11:30 am – 12:00 pm Allegheny County Controller's Office Constable Update
Presenter: Melanie A. Predis Solomon, Senior Analyst, County Controller's Office

12:00 pm-12:30 pm – Veteran's Court Update
Presenter: Judge John Zottola, Judge Bill Ward

12:30 pm – 1:00 pm Lunch break

1:00 pm – 2:00 pm Arnold Foundation (Risk Assessment Tool)
Presenter: Zach DelPra, Justice System Partners, Janice Dean, Director of Allegheny County Pretrial Services

2:00 pm – 2:30 pm Review of Rule 452
Presenters: Magisterial District Judge David Barton, Magisterial District Judge Dennis Joyce

2:30 p.m. -LEP
Presenter: Lisa Herbert

LEASE AGREEMENT

THIS AGREEMENT, made this first day of December, Two Thousand Sixteen (12/1/2016) by and between **PROPERTY OWNER**, a Pennsylvania Corporation (hereinafter called Lessor), of the one part, and the **COUNTY OF MONTGOMERY** (hereinafter called Lessee), of the other part.

WITNESSETH THAT: Lessor does hereby demise and let unto Lessee all that certain premises located at **[COURT LOCATION]** (“demised premises”), and being certain office space as indicated on the scale drawing attached hereto titled “Exhibit A” in the total amount of three thousand, one hundred, seventy one (3,171) square feet as measured by the current BOMA standard for rentable square footage in the Township [], Montgomery County, Commonwealth of Pennsylvania, to be used and occupied as a District Court and office facility, and for no other use, for the term of at least ten (10) years beginning the first day of December, 2016 (“Commencement Date”) and ending 30th day of November, 2026 (11/30/26) for the monthly rental amount of six thousand (\$6,000) dollars and to be payable by the first day of each month, in advance, the first installment to be paid within thirty (30) days of the Commencement Date of this Lease.

2. During the term of this Lease, Lessee shall at all times have the use of a minimum of Twenty (20) parking spaces.
3. The Rental set forth above includes all costs to the Lessee for (a) all taxes assessed or imposed upon the demised premises and building during the term of this Lease; (b) all fire and liability insurance premiums upon the demised premises and building; (c) all charges for water consumed upon demised premises; all sewer rental or charges for use of sewers, sewage system, and sewage treatment works services the demised premises; and (d) all utility charges for utilities providing services to the demised premises and building thereon. Lessor shall be responsible for paying all such taxes, premiums, water consumption charges, sewer rentals or charges, and utility costs during the term of this Lease, and Lessee shall not be liable for any additional costs for such payments. Lessee shall be responsible for cleaning and janitorial services in the District Court space. Lessor shall be responsible for cleaning and janitorial services in the common areas.
4. Lessor shall, at Lessor’s sole cost and expense:
 - (a) Furnish heat to heat the demised premises to the satisfaction of Lessee.
 - (b) Furnish electricity to the demised premises as Lessee may see fit.

- (c) Furnish water utility service, including hot water, to the demised premises for the use of Lessee.
 - (d) Install bulbs and ballasts as needed.
 - (e) Provide rubbish removal services
5. Lessor shall keep the demised premises clean and free from all ashes, insects, dirt and other refuse matter; replace or repair as needed all glass windows, doors, etc.; keep all waste and drain pipes open, maintain all blacktop and parking lot stripes, and make all repairs to the building and the premises. Notwithstanding the above, in the event any interior repairs are solely due to or solely caused by the willful misconduct of the Lessee or Lessee's employees, servants, agents, guests, vendors, contractors or invitees, Lessee will reimburse to Lessor the reasonable and actual cost of said repair.
6. Lessor shall be responsible for maintaining the premises in a Class A condition including the interior and exterior finishes and the grounds landscaping, pavement, curb, cellar doors, awnings and other erections in the pavement during the term of this lease; during the term of this Lease Lessor shall keep the pavement, walkways and any assigned parking areas or spaces free of snow and ice; and shall be and hereby agrees that Lessor is solely liable for accidents, due to their defective condition, or due to any accumulations of snow and ice, and Lessor agrees to indemnify and hold harmless the Lessee for all damages attributable to any such accidents, excepting damages and accidents covered by workman's compensation or worker's compensation insurance and excepting intentional actions that result in damages or injuries, and excepting damages, losses or injuries caused by Lessee or its agents, servants, employees, guests and invitees.

In the event Lessor fails to perform any of these services, upon providing Lessor with thirty days advance written notice of its intention to do so, Lessee shall have the option of performing such work and deducting the cost thereof from the rent. Notwithstanding the above, if Lessee elects to perform the applicable obligations of Lessor on Lessor's behalf and elects to offset the cost of performing such obligations against the Rent payable hereunder, the amount of such offset during the Lease Month shall not exceed twenty-five percent (25%) of the Rent payable for such Lease Month. Lessor is responsible only for the actual costs of Lessee and said amount shall not constitute an offset of the rent payment, but shall be billed directly by Lessee to Lessor, and Lessor shall be responsible to pay said actual cost within thirty (30) days of its receipt of said bill. If the bill is not paid within the 30-day period, it will be set off against the rent.

7. Waiver of Recovery. Lessee shall be solely responsible for loss and / or damage to its personal property located within the demised premises. Lessee shall maintain at its own expense, insurance policies to protect Lessee's personal

property. Lessee hereby waives any claim for damage or loss to its personal property in favor of Lessor.

8. Lessee covenants and agrees that Lessee shall without demand:
 - (a) Use every reasonable precaution against fire.
 - (b) Peaceably deliver up and surrender possession of the demised premises to the Lessor at the expiration of this Lease, unless mutually extended, promptly delivering to Lessor at his office all keys for the demised premises.
 - (c) Give to Lessor prompt written notice of any accident, fire or damage occurring on or to the demised premises.
 - (d) Upon execution of this Lease, Lessee shall provide a certificate of insurance naming Lessor as an Additional Insured and loss payee.
9. Lessee covenants and agrees that it will do none of the following things without the consent in writing of Lessor first being had and obtained, which consent may be withheld for any reason or no reason:
 - (a) Occupy the demised in any other manner or for any other purpose other than as above set forth or any similar office use.
 - (b) Assign, mortgage or pledge this Lease or underlet or sublease the demised premises, or any part thereof.
 - (c) However, upon Landlord's consent, which consent shall not be unreasonably withheld, the Lessee shall be permitted to sublease the Premises to a County Agency or County Department.
10. Destruction of premises:
 - (a) In the event that the demised premises is totally destroyed or so damaged by fire or other casualty that the same cannot be repaired restored within sixty (60) days, this Lease shall absolutely cease and determine, and the rent shall abate as of the date of the destruction or damage for the balance of the term.
 - (b) If the damage caused as above be only partial and such that the premises can be restored to their then condition within fifteen days, the Lessor shall restore the same within fifteen (15) days, reserving the right to enter upon the demised premises for that purpose. The rent shall be apportioned

and suspended during the time the Lessor is in possession, taking into account the proportion of the demised premises rendered untenable and the duration of the Lessor's possession.

11. Lessee, at Lessee's sole cost, shall obtain all required zoning and occupancy permits for Lessee and shall provide Lessor with all such permits and certificates of occupancy for use of the premises as a District Court Room and Office facility.
12. In the event that the demised premises or any part thereof is taken or condemned for a public or quasi-public use, this Lease shall terminate as of the date title shall vest in the condemner. Lessee shall be entitled to immediate notice of the termination of this Lease by reason of the aforesaid.
13. Lessor represents that, to the best of Lessor's actual knowledge, the Building, premises and site comply with all current environmental, life safety, air quality, radon, hazardous materials and building code rules, regulations and laws, and Lessor shall be responsible for the costs and the performance of all improvements, including the reasonable relocation costs for of Lessee's relocation of its personal property, associated with removals, installations, testing and modifications required due to the Premise's failure to comply with environmental requirements.
14. Lessor represents that the Building and the premises comply with the requirements of the Americans with Disabilities Act and the regulations issued pursuant thereto. Lessor further agrees to indemnify and hold harmless County for any violations of the ADA and the regulations issued pursuant thereto, as they relate to the Building, premises and site.
15. It is hereby mutually agreed that either party hereto may terminate this Lease at the end of said term by giving to the other party written notice thereof at least sixty (60) days prior thereto, but in default of such notice this Lease shall continue upon the same terms and conditions in force immediately prior to the expiration of the term hereof as are herein contained for a further period of sixty (60) days and so on unless or until terminated by either party hereto, giving the other sixty (60) days written notice for removal previous to expiration of the then current term.
16. All notices required to be given by Lessor to Lessee must be given by registered mail addressed to District Court Administration, Financial Administrator, P.O. Box 311, Norristown, PA 19404-0311, and all notices required to be given by Lessee to Lessor must be given by registered mail addressed to **[OWNER ADDRESS]**. Wherever in this Lease Agreement it shall be required or permitted that notice or demand be given or served by either party to this Lease to or on the

other party, such notice or demand shall be deemed to have been duly given to or served upon the party intended to receive the same if such notice is in writing and sent either by (i) Registered or Certified Mail, return receipt requested, postage prepaid, or (ii) Federal Express or such other nationally recognized commercial, overnight, receipted delivery service, or (iii) by hand delivery. Legal counsel for any party hereto shall be entitled to give any notice for such party. The date of delivery of any notice provided for in this Lease Agreement shall be the date after the date of deposit to the overnight delivery service, or two days after the date of deposit if sent Certified Mail, return receipt requested, or the date of actual delivery to the above address of the party to be notified if hand delivered. The person and place to which notice may be given may be changed from time to time by Lessor or Lessee, respectively, upon written notice to the other, effective five (5) days after delivery of such notice.

17. It is expressly understood and agreed by and between the parties hereto that this lease and the riders and exhibits attached hereto and forming a part hereof set forth all the promises, agreements, conditions and understandings between Lessor or his Agents and Lessee relative to the demised premises, and that there are no promises, agreements, conditions or understandings, either oral or written, between them other than are herein set forth. It is further understood and agreed that, except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this lease or any exhibit hereto shall be binding upon Lessor or Lessee unless reduced to writing and signed by them. It is further understood and agreed that the only persons who are authorized to sign any such binding alteration, amendment, change or addition on behalf of Lessee are the Commissioners of the County of Montgomery.
18. All rights and liabilities herein given to, or imposed upon, the respective parties hereto shall extend to and bind the several respective heirs, executors, administrators, successors and assigns of said parties. The words "his" and "him" wherever stated herein shall be deemed to refer to the "Lessor" whether such Lessor be singular or plural and irrespective of gender. No rights, however, shall inure to the benefit of any assignee of Lessee until the assignment to such assignee has been approved by Lessor in writing as aforesaid.
19. Any headings preceding the text of the several paragraphs and subparagraph hereof are inserted solely for convenience of reference and shall not constitute a part of this Lease, nor shall they affect its meaning, construction or effect.

IN WITNESS WHEREOF, the parties hereto have executed these presents the day and year first above written, and intend to be legally bound thereby.

In the presence of:

BY: _____

General Partner

Sealed and delivered in
the presence of:

_____(Seal)
Authorized signatory

COUNTY OF MONTGOMERY

By: _____
Chair

ATTEST:

Chief Clerk

Vice Chair

Commissioner

Exhibit A

Scale Drawing of Premises

Recommendations for Common Audit Issues and Good Internal Controls

The AOPC is committed to helping you be in compliance with your audits and maintaining internal controls. The following list provides procedural recommendations for common audit issues in the Magisterial District Courts. A short description is provided to explain the importance of the measures and why an auditor might review certain matters. While some of the suggestions listed might be referenced in the rules or statute, others may not and are provided as good internal control measures. Seek appropriate guidance if you have questions regarding the legality of procedures in your court.

Inadequate Segregation of Duties



Internal Control Alert

Duties such as receiving payments, daily cash balancing, deposits, bank reconciliation, opening mail, warrants, and so forth should be rotated and separated for good internal control measures. In instances of misappropriation of funds, there is typically, if not always, an audit finding for inadequate segregation of duties.

- Cross-train staff. Utilize local resources (i.e., experienced staff, court administration) and also AOPC MDJS classes.
- Segregate and rotate duties as appropriate and when practical in the office.
- Don't allow one person to have too much or total control over the office duties, especially the handling of money.
- Review procedures on a regular basis. It is important for the MDJ/management to review reports and procedures, especially in smaller staffed offices where segregating duties can be difficult.

Warrants and DL-38s



Internal Control Alert

In some instances where theft has occurred, the perpetrator will not issue DL-38s or warrants that appear on the Case Admin lists. Also, the proper control of warrants and DL-38s is necessary to ensure proper disposition of cases and collection of monies owed.

- Review the warrant and DL-38 lists on a daily basis to ensure timely processing. Maintenance of all Case Admin lists is crucial for proper case management. Review the Case Management Summary Report (#5800) on a regular basis.
- Warrants should be issued only to those authorized to execute warrants under the criminal procedural rules.
- As a recommendation, outstanding summary warrants should be returned to the MDJ office within 120 days of issuance (30 days for warrants in criminal cases). NOTE: *Previous long-standing recommendation allowed for 60 days on summary warrants and was changed to 120 days in December 2016. See MDJS Bulletin 21-16.*
- Returned warrants are at times recorded in the MDJS as unserved, if the defendant is unable to be located; or another warrant issued, if the means of finding the defendant have not been exhausted. The unserved warrants will remain active in the MDJS.

Evidence of Authorizing the Disposition of Citations



Internal Control Alert

Dispositions of withdrawn, not guilty, and dismissed not accompanied by a written record of the disposition is an internal control issue. A person could record incorrect dispositions to close cases and then steal incoming cash payments.

- Record the disposition information on the *Certification of Disposition* on the back of the citation when available. The *Certification of Disposition* page is not required by any rule or statute, but is recommended as a measure of good internal controls and for auditing purposes.
- When the *Certification of Disposition* on the back of the citation is not available (i.e., eFiled traffic citations), you could use the *Traffic Docket Worksheet and Verification of Disposition* form available in the MDJS to record the disposition. Auditors look to see if the disposition was authorized (i.e., signed) by the MDJ. See MDJS Bulletin 32-10.
- The *Dispositional Validation Report* can be used to help track eFiled traffic cases that are disposed with a 'not guilty,' 'dismissed,' or 'deceased' disposition. See MDJS Bulletin 11-12.
- When a guilty plea is signed by the defendant and accompanied by a full payment on traffic citations and received either in the mail or in person, an MDJ signature is not necessary to certify the disposition.

Manual Receipts

Internal Control Alert

Missing manual receipts, amounts differing on the MDJS generated receipt, or missing MDJS generated receipts can be audit red flags. A person could take cash payments, issue a manual receipt to the remitter, and then not enter the payment in the MDJS or record a lesser amount into the system.

- Use only in instances of computer downtime (i.e., lines are down) and payments are received at the office.
- Review the manual receipt log and verify MDJS generated receipts match manual receipts.
- Ensure staff are recording the manual receipt number on the MDJS generated receipt.
- Review the manual receipt log, deposit listing report, and bank statement to verify the deposit(s). Initial and date the manual receipt log when reviewed.

Deposits – Perform Daily and Proper Validation

Internal Control Alert

Deposits that are not made on a daily basis, or when the amount of checks and cash deposited in the bank differs from the MDJS, can be audit red flags.

- Deposits should be made in the bank at the end of every business day. Do not keep in the court overnight, bring home, or leave unattended en route to the bank.
- Deposits need to be properly validated by the magisterial district court's bank. A proper validation must include the bank confirming the breakdown (cash amount is critical) along with the overall total. See MDJS Bulletin 14-11.
- As with most procedures in the court, duties should be segregated and rotated as appropriate. As an example, Staff A prepares the deposit at the office ('daily cash balancing'), Staff B takes it to the bank, and Staff C verifies the return.

Records Unavailable for Examination

Internal Control Alert

Missing records cannot be examined, which is an audit red flag. A person could steal or destroy case files in order to cover-up fraud or other misdeeds.

- Refer to the *Supreme Court of Pennsylvania Administrative Office of the Pennsylvania Courts Record and Retention and Disposition Schedule with Guidelines Procedures* found at www.pacourts.us
- 2.4.2 *Matters Pending Audit* - do not destroy records that are still subject for audit.
- Keep track of any case files that are transferred from one court to another (i.e., MDJ office closing).
- Store files in a safe and secure location. Do not allow unauthorized staff unsupervised access to case files.

Additional Information for Your Audits & Internal Controls

- Commonwealth monies for fines/costs must be paid weekly to the Department of Revenue (DOR).
- MDJs should be bonded at a minimum of \$25,000 (Rule 110, Rules and Standards with Respect to Offices of MDJs).
- Constable collections – Constables should not deposit defendant payments into their own personal bank accounts nor should they establish time payment plans for defendants. Receipts should be provided to persons paying and the monies paid should be brought to the court intact and entered timely. Proper documentation must be submitted.
- If a check issued by the court is outstanding (not cashed) after 180 days, the check should be marked stale in the MDJS. The court should make an attempt to contact the intended recipient prior to stale dating the check.
- Assess costs as incurred on cases (i.e., not extreme flat blanket postage fees that haven't been incurred, etc.).
- Along with detailed notes, consider an internal review and authorization policy for voids and reductions of case balances.
- CETA - As a reminder, the CETA (Constable Education Training Act) surcharge of \$5.00 set forth in 44 Pa.C.S.A. 7149(b) is assessed per named defendant for each civil case in which a constable or deputy constable performs a service. The fee is assessed once per criminal and summary dockets for constable service. See MDJS Bulletin 6-12.
- Confidential Information Forms should not be stored in the case file. The information on these forms should be entered into the MDJS and then returned or destroyed. See MDJS Bulletin 23-10.
- See *Magisterial District Court Guide for Audits and Internal Controls* located in MDJS HELP for additional assistance.

Thank you for the work that you do. You are the first, and sometimes only, interaction the public has with the Pennsylvania Judiciary. We are here to support you. **Questions or need assistance?** Contact Andy Simpson, Judicial Programs Administrator, AOPC, at 717-231-3300 x3824 or Andrew.Simpson@pacourts.us

9/2016

**PENNSYLVANIA
UNIFIED JUDICIAL SYSTEM
CONSTABLE POLICIES, PROCEDURES AND
STANDARDS OF CONDUCT¹**

**Administrative Office of Pennsylvania Courts
May, 2013**

¹ See Pa.R.J.A. No. 1907.2.

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PREFACE

In Pennsylvania, constables perform numerous important functions at the municipal level and are independent contractors, statutorily authorized to perform services for the courts.

The purpose of the Unified Judicial System Constable Policies, Procedures and Standards of Conduct (Constable Policies), is to establish uniform policies and procedures, as well as standards of conduct for constables engaged to perform services for the courts. The provisions that follow are mandatory, unless expressly stated otherwise. All references to constables herein include elected and appointed constables and deputy constables. A constable's failure to comply with the Constable Policies may render the constable ineligible to receive assignments from the courts or be paid for work performed.

Nothing in the Constable Policies, Procedures or Standards of Conduct are intended to create an employer / employee relationship between the courts and constables. *See In re Act 147 of 1990*, 528 Pa. 460, 598 A.2d 985 (1991).

Constables having questions regarding the Constable Policies, or local policies and procedures should contact their president judge or district court administrator.

I. ADMINISTRATION

A. QUALIFICATIONS

1. Election & Appointment

Constables and deputy constables must be in compliance with all applicable laws, Pennsylvania Commission on Crime and Delinquency (PCCD) Constable Education and Training Board (Board) regulations and certification requirements, requirements of the Ethics Act, *see* Appendix “A”, and the provisions of the Constable Policies in order to be assigned to perform judicial duties.² Compliance with the aforementioned does not entitle a constable to the receipt of judicial duties.

Only individuals who have been elected or appointed to serve as a constable, and who are currently certified by PCCD, may perform or assist in the performance of judicial duties, unless otherwise authorized by law.

2. Registration

Each district court administrator’s office shall maintain a list of constables and deputy constables from their county who are authorized to perform judicial duties. The list shall include those constables who are certified to perform judicial duties by PCCD and who have not been prohibited from receiving judicial duties by the President Judge. The list, and any updates, shall be provided to all magisterial district judges in the judicial district, and, upon request, to any other judge, magisterial district judge or district court administrator.

If a president judge decides that an otherwise certified constable is not to be assigned judicial duties, the district court administrator shall immediately notify the district court administrators of all other judicial districts of this determination.

3. Insurance

A constable must file with the Clerk of Courts proof of current professional liability insurance, covering each individual in the performance of his or her judicial duties with a minimum coverage of \$250,000 per incident and a minimum aggregate of \$500,000 per year. 44 Pa.C.S.A. § 7142(b).

² Throughout the Constable Policies, “judicial duties” refers to those services a constable performs for the courts pursuant to Act 49 of 2009, 44 Pa.C.S.A. §§ 7161-7161.1.

4. Appointment of Deputies

Deputies serve based upon need and at the pleasure of elected constables, subject to approval and appointment as prescribed by law. Deputies must comply with all requirements governing elected constables.

B. CONSTABLE REVIEW BOARD

President Judges may authorize the creation of an advisory board called a Constable Review Board (CRB) to assist in resolving any disputes related to a constable's performance of judicial duties.³ If a CRB is created, the President Judge, in consultation with relevant county officials, should develop filing procedures and guidelines, including notice and opportunity to be heard, and timetables for decisions.

The CRB may receive complaints by or against constables regarding the performance of judicial duties, financial/payment disputes or other matters relevant to a constable's services to the courts. The CRB may then make recommendations to the President Judge regarding the judiciary's continued use of the constable's services, or to the county controller / county executive if the dispute concerns financial or other matters within the county's control.

Any findings of suspected criminal activity shall be forwarded to the county District Attorney. The President Judge shall be notified of any referrals to the District Attorney and shall determine if a constable's services should continue to be used.

It is recommended that membership on a CRB include:

- A Judge of the Court of Common Pleas or Magisterial District Judge
- The District Court Administrator or Special Courts Administrator
- A Certified Constable and an alternate to be used in case of conflict
- The County Controller or his or her designee.

³ If a CRB is created, it is anticipated that the President Judge will appoint members to the CRB. If the county wishes to empower the CRB to make recommendations to the appropriate county individual / agency regarding disputes within the county's purview, the county executive or another member of the county executive branch would also make an appointment to the CRB.

C. FINANCE / PAYMENTS

Each court of common pleas must develop or adopt a form ("payment sheet") to be used by all constables seeking payment for the performance of judicial duties. Payment sheets submitted by constables must be legible, complete, and contain at a minimum the following information: 1) the defendant's name; 2) the docket and/or OTN number; 3) the statutorily authorized fees requested, *see* 44 Pa.C.S. A. §§ 7161 and 7161.1; 4) the signature of the constable/deputy constable who is submitting the document; and 5) the signature of the judicial authority who authorized the services to be performed. The President Judge or his or her designee, as well as the county executive / paying agent, may require that additional information be included on payment sheets.

II. EDUCATION

The following section is a summary of the training and certification programs and requirements established by the PCCD pursuant to Act 49 of 2009. *See* 44 Pa. C.S.A. §§ 7141 - 7149 and 37 Pa. Code §§ 431.1 - 431.54 . (This information is provided by the PCCD Constables' Education and Training Board). This information applies to elected and appointed constables and deputy constables.⁴

1. Requirements for Certification

Act 49 of 2009 established the Constables' Education and Training Board (Board) as an advisory board of the PCCD and authorized the Board to establish and administer the mandatory training and certification of constables.

2. Training Requirements

Training programs administered by the Board include: basic training (the initial certification of constables) and annual continuing education (the re-certification of constables). Certification is awarded only to individuals who hold the office of constable or deputy constable. Constables/deputy constables must complete these programs in order to receive judicial assignments.

3. PCCD Registration

Act 49 training is available, free of charge, to all elected or appointed constables and deputy constables who are registered with PCCD. Registration is the first step in

⁴Constables and other users of the Constable Policies are advised to review state law and Constable's Education and Training Board regulations for changes that may occur after this publication.

obtaining certification and allows constables to receive training bulletins, training schedules, and other PCCD communications regarding certification.

4. Training

The Constables' Education and Training Program provides six types of training:

- * 80 hours basic training
- * 20 hours annual continuing education training
- * 40 hours basic firearms training
- * 20 hours annual firearms training
- * 20 hours advanced firearms training
- * Up to 16 hours annual optional training.

Regional contractors offer training from January through October of each year at various locations throughout the state.

A constable must successfully complete basic training in order to obtain initial certification as a constable. Successful completion of continuing education and training every subsequent year is required in order to maintain certification.

Firearms training is optional, as constables are not required to carry firearms in the performance of their duties. However, Act 49 mandates firearms training and certification for any constable who intends to carry a firearm during the performance of his or her constable duties. 44 Pa.C.S.A. §7148.

Note: By the requirements set forth in the Constable Policies, some judicial duties, such as prisoner transports and security, may require a constable to carry a firearm.

A constable must successfully complete basic firearms training one time in order to obtain initial certification to carry a firearm in the performance of constable duties. Following initial firearms certification, successful completion of annual or advanced firearms training every year is required in order to maintain firearms certification

A. Basic Training

A constable must attend basic training only once, as long as he or she maintains certification. If a constable has taken and passed the law enforcement basic training waiver examination, as determined by PCCD, and has been certified by the Board, he or she is not required to attend basic training.

B. Continuing Education

A constable must complete annual continuing education in order to renew his or her certification for the following calendar year. Upon successful completion of

continuing education by October, constables and deputy constables will be issued new certification cards in December, providing certification for the following year.

C. Basic Firearms Training

A constable must be at least twenty-one (21) years of age to attend firearms training. Constables who seek Act 49 firearms certification must first complete Basic Firearms Training. While not mandatory, this training is available to any constable who has completed the 80-hour basic training course, has acquired a certification number, and is not precluded under state or federal law from possessing or using a firearm. Firearms certification is contingent upon a constable passing an annual criminal history record check. Successful completion of the 40-hour Basic Firearms training course is a prerequisite for the Annual Firearms and the Advanced Firearms courses.

D. Annual & Advanced Firearms Training

Constables who are currently in office and have obtained certification through basic training or the waiver examination are authorized to attend firearms training. This training must be completed annually in order to maintain firearm certification. The Annual Firearms course is designed for the average proficiency level shooter while the Advanced Firearms course is for more experienced proficiency level shooters.

III. STANDARDS OF CONDUCT

Scope: "Constable" includes elected and appointed constables and deputy constables.

Standard 1. Adherence to the Unified Judicial System Constable Policies, Procedures and Standards of Conduct

A constable shall adhere to the terms and provisions contained within the Constable Policies. Nothing in the Constable Policies shall prohibit judicial districts from enacting policies and procedures consistent therewith.

Standard 2. Non-Discrimination and Equal Employment Opportunity

A constable shall comply with all provisions of the UJS Policy on Non-Discrimination and Equal Employment Opportunity (attached as Appendix "B"). As "officers serving process or enforcing orders," a constable is included in the policy's definition of "related staff" (as defined in 42 Pa.C.S.A. § 102) and is thus covered by the Supreme Court policy.

Standard 3. Impropriety and Appearance of Impropriety to be Avoided

A constable must respect and comply with the law, and while performing judicial duties, shall conduct him or herself in a manner that promotes public confidence in his or her integrity and impartiality. A constable shall not allow family, social or other relationships to influence his or her conduct while performing judicial duties. A constable shall not lend the prestige of his or her office to advance the private interests of others, nor shall he or she convey or permit others to convey the impression that they are in a special position to influence the constable in the performance of judicial duties.

Standard 4. Business of the Office of Constable

A constable shall devote the time necessary for the prompt and proper performance of judicial duties.

Standard 5. Solicitation of Funds

A constable shall not solicit funds for any educational, religious, charitable, fraternal, political or civic organizations while performing judicial duties.

Standard 6. Political Activity

A constable shall not engage in partisan political activity while performing judicial duties.

As used in this Rule, the term “partisan political activity” shall include, but is not limited to: running for public office; serving as a party committee-person; working at a polling place on Election Day, except as part of the constable’s statutory duties; performing volunteer work in a political campaign; soliciting contributions for political campaigns; and soliciting contributions for a political action committee or organization, but shall not include involvement in non-partisan or public community organizations or professional groups.

This prohibition applies only while constables are performing judicial duties. It is not a complete ban on all political activity.

Standard 7. Professionalism

A constable shall conduct him or herself in a professional, courteous and respectful manner when interacting with the public and the courts.

Standard 8. Confidentiality

A constable shall not disclose personal or confidential information obtained while performing judicial duties, except as authorized by law. A constable shall neither access directly, nor request through an individual with authorized access, information contained within criminal justice agency databases, unless expressly authorized to do so by law,

Supreme Court rule, AOPC policy, or by the court on a case-by-case basis. Criminal justice agency databases include, but are not limited to, the Pennsylvania Justice Network (JNET), the Commonwealth Law Enforcement Assistance Network (CLEAN), and the Federal Bureau of Investigation's National Crime Information Center (NCIC).

IV. SECURITY AND TRANSPORTS

The following procedures set forth the minimum standards to be implemented by constables and deputy constables while performing judicial duties, including but not limited to the transportation of defendants to and from magisterial district courts and the performance of security within a magisterial district court facility.

A. Certification & Clearances

A constable may only perform judicial duties for the courts if he or she has been certified by the Constables' Education and Training Board pursuant to 44 Pa.C.S.A. § 7142.

B. Weapons

No constable shall carry a firearm in the performance of judicial duties unless he or she has received firearm certification pursuant to 44 Pa.C.S.A. § 7144 and complied with all regulations established by the Constables' Education and Training Board.

C. Attire

A constable shall carry identification and wear clothing that clearly identifies him or her as a constable while performing judicial duties.

D. Security at a Magisterial District Court Facility

1. When providing security at a magisterial district court, a constable:
 - a. shall conduct a search of prisoner hold areas, restrooms, and any other areas of the magisterial district court facility accessible by prisoners prior to allowing them to occupy such areas;
 - b. shall observe all actions of those within the court facility to ensure the safety of the public, the parties, court staff, and the magisterial district judge, and be prepared to act swiftly should the need arise;
 - c. shall prohibit any direct or indirect contact within the magisterial district court facility between a defendant and family members,

friends, or members of the public unless authorized by the magisterial district judge;

- d. shall search all defendants prior to handcuffing and shackling of the waist and/or ankles.⁵ Concerns regarding the use of restraints on a defendant while in a magisterial district court facility or during proceedings should be discussed with the magisterial district judge; and
 - e. shall, when carrying a firearm, secure the weapon in a Level 2, or higher, security holster.
2. High-Profile/High-Risk Cases: In addition to the requirements set forth above, the following shall also be observed when providing security at a magisterial district court in a proceeding that has been deemed high-profile and/or high-risk by the magisterial district judge and/or the President Judge of the judicial district or his or her designee:
- a. As many constables as necessary shall be present to ensure safety and security⁶;
 - b. Two fire armed, certified constables shall transport the defendant(s) to and from the magisterial district court, unless directed otherwise by the President Judge.⁷

E. Vehicles

Vehicles used for the transportation of defendants shall:

- 1. comply with applicable law and regulations, including the provisions of the Pennsylvania Motor Vehicle Code (Title 75);

⁵ It is recommended that a transport belt with an integrated “D” ring be used around the defendant’s waist. It is further recommended that all handcuffs and shackles should be double-locked for added security.

⁶ For example, a constable may be stationed at the court entrance with a metal detector wand while another is assigned to monitor activity within the courtroom and another to escort defendants to and from a holding cell. It is recommended that constables assigned to maintain physical custody of defendants should not be assigned to or perform other court security duties.

⁷ A President Judge may waive or amend this requirement in individual cases, or in a class of cases.

2. be maintained in a roadworthy condition to ensure the safety of its occupants and the public;
3. contain a cage behind the driver's seat and in front of the back passenger seat for purposes of creating separate and secure areas of the vehicle for the constable and the defendant(s). Cages shall be permanent, rather than temporary, and of the same type and quality used in police and sheriff vehicles; and
4. include functioning window and child safety door locks.

F. Transports

While transporting a defendant to and from court, the following provisions apply.

1. Each transport to and from a magisterial district court or other court facility⁸ shall include at least one certified fire armed constable, unless directed otherwise by the President Judge.⁹
2. Each transport shall include at least one of the following forms of two-way communication: i) two-way radio or ii) cellular phone.
3. A constable shall not transport a number of defendants that is greater than the number of seatbelts present in the secure area of the vehicle, in accordance with applicable provisions of the Pennsylvania Motor Vehicle Code (with the exception of a specially-adapted van without seatbelts, such as a prisoner transport van).
4. The constable shall search the transport area of the vehicle prior to and following each transport.
5. The constable shall, in the event of an escape or other security breach during a transport, immediately contact 911 or, if applicable, the local emergency communications center, and then notify the magisterial district judge who issued the transport or commitment order.

⁸ Magisterial district court includes not only the established magisterial district court office, but also any other facility that may be used by that court to conduct judicial business.

⁹ A President Judge may waive or amend this requirement in individual cases, or in a class of cases.

APPENDIX A

FINANCIAL DISCLOSURE REQUIREMENTS OF THE STATE ETHICS COMMISSION

FINANCIAL INTEREST STATEMENTS: WHAT YOU NEED TO KNOW

As required by the Ethics Act, most elected and appointed public officials must file their statement by May 1 of each year. The same holds true for constables/deputy constables. Constables are required by law to file their Financial Interest Statements directly with the State Ethics Commission. Financial Interest Statement forms are available from the State

Ethics Commission, the PCCD, Boards of Elections and managers of townships and boroughs throughout the Commonwealth. Forms may also be obtained over the Internet at www.ethics.state.pa.us.

WHO IS REQUIRED TO FILE A FINANCIAL INTEREST STATEMENT?

There are several categories of constables, deputy constables, public officials or public employees who are required to file an annual Financial Interest Statement. First, elected officials, whether they are on the state, county, or local level are required to file.

Constables and deputy constables are required to file Financial Interest Statements as well even if they do not work as a constable and even if they do not earn money as a constable.

Further, constables and deputy constables must file even if they are not certified through required class work to perform the role of constable/deputy constable. The key standard is whether the constable/deputy constable has taken the oath of office. If so, then the constable/deputy constable must file a Financial Interest Statement. These rules apply whether the constable/deputy constable is elected or appointed to fill a vacancy.

APPENDIX B of the Constable Manual, the UJS Non-Discrimination Policy, has been omitted from this Appendix. Please refer to the Personnel Policies, which can be accessed through https://onlineservices.pacourts.us/ASAP_Web/HRPersonnelPolicies.ashx (requires login to AOPC Online), for the current version of the Non-Discrimination Policy.