

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

NOTICE OF PROPOSED RULEMAKING

Proposed Amendment of Pa.R.J.C.P. 231

The Juvenile Court Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania the amendment of Pennsylvania Rule of Juvenile Court Procedure 231 to eliminate the requirement that a written allegation be submitted to a detention facility 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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Juvenile Court Procedural Rules Committee
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Pennsylvania Judicial Center
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All communications in reference to the proposal should be received by **May 31, 2019**. 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. 231

The Juvenile Court Procedural Rules Committee herein proposes amendment of Pennsylvania Rule of Juvenile Court Procedure 231 to remove the requirement that a written allegation be submitted to a detention facility.

Currently, Rule 231 requires the prompt submission of a written allegation to the juvenile court and the detention facility when a juvenile is under arrest. See Pa.R.J.C.P. 231(A)(2) & (C)(2). The Committee received feedback that Rule 231 has been interpreted to require the written allegation to accompany the juvenile at the time of placement in the detention facility. Further, this interpretation places a burden on law enforcement to complete and deliver the written allegation at the time of placement.

The Committee was advised that the necessary information for such placements, as required by 37 Pa. Code § 200.2, was being conveyed to the detention facilities via the Juvenile Court Judges' Commission's form JCJC-D-1 (4/04) ("Statement of Facts and Reasons Accompanying the Detention of a Child by a Probation Officer/Intake Officer Pursuant to 42 Pa.C.S. §§ 6304, 6225, and 6331"). Therefore, the written allegation need not accompany a juvenile at the time of placement in a detention facility.

Accordingly, the Committee proposes the removal of this requirement with regard to detention facilities in Rule 231. Please note this proposed amendment is not intended to prohibit the later transmission of the written allegation to a detention facility. The Committee invites all comments, concerns, and suggestions regarding this rulemaking proposal.

Rule 231. WRITTEN ALLEGATION

A. **Submission.** In every delinquency case, the law enforcement officer shall submit a written allegation to the juvenile probation office.

- 1) **Juvenile [n]Not [u]Under [a]Arrest.** When a juvenile is not under arrest, a written allegation shall be submitted to the juvenile probation office and a copy shall be forwarded to the attorney for the Commonwealth unless the District Attorney elects to require initial receipt and approval of the written allegation under paragraph (B).
- 2) **Juvenile [u]Under [a]Arrest.** When a juvenile is under arrest, a written allegation shall be submitted promptly to the court [**or detention facility**], and copies shall be immediately forwarded to the juvenile probation office and the attorney for the Commonwealth unless the District Attorney elects to require initial receipt and approval of the written allegation under paragraph (B).

B. **Approval by the District Attorney.** The District Attorney of any county may require initial receipt and approval of written allegations by an attorney for the Commonwealth before a delinquency proceeding is commenced.

- 1) **Certification.** If the District Attorney elects to require initial receipt and approval of written allegations in his or her county, the District Attorney shall file a certification with the court of common pleas. The certification shall specifically state the classes, grading, or types of cases that the police officer shall submit to the attorney for the Commonwealth.
- 2) **Timeliness.** All written allegations shall be approved or disapproved without unreasonable delay. An attorney for the Commonwealth shall be available at all times for this purpose unless the District Attorney has specified otherwise in the certification pursuant to (B)(1).

C. **Procedures Following the Attorney for the Commonwealth's Approval.**

- 1) **Juvenile [n]Not [u]Under [a]Arrest.** If a juvenile is not under arrest and an attorney for the Commonwealth approves the written allegation, notice of the approval and a copy of the written allegation shall be forwarded immediately to the juvenile probation office.
- 2) **Juvenile [u]Under [a]Arrest.** If a juvenile is under arrest, the written allegation shall be submitted to the attorney for the Commonwealth and approved prior to taking the juvenile to a detention facility. If the written allegation is approved, it shall be submitted promptly to the court [**or**

detention facility]. A copy of the notice of the approval and the written allegation shall be forwarded to the juvenile probation office.

D. **Attorney for the Commonwealth's Disapproval.** If the written allegation has been disapproved for prosecution, it shall nevertheless be transmitted to the juvenile probation office with notice of the disapproval. If the juvenile is in custody, the juvenile shall be released immediately unless there are other grounds for the juvenile's detention.

Comment

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

See Rules 210 (Arrest Warrants) and 220 (Procedures in Cases Commenced by Arrest Without Warrant) for the procedures on submitting written allegations for arrests.

Under paragraphs (A)(2) and (C)(2), the police officer is to submit the written allegation promptly to the intake staff at the court **[or the detention facility]**.

As used in this rule, "District Attorney" is the District Attorney of each county. This rule gives the District Attorney of each county the option of requiring that written allegations and /or arrest warrant affidavits filed in that county by police officers have the prior approval of an attorney for the Commonwealth. Under the rule, the District Attorney may elect to require prior approval of written allegation, or arrest warrant affidavits (see Rule 210), or both. In addition, the District Attorney is given the authority to define which offenses or grades of offenses will require such prior approval. For example, the District Attorney may specify that prior approval will be required only if a felony is alleged, or that prior approval will be required for all cases.

Under paragraph (B), the District Attorney decides whether an attorney for the Commonwealth receives initial receipt and approval of written allegations. Once the District Attorney has filed a certification with the court under paragraph (B)(1), any attorney for the Commonwealth may receive and approve written allegations as specified in the certification by the District Attorney. This procedure creates a new option for the District Attorney to decide if written allegations need to be approved by an

attorney for the Commonwealth. To implement this procedure, Rule 800 suspends 42 Pa.C.S. § 6304, only to the extent that probation officers may have to seek approval of any attorney for the Commonwealth.

Under paragraph (D), a juvenile should be released from custody unless there are other legally sufficient bases for detaining the juvenile, such as, violation of probation or other pending allegations.

If a juvenile is detained, the juvenile is to be placed in a detention facility, which does not include a county jail or state prison. See Rule 120 and its Comment for definition of “detention facility.”

Official Note: Rule 231 adopted April 1, 2005, effective October 1, 2005. Amended June 28, 2013, effective immediately. **Amended _____, 2019, effective _____, 2019.**

Committee Explanatory Reports:

Final Report explaining the provisions of Rule 231 published with the Court’s Order at 35 Pa.B. 2214 (April 16, 2005). Final Report explaining the amendments to Rule 231 published with the Court’s Order at 43 Pa.B. 3938 (July 13, 2013). **Final Report explaining the amendments to Rule 231 published with the Court’s Order at Pa.B. (_____, 2019).**