

**SUPREME COURT OF PENNSYLVANIA  
JUVENILE COURT PROCEDURAL RULES COMMITTEE**

**NOTICE OF PROPOSED RULEMAKING**

**Proposed Amendment of Pa.R.J.C.P. 161**

The Juvenile Court Procedural Rules Committee proposes the amendment of Rule 161 to (1) clarify that “juvenile probation files” used in paragraph (A) includes records existing in both paper and digital form; and (2) distinguish between “juvenile probation files” and other information maintained by the juvenile probation office for the reasons set forth in the accompanying explanatory report. Pursuant to Pa.R.J.A. No. 103(a)(1), the proposal is being published in the *Pennsylvania Bulletin* for comments, suggestions, or objections prior to submission to the Supreme Court.

Any reports, notes, or comments in the proposal have been inserted by the Committee for the convenience of those using the rules. They neither will constitute a part of the rules nor will be officially adopted by the Supreme Court.

Additions to the text of the proposal are bolded and underlined; deletions to the text are bolded and bracketed.

The Committee invites all interested persons to submit comments, suggestions, or objections in writing to:

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All communications in reference to the proposal should be received by **August 31, 2018**. E-mail is the preferred method for submitting comments, suggestions, or objections; any e-mailed submission need not be reproduced and resubmitted via mail. The Committee will acknowledge receipt of all submissions.

By the Juvenile Court Procedural Rules Committee,

Judge Jennifer R. Sletvold, Chair

**SUPREME COURT OF PENNSYLVANIA  
JUVENILE COURT PROCEDURAL RULES COMMITTEE**

**REPORT**

**Proposed Amendment of Pa.R.J.C.P. 161**

The Juvenile Court Procedural Rules Committee proposes the amendment of Rule 161 to (1) clarify that “juvenile probation files” used in paragraph (A) includes records existing in both paper and digital form; and (2) distinguish between “juvenile probation files” and other information maintained by the juvenile probation office.

Rule 161(A) provides access to juvenile probation files for an identified class of people (e.g., juvenile’s attorney, attorney for the Commonwealth). Rule 161(B) states that records maintained electronically by juvenile probation offices are only accessible by court order. The Committee has received feedback that Rule 161(B) is being interpreted to require a court order for digital forms of juvenile probation files being “maintained electronically” by the juvenile probation office.

Rule 161(B) was intended to limit access to non-file information on the Juvenile Case Management System (JCMS), not to “juvenile probation files,” as defined by Rule 120. The JCMS is a software application used by juvenile probation offices for case management purposes. If a record exists on JCMS and that record is part of a juvenile probation file, see Pa.R.J.C.P. 120, then that record is accessible pursuant to paragraph (A). If there is information on JCMS that is not part of the juvenile probation file, then a court order is required pursuant to paragraph (B) to access that information.

To clarify, the Committee proposes the consistent usage of “file” in Rule 161 to refer to the “juvenile probation file” and “information” to refer to all other information maintained by the juvenile probation office not part of the “juvenile probation file.” Further, a revision of the Comment is proposed to instruct that paragraph (A) is intended to apply regardless of the form of the file.

The Committee invites all comments, concerns, and suggestions regarding this rulemaking proposal.

**RULE 161. INSPECTING, COPYING, AND DISSEMINATING JUVENILE PROBATION FILES**

A. **Inspecting and [c]Copying.** Except as provided in paragraph (C), juvenile probation files shall be open to inspection and/or copying only by:

- 1) the juvenile's attorney;
- 2) the attorney for the Commonwealth;
- 3) the State Sexual Offenders Assessment Board;
- 4) the Juvenile Court Judges' Commission; or
- 5) any other person, agency, or department by order of court.

B. **[Electronic records] Juvenile Probation Information.**

- 1) **[Records which are maintained electronically] Information maintained** by juvenile probation offices **other than juvenile probation files** shall be subject to inspection and/or copying only pursuant to court order.
- 2) Each juvenile probation office shall create a document, which describes the information that is maintained by the juvenile probation office concerning each juvenile. This document shall be open to inspection and copying pursuant to paragraph (A).

C. **Contents of [o]Order.** The order shall:

- 1) specify who shall be permitted to inspect the **[record] file, information,** or any portion **[of the record] thereof;**
- 2) specify who shall be permitted to copy the **[record] file or information;**
- 3) state that the **file or** information received shall not be disseminated to any person, agency, or department not listed in the court order; and
- 4) state that dissemination of any **file or** information received is a violation of the court order.

#### D. Disseminating.

- 1) The juvenile probation office has discretion to disseminate portions of its files **or information** to the juvenile, service providers, placement facilities, and courts and courts' professional staff of other jurisdictions when facilitating placement, the delivery of services, treatment, or transfer of the case to, or supervision by another jurisdiction consistent with applicable Federal or state law.
- 2) Unauthorized dissemination of any **file or** information **[contained in the juvenile probation file]** to a person, agency, or department not permitted to inspect or copy the file pursuant to this rule may result in a finding of contempt of court.

#### Comment

Documents contained in the juvenile probation files are not a part of the official court record unless the juvenile probation office officially files the documents in the official court record. Those documents placed in the official court record are governed by Rule 160 and 42 Pa.C.S. § 6307.

The notes of a juvenile probation officer, which describe the officer's impressions or personal observations but which are not included in a report to the court or other report, are not considered a component of a juvenile probation file that is open to inspection or copying under paragraph (A). **"Juvenile probation files," as used in paragraph (A) and defined in Rule 120, is intended to include files existing in whole or in part in either paper or digital form.**

Nothing in this rule is intended to preclude the juvenile probation office from sharing information **[in its file]** with the juvenile.

**Official Note:** Rule 161 adopted May 21, 2012, effective August 1, 2012. Amended August 23, 2012, effective immediately. **Amended \_\_\_\_\_, 2018, effective \_\_\_\_\_, 2018.**

#### *Committee Explanatory Reports:*

Final Report explaining the provisions of Rule 161 published with the Court's Order at 42 Pa.B. 3203 (June 9, 2012). Final Report explaining the amendments to Rule 161 published with the Court's Order at 42 Pa.B. 5734 (September 8, 2012). **Final Report explaining the amendments to Rule 161 published with the Court's Order at Pa.B. (\_\_\_\_\_, 2018).**