Chapter 7
Pre-Adjudicatory Procedures

Summary of Contents

This chapter explores a variety of preliminary matters that must be addressed prior to adjudication hearings, including petition filing and content requirements, the appointment of counsel, discovery, summons and notices, and motions procedures.

Key Statutes

- 42 Pa.C.S. §6333 (subpoenas)
- 42 Pa.C.S. §6334 (petitions)
- 42 Pa.C.S. §6337 (right to counsel)
- 42 Pa.C.S. §6337.1 (right to counsel for children in dependency and delinquency proceedings)
- 42 Pa.C.S. §6338 (other basic rights)
- 42 Pa.C.S. §6340 (consent decree)

Rules[1]

- Rule 123, Pa.R.J.C.P. (subpoenas)
- Rule 140 (bench warrants for failure to appear at hearings)
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- Rule 312, Pa.R.J.C.P. (informal adjustment)

- Rules 330-336, Pa.R.J.C.P. (petitions)
- Rule 337 (filing of petition after case has been transferred from criminal proceedings)
- Rules 340-41, Pa.R.J.C.P. (procedures following filing of petition)
- Rules 344-353, Pa.R.J.C.P. (motion procedures)
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- Rules 380-381, Pa.R.J.C.P. (preservation of testimony and evidence)

JCJC Standards[2]

- Hearing Procedures

§ 7-1 Pre-Adjudicatory Procedures in General

The filing of the petition initiates the scheduling of the adjudicatory proceeding and the process for considering alternatives to adjudication. The petition may be filed by a juvenile probation officer or an attorney for the Commonwealth. However, the District Attorney may require an attorney for the Commonwealth to file petitions in all or certain cases by filing a certification with the court.

Prior to the adjudicatory hearing, the Rules of Juvenile Court Procedure and Juvenile Act provide for various actions to occur. The juvenile must be appointed counsel unless private counsel has been retained. A written summons compelling attendance at the hearing and a copy of the petition must be served on the juvenile and juvenile's parents. Pre-adjudicatory procedures, including motions, discovery requests and subpoenas, are governed by the Rules.

Alternatives to adjudication, including consent decrees, commitment for drug and alcohol or mental health treatment or other diversion options may be considered prior to the adjudicatory hearing or at any time prior to an adjudication of delinquency.

§ 7-2 Best Practices

- The judge should ensure that petitions are timely filed in all cases where informal adjustment or other pre-petition diversion has been considered and rejected.
- The judge should ensure that procedures are in place to provide for the appointment of counsel to the juvenile in advance of the adjudicatory hearing.
- The judge should ensure that procedures are in place that provides for a range of pre-adjudicatory diversion options, including consent decrees, drug and alcohol and mental health treatment.
- Although the Rules provide that a juvenile age 14 or older may waive counsel at an uncontested dispositional review hearing, the court should be extremely reluctant to accept the juvenile's waiver.

§ 7-3 Petitions

The hearing process is formally initiated by the filing of a verified petition. The required contents of a petition track those applicable to written allegations (see § 4-4), including the following:[3]

- The name of the petitioner, together with a verification and signature.
- The juvenile's name, date of birth, and address.
- The date and place the alleged offense was committed, the names and ages of any co- conspirators, and either "a summary of the facts sufficient to advise the juvenile of the nature of the offense alleged," together with the provision of law violated, or else a certification that the juvenile has failed to comply with a sentence imposed for a summary offense.
- Statements that the acts alleged were "against the peace and dignity of the Commonwealth" or in violation of a local ordinance, that proceedings in the matter are "in the best interest of the juvenile and the public," and that "the juvenile is in need of treatment, supervision, or rehabilitation."
- A notation indicating whether the juvenile has or has not been fingerprinted and photographed.

- An averment as to whether the case is eligible for limited public information.[4]

In addition to the above requirements, a petition must contain two additional items of information:

- The name and address of the juvenile's parent or guardian. If the whereabouts of the juvenile's parents, guardian, or custodian are unknown, or if they reside out of state, the name and address of any known adult relative residing within the county (or, failing this, nearest the court) may be substituted.[5]
- If the juvenile is presently in custody, the petition must provide place and time information so as to permit the scheduling of expedited detention and adjudication hearings.[6]

Multiple offenses alleged to have been committed by the same juvenile within the same judicial district may be included in one petition, as long as they are described separately. If all the offenses arose from the same delinquent episode, they must be combined in a single petition.[7] However, if more than one juvenile is alleged to have participated in an offense, a separate petition must be filed for each juvenile.[8]

Only a juvenile probation officer or an attorney for the Commonwealth may file a formal delinquency petition, which should occur only after it has been determined that informal handling is inappropriate.

Petitions and orders from the Common Pleas Court Management System (CPCMS) must be utilized by the juvenile probation office and the court. These petitions and orders contain the necessary items and findings required by statutes and rules.

Filing and Service of Petitions

Only a juvenile probation officer or an attorney for the Commonwealth may file a formal delinquency petition. However, a county District Attorney may opt to require that petitions be filed only by attorneys for the Commonwealth, either in all delinquency cases or in a defined class of cases, by filing a certification to that effect with the Court of Common Pleas.[9]

Promptly after filing, a copy of the petition must be served in person or by first-class mail on the juvenile and the juvenile's parent or guardian.[10] Both parents should be served if at all possible, even if one parent has primary physical custody of the child. Copies must also

be served on the juvenile's attorney, the attorney for the Commonwealth, and juvenile probation, but this service may be by alternative means (such as fax or e-mail) if the individuals agree.

§ 7-4 Attorney Representation

All juveniles are presumed indigent. If a juvenile appears at any hearing without counsel, the court must appoint counsel for the juvenile prior to commencement of the hearing.[11] It should be remembered that not all juveniles understand the term "counsel," or even "attorney," and may not fully grasp the need for an advisor and advocate in the situation in which they are placed. The basic points to be impressed upon each juvenile are that having a lawyer in court (1) is expected, (2) is free, and (3) helps the system function as it should. The court must appoint counsel for the juvenile prior to commencement of any hearing, if the juvenile appears without counsel.[12]

The assignment of an Attorney for the juvenile must occur prior to the detention hearing if the juvenile is detained, or otherwise prior to the adjudication hearing.[13] Once an attorney has been assigned or has entered an appearance on behalf of a juvenile, representation continues until court supervision is terminated and the case closed, unless the attorney is permitted to withdraw (see below).[14]

Prohibition on Waiver of Counsel

A juvenile under the age of 14 may never waive the right to counsel. A juvenile who is age 14 or older may waive the right to counsel, but only if the waiver is knowing, intelligent and voluntary, the court has tested its basis by means of an on-the-record colloquy with the juvenile, and the proceeding is **not**:

- a detention hearing;
- a hearing on a requested transfer to criminal proceedings;
- an adjudicatory hearing
- a dispositional hearing; or
- a hearing to modify or revoke probation.

Uncontested dispositional review hearings involving juveniles age 14 or older are the only delinquency proceedings for which a juvenile may waive the right to counsel.

Uncontested dispositional review hearings involving juveniles age 14 or older are the only delinquency proceedings for which a juvenile may waive the right to counsel.[15] Judges should not only be skeptical regarding attempts to waive the right to counsel, but alert to the possibility of interfamilial conflicts of interest in this area. The right to counsel is a personal one, and may be waived only by the juvenile, not by the juvenile's family.[16] Where there is reason to believe that a parent's interests may be in conflict with the juvenile's, and that the juvenile has been induced to waive his right in the service of a parental interest, it may be necessary to conduct separate colloquies regarding the positions of the family members—with the juvenile's occurring out of the hearing of his parents. Where there is a conflict between the juvenile and his or her parents it may be appropriate to appoint a guardian *ad litem* for the juvenile.[17]

The court may assign "stand-by counsel" whenever a juvenile waives representation. In any case, the waiver applies only to the hearing for which it is made. Not only may it be revoked at any time, but the court must inform the juvenile of the right to counsel again at each subsequent hearing in the case.[18]

Withdrawal of Counsel

Under the Rules of Juvenile Court Procedure for Delinquency Matters, once an appearance has been entered or an assignment made, an attorney's obligation to represent a juvenile extends until the case is closed or a motion to withdraw is granted.[19] A motion to withdraw may be made orally in open court in the presence of the juvenile, or filed with the clerk of courts, with a copy to be served on the attorney for the Commonwealth as well as the juvenile. Unless new counsel for the juvenile has already entered an appearance, a motion to withdraw may be granted only if good cause is shown.[20]

§ 7-5 Discovery

The Rules provide detailed procedures for the pre-trial exchange of evidence in juvenile delinquency cases.[21] Based generally on the discovery provisions of the Rules of Criminal Procedure[22], these rules list items that must be disclosed on request, provide for additional disclosure orders at the court's discretion, and prescribe remedies for a party's failure to comply with the duty to disclose.

Attorneys are expected to resolve discovery issues informally.

Discovery is intended to be an informal process. Attorneys in delinquency proceedings are required to make good faith efforts to resolve discovery issues informally before resorting to motions to compel disclosure.[23] If a discovery motion becomes necessary, it must be made, either orally or in writing, "as soon as possible prior to the adjudicatory hearing." Pending resolution of the motion, the parties should disclose all material about which there is no dispute.

Mandatory Disclosure by the Commonwealth

The Commonwealth is required to provide the juvenile or the juvenile's attorney with all of the following upon request:[24]

- Evidence favorable to the juvenile that is material either to adjudication or disposition and that is within the possession or control of the attorney for the Commonwealth.
- Any written confession or inculpatory statement in the possession or control of the attorney for the Commonwealth, or the substance of any oral confession or inculpatory statement, and the identity of the person to whom the confession or inculpatory statement was made.
- The circumstances and results of any identification of the juvenile by voice, photograph, or in-person identification.
- Any results or reports of scientific tests, expert opinions, and written or recorded reports of polygraph examinations or other physical or mental examinations of the juvenile that are within the possession or control of the attorney for the Commonwealth.
- Any tangible objects, including documents, photographs, fingerprints, or other tangible evidence.
- The transcripts and recordings of any electronic surveillance, and the authority by which the said transcripts and recordings were obtained.

With respect to all of the above items, the duty to disclose is continuing. That is, upon the discovery of previously requested evidence, material or witness identities coming within the mandatory disclosure rule, at any time prior to the end of the adjudicatory hearing, the attorney for the Commonwealth must promptly notify the court and the juvenile's attorney.[25]

Additional Disclosure Orders

In addition to the mandatory disclosure items listed above, the court may also order either party to disclose additional materials "upon a showing that they are material to the preparation of the case and that the request is reasonable."[26] Such a discovery order is specifically made subject to the juvenile's right against self-incrimination. The Comment to Pa.R.J.C.P. 340 lists the following examples of evidence that may be material to the preparation of the case:

- Names and contact information for any eyewitnesses.
- All written or recorded statements, and substantially verbatim oral statements, of eyewitnesses.
- All written and recorded statements, and substantially verbatim oral statements, made by the juvenile, or by co-conspirators or accomplices, whether such individuals have been charged or not.
- Any other evidence specifically identified, provided the requesting party can also establish that its disclosure would be in the interests of justice, including details regarding any person involved in the case who has received or been promised valuable consideration in exchange for information.

As is the case with mandatory disclosures, a party subject to a discovery order has a continuing duty to disclose additional evidence, material or witness identities coming within the order.[27]

Remedies for Noncompliance

Whenever it appears that the Commonwealth has failed to make a mandatory disclosure or that either party has failed to comply with a discovery order, the court may (1) order the party to permit discovery/inspection, (2) grant a continuance, (3) prohibit the introduction of the evidence not disclosed (assuming it is evidence other than the testimony of the juvenile), or (4) make any other order it deems appropriate.[28]

Limits on Discovery

Discovery of attorney work product—legal research or documents containing "opinions, theories, or conclusions" of the attorneys on either side or their legal staffs—is not permitted.[29] In addition, either party may apply for a protective order denying, restricting, or deferring discovery, which the court may grant "upon a sufficient showing."[30] The court

may permit this showing to be made wholly or partly in the form of "a written statement to be inspected by the court." If the motion for a protective order is granted, the written showing must be preserved under seal for appeal purposes.

Disclosure of Alibi Defense

At least two days in advance of the adjudicatory hearing, a juvenile who intends to offer an alibi defense must provide notice to the attorney for the Commonwealth, indicating the place where the juvenile claims to have been at the time of the offense, the names of all witnesses who will be called in support of the alibi, and contact information for each.[31] In the event of the juvenile's failure to comply, the court may (1) exclude all alibi evidence (except for the juvenile's own testimony), (2) exclude only the testimony of witnesses who were not identified in advance, (3) grant a continuance to enable the Commonwealth to investigate the alibi, or (4) make any other order that the interests of justice may require.[32]

While the juvenile cannot be prevented from testifying as to an alibi claim, the Commonwealth may cross-examine the juvenile concerning discrepancies between the alibi claimed at the hearing and any alibi notice given.[33]

Following receipt of an alibi notice but prior to the adjudicatory hearing, the attorney for the Commonwealth must disclose the names of any witnesses who will be called to disprove or discredit the alibi claim, and provide contact information for each.[34] Otherwise, the court may (1) exclude all evidence offered to disprove the alibi, (2) exclude only the testimony of witnesses who were not identified in advance, (3) grant a continuance to enable the juvenile to investigate, or (4) make any other order that the interests of justice may require.[35]

§ 7-6 Motion Procedures

Motions practice in delinquency cases is governed by Rules 344 through 353. Motions may be oral or written, but if time permits, written motions are preferred.[36] Any motion must state with particularity the grounds, any supporting facts, and the relief or order requested. If written, a motion must be signed; any factual basis not already on the record must be verified to be true and correct to the personal knowledge, information, or belief of the person making the motion.[37] Answers are not generally required, but written answers are subject to signature and verification requirements similar to those applicable to motions.[38]

Generally, unless the "interests of justice" require otherwise, all pre-adjudicatory requests for relief must be included in one omnibus motion, to be made "as soon as practical" before the adjudicatory hearing, but in any case prior to the calling of the first witness.[39] Types of relief to be included in an omnibus motion include requests for continuance, for joint or separate hearings, for suppression of evidence, for psychiatric examination, for dismissal of a petition, for disqualification of a judge, for appointment of an investigator, and for a pre-hearing conference.[40] The court should generally dispose of omnibus motions prior to the adjudicatory hearing, postponing the hearing if necessary.[41]

A party's pre-hearing requests for relief must generally be included in one omnibus motion.

Suppression of Evidence

A motion to suppress evidence obtained in violation of the juvenile's rights[42] must normally be contained in the juvenile's omnibus motion for relief. If not, the suppression issue will be deemed waived, unless the opportunity to seek suppression "did not previously exist, or the interests of justice otherwise require."[43] Following a motion to suppress, the court must make formal findings of fact and conclusions of law regarding whether the evidence in question was illegally seized, and issue an order granting or denying relief. If the court denies the motion, the decision is "final and binding" for purposes of the subsequent adjudication hearing, and the evidence will be admitted unless the juvenile can make a showing of new evidence in favor of suppression that was unavailable at the time the original motion was resolved.[44]

A motion for suppression of evidence may be joined with a motion for the return of property illegally seized.[45]

Motions for Joint or Separate Hearings

Separate petitions involving one juvenile may be resolved in a single adjudicatory hearing if (1) evidence of each of the offenses alleged would be admissible in a hearing on the other offenses or (2) all of the offenses alleged are based on the same act or transaction. When offenses are alleged in separate petitions involving different juveniles, a single hearing may be held if all the juveniles are alleged to have participated in the same act or transaction or the same series of acts or transactions.[46] Oral or written notice of consolidation must be provided to the juvenile(s) prior to any joint hearing.[47]

When a consolidated hearing is planned, any party may move for separate hearings. Conversely, any party may request consolidation of hearings. Either type of request should ordinarily be included in an omnibus motion. If the above requirements for joint hearings are not met, the court must order separate adjudicatory hearings. But even if consolidation would otherwise be proper under the rules, the court may order separate hearings (or "other appropriate relief") if any party would be prejudiced by a joint hearing.[48]

§ 7-7 Summonses, Notices, and Subpoenas

A written summons compelling attendance at the adjudication hearing, together with a copy of the petition, must be issued by the court and served on the juvenile and the juvenile's parents/ guardians at least **14 days** in advance of the hearing (or **7 days** if the juvenile is detained).[49] The summons must specify the date, time and place of the hearing, inform the juvenile of the right to counsel (and to assigned counsel if necessary), and contain a warning that failure to appear may result in arrest.[50] Also included with the summons shall be an order for the child to submit to fingerprinting and photography.[51] Service must be made in person or by first-class mail.[52]

Victims must be notified of the date, time, and place of the adjudication hearing.

The attorney for the Commonwealth, the juvenile's attorney, the juvenile probation office, and victims of the juvenile are all entitled to written notice of an adjudication hearing as well. Like the summons, the notice must be served in person or by first- class mail at least **14 days** in advance of the hearing (or **7 days** if the juvenile is detained).[53]

Responsibility for notifying victims of the date, time, place, and purpose of the adjudicatory hearing rests with the attorney for the Commonwealth or its designee.[54]

Subpoenas

At the request of the juvenile, the juvenile's parents, a probation officer or district attorney, or any other party, or on the court's own motion, the court or the court clerk may issue a subpoena requiring the attendance of a witness or the production of papers at the hearing.[55] The subpoena must identify and provide the address and telephone number of the person who applied for it, and state on whose behalf the witness is being ordered to

testify.[56] It may be served via first-class mail as well as in person or by registered or certified mail, return receipt requested. However, only a completed return receipt, signed receipt of personal delivery, or a process-server's signed affidavit of in-person delivery constitute *prima facie* evidence of service.

Bench Warrants

The court may issue a bench warrant for the arrest of a person who fails to appear in response to a summons or subpoena, but in either case the warrant must be supported by a finding that sufficient notice was given. The judge may rely on first-class mail service if additional evidence of sufficient notice is presented. The judge cannot find sufficient evidence solely based on first class mail service. [57]

§ 7-8 Preservation of Testimony

Following the commencement of delinquency proceedings, the testimony of a witness who may be unavailable for a later hearing may be taken and preserved, either pursuant to a court order or by agreement of the parties.[58]

Any party may request the court to order the preservation of testimony.[59] After notice and hearing, the court may order testimony of a witness to be taken and preserved if it appears that the witness may later become unavailable (by dying, becoming incompetent, or leaving the jurisdiction, for example), or if, "due to exceptional circumstances," the interests of justice require it. The judge must state on the record the grounds for an order to take and preserve testimony, and the order itself must specify the time and place at which the testimony will be taken and the manner in which it will be recorded, preserved, and safeguarded until the hearing.

The rules provide a procedure for preserving testimony for a later hearing, either by court order or by agreement.

Testimony that is to be preserved pursuant to a court order, unless the order specifies otherwise, is taken in the presence of the judge as well as the juvenile, the juvenile's attorney and the attorney for the Commonwealth, who are given full opportunity to examine and cross-examine the witness and to raise objections.[60]However, the court need not make rulings on admissibility until the testimony is offered into evidence at the later hearing.

The parties may also agree to take and preserve a witness's testimony, conducting what amounts to a deposition.[61] The parties' agreement must be reduced to writing and filed with the clerk, and must contain the same specifics as a court order for the preservation of testimony—that is, the time, the place, and the manner of recording, preserving and keeping the testimony until the hearing. Testimony to be preserved by agreement should be taken in the presence of the juvenile, the juvenile's attorney, and the attorney for the Commonwealth, unless the parties agree otherwise. As when the testimony is presided over by the court, the parties have full opportunity to examine, cross-examine, and raise objections. The court must rule on admissibility when the testimony is later offered into evidence.

The court may order or the parties may agree to the recording of testimony by any means, but if the testimony is to be recorded on video, it must be simultaneously taken down by a stenographer, and certain basic technical requirements must be met.[62] For example, the recording must begin with detailed identifying statements, must show the swearing-in of the witness, and must be timed throughout by an on-camera digital clock. All objections and their grounds must be made on the recording. If the testimony is recorded without the court presiding, a log must be kept of each objection, showing the time it was made, in order to facilitate later admissibility rulings; in making its rulings on objections, the court may either read the stenographic transcript or view pertinent sections of the video with the aid of the log.[63]

§7-9 Adjudicative Competence

Due process requires that a juvenile be competent to stand trial, which includes capacity to sufficiently understand the nature of the proceedings and to assist counsel in his defense. In *Drope v. Missouri,* 420 U.S. 162 (1975), the Court held that "[a] person whose mental condition is such that he lacks the capacity to understand the nature and object of the proceedings against him, to consult with counsel and to assist in preparing his defense may not be subjected to trial."

Adjudicative competence is generally raised at the pre-trial stage of delinquency proceedings, but it can be raised at any point in the proceedings, including post-trial.

Standard for Adjudicative Competence

In *Dusky v. United States*, 362 U.S. 402, 172 (1960), the Court announced the standard for competence to stand trial: whether the defendant "has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding – and whether he has a rational as well as factual understanding of the proceedings against him."

Under the Mental Health Procedures Act, incompetence is demonstrated by substantial inability to "understand the nature or object of the proceedings against him or to participate and assist in his defense."[64] Thus, competence is two-pronged and requires both the ability to understand the proceedings and the ability to assist in one' own defense. The Mental Health Act is applied to children in the juvenile justice system.[65]

In *Godinez v. Moran*, 509 U.S. 389 (1993), the Court held that the competency standard for pleading guilty is the same as the competency standard for standing trial established in *Dusky.*

Elements of Competence

Analyses of competence to stand trial in individual cases typically require information related to two major elements of competence: abilities related to "factual understanding" and abilities related to "rational understanding."[66]

Factual understanding of the trial process refers to the youth's basic understanding of the nature of the proceedings, including:

- Nature and seriousness of the charges
- The purpose of a trial process and possible penalties
- Possible pleas, and the nature of plea agreements
- The role of various participants in the process, especially defense counsel, and including the youth himself as the defendant

Rational understanding of the trial process (sometimes called "appreciation" of the significance of what one factually understands) refers to the youth's ability to apply this information in a manner that does not impair decision making. Several reasons for limitations often seen in youth's rational understanding may be relevant:

- Understanding is often limited by the youth's auditory and visual processing problems.

- Immaturity may impair some youth's abilities to perceive risks of various decisions realistically, to weigh their long-range consequences, or to decide autonomously rather than on the basis of perceptions of their peers.
- Mental disorders may distort or "override" factual understanding (for example, if they involve beliefs that distort the youth's perceptions of the significant of the trial process).

Analysis of a youth's ***ability to assist counsel*** must focus on three main areas:

- Abilities associated with communication and trust, which may include ability to comprehend counsel's inquiries (e.g., ability to discern what is relevant to the question and to articulate the relevant information).
- Abilities associated with managing the demands of trial process (e.g., ability to endure stress, maintain demeanor, and testify relevantly, if necessary).
- Abilities associated with decision-making.

Deficits in ability to make autonomous decisions may arise because of problems related to immaturity in all of the above areas. They may also arise due to an inability to understand factually or to apply the information rationally to one's case. Any of these may reduce the youth's ability to assist counsel. Thus, an examination of the youth's ability to use information in a decision-making process is especially important.

Competency Evaluation

Judges have a duty to order a competency examination if there is reason to believe that a juvenile charged with a criminal offense is not fit to stand trial.[67] If the juvenile or his attorney objects to the examination, the court is required to conduct a hearing on whether a competency examination should be ordered.[68]

The competency examination must:[69]

- Be conducted by at least one psychiatrist or licensed psychologist;
- Contain a description of the examination;
- Provide a diagnosis of the juvenile's mental condition;
- Provide an opinion of the juvenile's capacity to understand the nature and subject of the proceedings and to assist in his defense;

- When requested, provide an opinion of his mental condition as it relates to criminal responsibility, if his mental condition may be relevant to legal responsibility for the offense; and
- When requested, provide an opinion as to the juvenile's capacity to have a particular state of mind, where that state of mind is an element of the offense.

§ 7-10 Post-Petition Alternatives to Adjudication

Consent Decree. A consent decree is an order that suspends the proceedings and places the juvenile under the supervision of the juvenile probation officer under terms and conditions agreed to by the parties.[70] The entry of a consent decree may occur any time after the filing of a petition and before the entry of an adjudication order.[71] The consent decree may only be ordered by the court if the attorney for the Commonwealth, the juvenile and counsel for the juvenile agree.[72] However, in appropriate cases, the court may inquire of the parties whether a consent decree has been considered.

The terms and conditions of the consent decree shall generally provide a balanced attention to the protection of the community, the juvenile's accountability for the offense committed, and the development of the juvenile's competencies to enable the juvenile to become a responsible and productive member of the community.[73]

When entering a consent decree, the court must explain on the record or in writing the terms, conditions and duration of the consent decree, and the consequences for violating the consent decree.[74]

A consent decree may remain in force for a maximum of six (6) months unless extended by the court for a maximum of six (6) additional months. Upon motion, the court may discharge the juvenile earlier than the time stated in the consent decree.[75] (See § 8-9, "Consent Decrees")

Mental Health Treatment. If at any hearing under the Juvenile Act the evidence indicates that the juvenile may be both severely mentally disabled and presents a danger to himself or others, the court is to proceed under the provisions of the Mental Health Procedures Act.[76] If a child under the jurisdiction of the juvenile court is initially hospitalized and is in need of extended involuntary emergency treatment, a petition under §303 of the Mental Health Procedures Act may be filed in juvenile court, authorizing a mental health commitment for up to **20 days**.[77] If the juvenile is in need of further mental health

treatment, a petition filed under §304 of the Mental Health Procedures Act allows for a mental health commitment for up to **90 days**.[78] At the expiration of that period of commitment, an additional period of involuntary treatment may be ordered not to exceed more than **180 days**. [79]

Drug and Alcohol Treatment. Act 53 of 1997[80] permits a parent or guardian to petition the juvenile court to commit a minor child between the ages of 12-17 for involuntary drug and alcohol treatment. The commitment does not require an adjudication of delinquency or dependency.

Following the filing of a petition, the court must appoint counsel for the minor and order a drug and alcohol assessment. The assessment must be performed by a psychiatrist, a licensed psychologist with specific training in drug and alcohol assessment and treatment, or a certified addiction counselor. On the basis of the assessment, the court may order the minor committed to involuntary drug and alcohol treatment, including in-patient treatment up to **45 days**.

The court must find by clear and convincing evidence that the minor is a drug-dependent person, incapable of accepting or unwilling to accept voluntary treatment and that the minor will benefit from involuntary treatment services. The minor is to remain under the treatment designated by the court for a period of up to **45 days** unless sooner discharged.

Prior to the end of the **45-day** period, the court is to conduct a review hearing for the purpose of determining whether further treatment is necessary. If the court determines further treatment is needed, the court may order the minor recommitted for an additional period of treatment not to exceed **45 days** unless sooner discharged. The court may continue the minor in either inpatient or outpatient treatment for successive **45–day** periods pursuant to determinations that the minor will benefit from these services.

Unless the court finds that the parent or legal guardian is without financial resources, the parent or legal guardian is obligated for court costs, counsel fees for the minor and the costs of assessment and treatment services.

[1] http://www.pacourts.us/courts/supreme-court/committees/rules-committees/juvenile-court-procedural-rules-committee/juvenile-court-committee-rules-and-forms
[2] http://www.jcjc.pa.gov/Publications/Pages/JuvenileCourtStandards.aspx
[2] Pa.R.J.C.P. 401. Adjudicatory Hearing.

[3] Rule 330(C), Pa.R.J.C.P.
[4] 42 Pa.C.S. § 6307(b)(1)
[5] 42 Pa.C.S. §6334(a)(3).
[6] 42 Pa.C.S. §6334(a)(4) and Rule 330, Pa.R.J.C.P.
[7] Rule 332, Pa.R.J.C.P.
[8] Rule 333, Pa.R.J.C.P.
[9] Rule 330A, Pa.R.J.C.P.
[10] Rule 331, Pa.R.J.C.P.
[11] Rule 151, Pa.R.J.C.P.
[12] Rule 151(B), Pa.R.J.C.P.
[13] Rule 150(B), Pa.R.J.C.P. The language of the rule—that "counsel shall represent the juvenile until final judgment"—should be understood to mean until the court's supervision is terminated and the case closed.
[14] Rule 150(B), Pa.R.J.C.P. The language of the rule—that "counsel shall represent the juvenile until final judgment"—should be understood to mean until the court's supervision is terminated and the case closed.
[15] Rule 152, Pa.R.J.C.P.
[16] See Comment to Rule 152, Pa.R.J.C.P. Prior to the adoption of the Rules of Juvenile Court Procedure for Delinquency Cases, a juvenile's parent or guardian was allowed to waive the juvenile's right to counsel under 42 Pa.C.S. §6337, but that provision has been superseded by Rule 152.
[17] In certain situations, the judge may appoint an attorney to act as guardian *ad litem* (GAL) for a child in a delinquency case. The appointed GAL is responsible for ensuring that the youth fully understands the court proceedings and that the youth's rights are being protected. A GAL should be appointed when: the youth's parent is the victim; the parent cannot be found or willfully fails to come to court; the parent does not seem to be concerned with the youth's best interests; or, the parent cannot understand the proceedings because of mental incapacity. 42 Pa. C.S. §6311. It is important that the role of the GAL is not conflated with the role of counsel for the juvenile.
[18] Rule 152, Pa.R.J.C.P.
[19] Rule 150(B), Pa.R.J.C.P.
[20] Rule 150(C), Pa.R.J.C.P.
[21] See Rules 340-341, Pa.R.J.C.P.
[22] Rule 573, Pa.R.Crim.P. (Pretrial Discovery and Inspection)
[23] Rule 340(A), Pa.R.J.C.P.
[24] Rule 340(B), Pa.R.J.C.P. As the Comment to Rule 340 notes, the rule is not "intended to limit in any way disclosure of evidence constitutionally required to be disclosed." Accordingly, any exculpatory evidence coming within the rule of Brady v. Maryland, whether or not listed in Rule 340(B), must be disclosed.
[25] Rule 340(D), Pa.R.J.C.P.
[26] Rule 340(C), Pa.R.J.C.P.
[27] Rule 340(D), Pa.R.J.C.P.
[28] Rule 340(E), Pa.R.J.C.P.
[29] Rule 341(G), Pa.R.J.C.P.
[30] Rule 341(F), Pa.R.J.C.P.
[31] Rule 341(A), Pa.R.J.C.P.
[32] Rule 341(B), Pa.R.J.C.P.
[33] Rule 341(C), Pa.R.J.C.P.
[34] Rule 341(D), Pa.R.J.C.P.
[35] Rule 341(E), Pa.R.J.C.P.
[36] See Official Comment, Rule 344, Pa.R.J.C.P.
[37] Rule 344(C), Pa.R.J.C.P.
[38] Rule 344(D), Pa.R.J.C.P.
[39] Rules 346 and 347, Pa.R.J.C.P.
[40] Comment, Rule 346, Pa.R.J.C.P.
[41] Rule 348, Pa.R.J.C.P.
[42] See 42 Pa.C.S. §6338(b): "An extrajudical statement, if obtained in the course of violation of this chapter or which could be constitutionally inadmissible in a criminal proceeding, shall not be used against him. Evidence illegally seized or obtained shall not be received over objection to establish the allegations made against him."
[43] Rule 350, Pa.R.J.C.P.
[44] Rule 350(D), Pa.R.J.C.P.

[45] Rule 353, Pa.R.J.C.P.
[46] Rule 351(A), Pa.R.J.C.P.
[47] Rule 351(B), Pa.R.J.C.P.
[48] Rule 352, Pa.R.J.C.P.
[49] Rules 360, 362, and 363, Pa.R.J.C.P.
[50] Rule 362, Pa.R.J.C.P.
[51] Rule 363, Pa.R.J.C.P.
[52] Rules 360 and 363, Pa.R.J.C.P.
[53] Rule 363, Pa.R.J.C.P.
[54] See Comment Rule 360, Pa.R.J.C.P.
[55] 42 Pa.C.S. §6333
[56] Rule 123, Pa.R.J.C.P.
[57] Rule 140, Pa.R.J.C.P.
[58] Rule 380, Pa.R.J.C.P.
[59] Rule 380(A), Pa.R.J.C.P.
[60] See Comment, Rule 380, Pa.R.J.C.P.
[61] Rule 380(B), Pa.R.J.C.P.
[62] Rule 381, Pa.R.J.C.P.
[63] See Comment, Rule 381, Pa.R.J.C.P.
[64] 50 Pa. P.S. §7402(a)
[65] 42 Pa.C.S. § 6356
[66] This section is adapted from the National Juvenile Defender Center's "Toward Developmentally Appropriate Practice: A Juvenile Court Training Curriculum."
[67] See 50 P.S. 7402(c)-(d).
[68] *Id.*
[69] 50 Pa. P.S. 7402(e)(4).
[70] Rule 370(a), Pa.R.J.C.P.
[71] Rule 370(a), Pa.R.J.C.P.
[72] Rule 371, Pa.R.J.C.P.
[73] Rule 373, Pa.R.J.C.P.
[74] Rule 370(b), Pa.R.J.C.P.
[75] Rule 373, Pa.R.J.C.P.
[76] 42 Pa.C.S. § 6356. 50 P.S. § 7101 et seq.
[77] 50 P.S. § 7303.
[78] 50 P.S. § 7304.
[79] 50 P.S. § 7305.
[80] 71 P.S. § 1690. 112 a et seq.