Chapter 8
The Adjudicatory Hearing

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This chapter explores the requirements for "informal but orderly" adjudicatory hearings under the Juvenile Act.

Key Statutes

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- 42 Pa.C.S. §6310 (parental participation)
- 42 Pa.C.S. §6335 (release or holding of hearing)
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JCJC Standards[2]

- Development of the Social Study

§ 8-1 Adjudicatory Hearings in General

The Rules and the Juvenile Act outline the process for the adjudicatory hearing, which is conducted without a jury in an informal but orderly manner. The victim of an alleged delinquent act, counsel for the victim, and any person accompanying a victim for his or her assistance may attend the hearing. The public is generally excluded from the hearing, except for cases involving specified delinquent acts set forth in the Juvenile Act.

The attorney for the Commonwealth has the burden of establishing beyond a reasonable doubt that the juvenile committed an alleged delinquent act. The juvenile may tender an admission at this hearing provided the court has ensured that an attorney has reviewed and completed the admission colloquy with the juvenile and has conducted an independent inquiry with the juvenile as required by the Rules.

Within **7 days** of hearing the evidence on the petition or accepting an admission, the court must enter a finding specifying which offenses, including grading and counts, were committed by the juvenile. If the court finds that the juvenile committed none of the alleged delinquent acts, it shall dismiss the petition. If the court finds the juvenile committed any of the alleged delinquent acts, the court may enter a consent decree, upon the agreement of all parties, or proceed to a hearing to determine if the juvenile is in need of treatment, supervision or rehabilitation. If the court determines that the juvenile is not in need of treatment, supervision or rehabilitation, the court must enter an order dismissing the petition . If the court determines by a preponderance of the evidence that the juvenile is in need of treatment, supervision, or rehabilitation, the juvenile shall be adjudicated delinquent and the court shall proceed to determine a proper disposition. [3]

§ 8-2 Best Practices

- An adjudicatory hearing for a youth who is not in detention should be scheduled within **30 days** after the filing of the petition.
- The atmosphere of the hearing should encourage the maximum participation of all concerned.
- The judge should ensure that the courtroom is a trauma-informed environment.
- At the commencement of the adjudicatory hearing, the judge should introduce him or herself, identify all persons in the courtroom, and announce the purpose of the hearing.

- In a case in which a delinquent act is alleged to have been committed in a county other than the juvenile's county of residence, the adjudicatory hearing should normally be conducted in the county in which the delinquent act occurred.
    - In such cases, following the court's hearing the evidence on the petition or accepting an admission, the court must enter findings specifying which offenses, including grading and counts, alleged in the petition were committed by the juvenile.
    - If restitution is owed, the court should enter a finding of the amount of restitution owed, and to whom it should be paid, if ordered.
    - The court should then transfer the case—along with certified copies of all documents, reports, and summaries in the juvenile's court file—to the county of residence for a determination of the juvenile's need for treatment, supervision or rehabilitation.
- Whenever possible, consent decrees should be approved by the judge in court after the full participation of all parties, the crime victim and juvenile's family. Only an in-court consent decree procedure makes it possible for the judge to articulate both the specific terms and the broader purposes of the consent decree.
- Judges should ensure that there is a process in place for the timely expungement of juvenile records in accordance with the Rules.

§ 8-3 Timing of Hearings

Generally, if the juvenile is being detained or held in shelter care pending the adjudicatory hearing, the Juvenile Act requires that the court schedule the hearing for no later than **10 days** from the date of the filing of the petition.[4] As is discussed more fully in the Chapter 5, under certain circumstances this ten-day deadline may be extended by court order for a single additional **10-day** period in order to secure evidence. In case of failure to hold a hearing within the **10-or 20-day** timetable, the juvenile must be released, unless the delay was occasioned by the actions of the juvenile or the juvenile's attorney.[5]

The Juvenile Act imposes no explicit deadline for holding adjudicatory hearings in cases in which juveniles are not detained or held in shelter care, and the Rules only require that the adjudicatory hearing "be held within a reasonable time."[6] As a matter of good practice, an adjudicatory hearing for a juvenile who is not in detention should be scheduled within **30**

days after the filing of the petition. The **30-day** timetable should be extended only for a specific period of time, and then only (1) by agreement of the parties or (2) for reasonable cause shown.[7]

The judge should carefully review the reasons for requests to schedule hearing dates beyond the recommended time lines. Some cases may necessitate a longer period of preparation between the detention or initial hearing and the adjudicatory hearing. Examples of situations that may need more time include cases with complex discovery issues, cases in which laboratory tests are needed to determine illegal substances, or those involving a victim who is hospitalized due to injuries from the alleged offense. However, it seems clear that at some point, a delay in bringing a juvenile to adjudication may deny "the essentials of due process and fair treatment" required by the constitution. As the Superior Court has pointed out,

> "[i]n its protective role the state must consider the importance of time in a developing child's life in attempting to fashion a successful rehabilitation program for each juvenile. As the juvenile years are marked with significant changes and rapid development, children experience an acceleration in the passage of time so that, to a juvenile, one year may seem to be five. To ensure successful rehabilitation, the reformation program…must commence within a reasonable time of the child's delinquent act so that the child can comprehend the consequences of his act and the need for reform. As a result, the concept of 'fundamental fairness' in juvenile proceedings would seem to require that at least some limit be placed on the length of time between the delinquent act and the case disposition…."[8]

§ 8-4 General Conduct of Hearings

One of the most important responsibilities of a juvenile court judge is that of establishing and maintaining the appropriate atmosphere in delinquency hearings. The Juvenile Act calls for "informal but orderly" hearings in delinquency matters.[9]

What sorts of hearing practices set the tone called for here? What concrete steps must be taken to "encourage the maximum participation of all concerned" in delinquency hearings? How can a juvenile court judge help to ensure that interests

Judges ought to consider how a typical delinquency hearing looks from the gallery, rather than the bench.

and points of view that are important to the proper resolution of delinquency matters are adequately represented in hearings?

For most judges, a useful first step might be to try to imagine how things look from the gallery, rather than the bench. To outsiders, delinquency hearings can sometimes seem rushed, perfunctory, bewildering. Particularly in busy courtrooms, those in the rear may have no idea what those in the front are doing, or even which team is which. They have been formally "summoned" here, perhaps, but it is not clear what their role is, or how their presence is necessary. And often the whole thing is over— admissions have been accepted, a sheriff's deputy is literally shooing them into the hall— before they know what's happened, or why.

Judges who wish to change this picture—to create a forum that is both orderly and inclusive—should consider the following steps:

- ***Enlarge the courtroom, at least in your mind.*** Delinquency hearings in Pennsylvania are not intended to be for professionals only. The people who don't sit at the counsel table—victims, witnesses, family members, their supporters and friends—matter too. Their views, their comprehension of the process and its purposes, their understanding and acceptance of its outcomes, all matter. Simply bearing this in mind could significantly change a judge's approach and attitude, and ultimately be reflected in the way hearings are routinely conducted.

- ***Slow down***. Especially in busy courts, it can be tempting to aspire to merely mechanical case-processing efficiency—to want to cycle through a crowded docket as rapidly as possible and to treat everything that slows the process down as an obstacle or a distraction. What often gets overlooked in this sort of haste are the real purposes of delinquency hearings. It may be that the problem lies elsewhere—too many hearings scheduled for the same day, too little time allocated to each one, too few judges and masters assigned to delinquency cases, etc. But it all has to stop—or rather slow down—here.

- ***Identify the players***. Who are all those people in the back? Too many judges take no trouble to find out. As a result, in the course of the hearing, they miss opportunities both to learn and to teach. The people in the back, of course, are equally at a loss, since the routine participants in delinquency hearings—the prosecutor, the probation officer, the public defender, the clerk, the recorder, the tipstaff—are well-known to one another and rarely identify themselves. The result is a kind of wall of incomprehension separating the insiders from the outsiders, requiring everyone to

guess at everyone else's identity. Fortunately, it isn't hard to break through. In some courtrooms, for example, there are sign-in sheets for those attending hearings. The clerk may read out the names of those present at the start of the hearing, or the sheet may be kept on the bench to be consulted by the judge throughout.

- ***Explain, articulate, and translate***. If the nonprofessionals attending delinquency hearings are to understand and participate in the proceedings, they will from time to time need guidance, if not a translation. It is largely up to the judge to explain what is happening and why for the benefit of those unfamiliar with the court process—and not only to describe the mechanics of the system but to articulate the principles behind it. But judges can also encourage probation officers, attorneys and others routinely involved in delinquency hearings to express their thoughts and assumptions clearly, and to steer away from lingo, acronyms, and other unfamiliar forms of shorthand that have the effect of keeping outsiders out.

- ***Use motivational interviewing***. This evidence-based practice a core practice of the JJSES, involves asking open-ended questions, giving affirmations recognizing strengths, listening reflectively and responding with summaries communicating interest, understanding and attention to important details. Colloquies should engage the juvenile in a discussion with the court about important matters. Judges should avoid questions asking for a "yes" or "no" answer, and should use language understandable to the juvenile.

- ***Observe some formalities***. Many of those in the courtroom will have just this one experience of the juvenile justice system. What sort of impression will they take with them? The informality and lack of solemnity with which delinquency hearings are sometimes conducted may suggest—to victims, to community members, and perhaps most disastrously to juveniles and their families—that delinquency matters are not taken seriously. A judge can do something to counteract this impression simply by insisting that everyone in the courtroom show proper respect for the occasion.

- ***Remember courtesies*.** Judges should not leave it to others to extend common courtesies to those in attendance at hearings—such as the courtesy of acknowledging them directly, of welcoming them, of thanking them for their time, and of apologizing for long waits, crowded conditions, and so on. (Of course, if the court's facilities or scheduling practices are such that apologies are always in order, the judge has a responsibility to advocate for concrete changes as well.) Even more importantly, when a delinquency matter is unexpectedly continued, or witnesses are

dismissed because their testimony is not needed, or an offer of admissions eliminates the need for an adjudicatory hearing, the judge should not neglect to say something by way of explanation and apology to those who have been inconvenienced.

§ 8-5 Hearings Conducted by Juvenile Court Hearing Officers

Pennsylvania law permits juvenile hearings to be conducted by juvenile court hearing officers.[10] However, the Rules limit the authority of hearing officers. Hearing officers have no authority to conduct hearings involving felonies or requests for transfer to criminal proceedings, to issue warrants, or to hear requests for writs of habeas corpus. [11] Before the hearing commences, it is the duty of the hearing officer to inform the parties that they are entitled to a hearing before a judge.[12] If a party objects to a hearing before a hearing officer, the matter must be heard by a judge.[13] However, there is no need to file exceptions or to request a rehearing.[14]

When a hearing is conducted by a hearing officer, the written findings and recommendations for disposition are sent to a judge and copies are given to the parties to the proceeding.[15] The judge receiving the findings is empowered to order a rehearing before a judge at any time upon cause shown.[16] The Pennsylvania Superior Court has found that this procedure does not violate the constitutional ban against double jeopardy.[17] If no rehearing is ordered, the hearing officer's findings and recommendations become those of the court upon written confirmation by the judge.[18] A judge may accept the factual findings of a hearing officer but alter the legal determinations, including finding the juvenile delinquent of a more serious offense than the hearing officer did if the factual findings so warrant.[19]

§ 8-6 Public Attendance at Hearings

The Juvenile Act provides for varying degrees of openness in hearings on delinquency petitions:[20]

- ***In camera hearings***. The general rule is that juvenile hearings are closed to all except "the parties, their counsel, witnesses, the victim and counsel for the victim, other persons accompanying a party or a victim for his or her assistance, and any other person as the court finds have [sic] a proper interest in the proceeding or in

the work of the court."[21] The juvenile's parent or guardian will normally be present, as persons assisting a party, and can in fact be compelled to attend where it is in the best interests of the juvenile.[22] From this list it will be seen that even a so-called "closed" hearing may be attended by quite a crowd, particularly if the court construes operative terms (such as "proper interest") liberally.

- ***Hearings closed by agreement***. The juvenile and the attorney for the Commonwealth may agree to close a hearing, though not presumably to "the parties, their counsel, witnesses, the victim," and the other categories listed above.[23]

- ***Open hearings in certain serious cases.*** Except by agreement of the parties, the public cannot be excluded from delinquency hearings involving (1) any felony allegedly committed by a juvenile of at least 14 or (2) certain enumerated felonies allegedly committed by a juvenile of 12 or 13.[24] The enumerated felonies are roughly the same as those that are excluded from juvenile court jurisdiction when committed by a juvenile of sufficient age using a deadly weapon. They include:

    - Murder
    - Voluntary manslaughter
    - First degree felony aggravated assault
    - First degree felony arson
    - Involuntary deviate sexual intercourse
    - Kidnapping
    - Rape
    - First degree felony robbery
    - Robbery of a motor vehicle
    - Any attempt, conspiracy, or solicitation to commit any of these offenses.

Judges in a number of jurisdictions have found that inviting, encouraging and facilitating the attendance of the media and interested members of the public can be of great benefit to the work of the court. When the local media understand the unique mission of the juvenile court and the operations of the juvenile justice system, community support for court programs can be enhanced and balanced news coverage in high profile cases is more likely to result. Except in jurisdictions where the relationship between the news media and the court would make such invitations ill-advised, judges are encouraged to consider this approach. However, there are limits, and the judge must draw the line where an atmosphere of intimidation or disorder would result from public and media attendance. Pre-hearing meetings to set confidentiality ground rules are good practice in any case in which members of the public will be attending. And where necessary, judges are given

discretion to close portions of hearings or take other action to safeguard the confidentiality of mental health and medical information as well as institutional and probation reports.[25]

§ 8-7 Hearing Procedures

To find a youth delinquent requires (1) a finding of fact that a youth has committed a delinquent act within the court's jurisdiction and (2) a determination as to whether the youth is in need of supervision, rehabilitation or treatment. This process involves four distinct steps:

***Initial steps**:*

The fact-finding phase of a delinquency proceeding is subject to strict constitutional and statutory safeguards.

- ✓ An adjudicatory hearing should commence with a determination that the juvenile court has jurisdiction over the matter petitioned. (For a discussion of the exact boundaries of Pennsylvania delinquency jurisdiction, see § 4-5.)
- ✓ The judge must identify everyone in the courtroom to confirm the presence of the juvenile,[26] his or her counsel, the juvenile's parent(s), legal custodian including the juvenile's caseworker if under the custody of the county Children and Youth agency (C&Y), caretaker[27] or guardian *ad litem,*[28] the prosecuting attorney and any other persons having an interest in the proceeding, including the victim if he or she has chosen to appear. If the juvenile is in restraints they must be removed prior to the commencement of the hearing unless the court determines that they are necessary.[29]
- ✓ All juveniles are presumed indigent. If the juvenile appears without counsel, the court must appoint counsel for the juvenile prior to commencement of the hearing.[30] A juvenile, regardless of age, may not waive his/her right to counsel for an adjudicatory hearing, including a hearing involving the tender of an admission.[31] (See § 7-4, "Attorney Representation.")
- ✓ The court determines whether an admission will be tendered or a fact-finding hearing will be conducted. The court must explain to all persons present the procedure which will be followed, and must assure that the juvenile is fully aware of all constitutional rights and of the collateral consequences of a delinquency adjudication.[32]

Fact-finding. If the court determines that it has jurisdiction to hear the matter, that the juvenile has counsel, and that the child is fully aware of all constitutional rights and of the collateral consequences of a delinquency adjudication, it may proceed to hear evidence (or accept admissions) on whether the juvenile committed the delinquent acts alleged in the petition. Under the Juvenile Act, the accused is "entitled to the opportunity to introduce evidence and otherwise be heard in his own behalf and to cross-examine witnesses"[33] as well as to be represented by counsel.[34] The Juvenile Act specifies that the district attorney must represent the Commonwealth in these proceedings.[35]

Ruling on offenses. Within **7 days** of hearing the evidence or accepting admissions, the court must enter a finding specifying which if any of the offenses alleged in the petition the juvenile has been proven beyond a reasonable doubt to have committed.[36] For each delinquent act proven or admitted, the court must specify the grading and counts. If the court dismisses the allegations as unproven, it must also release a juvenile who has been detained, unless there are other grounds for detention,[37] and order the destruction of fingerprints and photographs.[38]

Adjudication of delinquency. If the court has found beyond a reasonable doubt that the juvenile committed any delinquent act,[39] it must, except when the juvenile is not a resident of the county wherein the delinquent acts occurred, proceed—either immediately or at a postponed hearing—to hear evidence regarding whether the juvenile is "in need of treatment, supervision or rehabilitation, as established by a preponderance of the evidence" and therefore delinquent. If the juvenile is in detention, the court is to make its finding within **20 days** of the ruling on the offenses; if the juvenile is not in detention, the court must make its finding within **60 days** of the ruling on the offenses. These time restrictions may be extended if there is an agreement by both parties.[40] If the court finds that the juvenile is in need of treatment, supervision or rehabilitation, it must order the law enforcement agency that submitted the written allegation to fingerprint and photograph the juvenile, if this was not previously done,[41] and must ensure that these records are forwarded to the State Police.[42] If the juvenile is a resident of another county at the time of the commission of one or more offenses, the court should transfer the case, after ruling on the offenses, to the juvenile's home county for adjudication on the question of delinquency.

Evidence

Fact-finding: Accused juveniles have the right to confront and cross-examine witnesses against them and to request exclusion of illegally obtained evidence and extrajudicial statements that would be inadmissible in criminal proceedings.[43] The court must take care to avoid prematurely considering evidence that bears only on the question of appropriate

dispositions. In general, while the court is engaged in determining whether or not the juvenile committed the acts alleged in the petition, evidence that would not be competent in a criminal proceeding (e.g.: victim impact statements, probation pre-disposition reports) should not be admitted. Incriminating statements made in connection with admissions that are not accepted or are withdrawn are likewise inadmissible.[44]

***Witnesses*:** All witnesses against a juvenile in a delinquency proceeding must be sworn and subject to the penalties for perjury.[45] When a witness is a child under the age of 14 it must be established before any testimony is taken that the witness is competent. The test and manner for determining the competency of a child witness was described by the Superior Court as follows:

> "In establishing competency the court should inquire into three areas of testimonial capacity: capacity to observe the acts about which the infant is to testify; capacity to recollect what was observed; and, capacity to communicate what was observed, that is, the capacity to understand questions and frame intelligent answers, and the capacity to appreciate the moral responsibility to be truthful."[46]

It is not so important that the child understand or appreciate the meaning of the oath itself, but the witness must have a sense that falsehoods will be punished.[47]

Need for treatment or supervision or rehabilitation: Evidence rules may be relaxed in determining whether the juvenile needs treatment, supervision or rehabilitation.

The Juvenile Act actually prohibits the court from ordering even the preparation of a social report in a contested case involving a juvenile who has not yet been found to have committed a delinquent act.[48] In practice, however, unless the juvenile objects, the routine in many counties is not to wait, but to begin assembling social report information before any fact-finding has occurred. In any case, the JCJC Standards Governing the Development of the Social Study provide that "adequate precautions must be taken to assure that information from the social study report will not be disclosed to the Court prior to adjudication."

Record Requirements and the Use of Advanced Communication Technology (ACT)

All reports and writings relied upon by the judge in the making of his or her determinations must be received into evidence and made part of the official record. Alternatively, the relevant parts of a written report or writing may be read into the record by the judge or a witness. Confidential reports and writings should be placed under seal and be made

available for subsequent review only by court order. Under the Rules, there must be a verbatim recording of the entire adjudicatory proceeding.[49] The applicable rules do not specify how or by whom the recording is to be made. Any method of recording authorized by the court may be utilized provided the recording can be transcribed if ordered. The recording must be transcribed upon motion of any party, upon the court's own motion or as required by law.[50] A court may utilize advanced communication technology for the appearance of the juvenile or of a witness, but only if the parties consent.[51] Notwithstanding, the court should never conduct an adjudicatory hearing (or accept an admission) without the juvenile's presence.[52]

Required Findings

Within **7 days** of hearing the factual evidence on a delinquency petition, "the court must make and file its findings whether the acts ascribed to the child were committed by him."[53] The seven-day deadline may be extended only by agreement of the parties, but failure to meet it is not grounds for dismissal or discharge. In any case, the best practice is to make the factual finding, if at all possible, at the conclusion of the fact-finding hearing.

Again, the court's finding that the juvenile committed a delinquent act is not the equivalent of a finding of delinquency. The latter requires a separate finding—that the juvenile is currently "in need of treatment, supervision or rehabilitation"—which can be and often is made at a separate disposition hearing, especially where the allegations of delinquency were not admitted by the juvenile. (See the following chapter on "Delinquency and Disposition Determinations.") In theory, a court may find that the juvenile committed the acts alleged in the petition, but further conclude that no treatment, supervision, or rehabilitation is needed—in which case a dismissal and discharge are warranted. However, the Juvenile Act provides that, even without further proof, the fact that the juvenile has committed an act constituting a felony is sufficient to sustain a finding of a need for treatment, supervision, or rehabilitation.[54]

If the court finds that the juvenile committed none of the alleged delinquent acts[55] or finds that the juvenile is not in need of treatment, supervision or rehabilitation,[56] the court must order *sua sponte* the expungement of the record and destruction of fingerprints and photos related to the dismissed petition, and absent cause shown, the court must expunge or destroy the records, fingerprints and photos.[57]

If the court finds that the juvenile committed none of the alleged delinquent acts and dismisses the petition, the victim, if not present, is to be notified of the final outcome of the proceeding.[58]

§ 8-8 Admissions

At any time after a petition is filed, the Rules allow the juvenile to tender an admission to some or all of the alleged delinquent acts.[59] If the prosecutor and counsel for the juvenile have entered into an admission agreement, the court has the final determination over whether to accept the parties' admission agreement.

Before accepting an admission, the court must confirm that the admission is knowingly, intelligently and voluntarily made. As part of this determination, the court must ensure that:

- an attorney has reviewed and completed the written admission colloquy required by Rule 407 [60] and,
- there is a factual basis for the admission.

At the hearing the court must conduct an independent inquiry with the juvenile to determine:

- whether the juvenile understands the nature of the allegations to which he or she is admitting and understands what it means to admit;
- whether the juvenile understands that he or she has the right to a hearing before the judge and understands what occurs at a hearing;
- whether the juvenile is aware of the dispositions that could be imposed and the consequences of an adjudication of delinquency that can result from an admission;
- whether the juvenile has any questions about the admission; and,
- whether there are any other concerns apparent to the court after such inquiry that should be answered.

If juvenile is making an admission, the colloquy must be in writing and substantially in the form required by Rule 407, reviewed and completed with the juvenile by an attorney, and submitted to and reviewed by the court.

If the juvenile is making an admission to one or more acts of "sexual violence"[61] which may render the juvenile eligible for civil commitment for involuntary treatment upon attaining 20 years of age, the colloquy must include the addendum required by Rule 407D. It is essential that the court ensure that a juvenile who is entering and admission to an act of "sexual violence" understands all of the rights and potential dispositions and consequences

of that admission. (See below and § 10-8 Special Disposition Review Procedures for Juveniles Committed to Placement for Specified Acts of Sexual Violence.)

Good Practice in Accepting Admissions

The judge should give careful thought to the acceptance of an admission and the process by which it is accepted. The judge should ensure that the process does not give the juvenile the impression that he or she will not be held responsible for an offense, or that the admission process is a way of manipulating the juvenile delinquency system for gain. The admissions process is an opportunity to gain information about the circumstances of the offense and the impact of the crime on the victim and the community as well as the rehabilitative needs of the juvenile in order to craft an appropriate disposition.

- ***Get the facts*.** Busy prosecutors can sometimes be content with very general admissions that dispose of the case without settling key factual issues. A judge should not be, particularly when the means of clarifying the issues are right in the courtroom. A juvenile may admit to attempted credit card fraud, but how did he come by the credit card—by happenstance or by theft? If the prosecutor's summary of the Commonwealth's case passes over a point like this, the judge should inquire. The idea is not to stir up factual disputes for their own sake. But what if the credit card-holder is right in the gallery? Delinquency adjudications, and the dispositions based on them, should as far as possible reflect reality—and not the incomplete, ambiguous version of reality that too often emerges when factual issues are not put to the test of an evidentiary hearing.

- ***Take special care in sex offense cases*.** As discussed above, if a juvenile admits to having committed an act of sexual violence,[62] and is in placement at age 19 ½, he or she must be referred to the State Sexual Offenders Assessment Board (SOAB) for an assessment.[63] If the SOAB concludes the juvenile is in need of involuntary treatment, the court must conduct a special dispositional review hearing. If, at the conclusion of that hearing, the court finds that there is a prima facie case that the juvenile is in need of involuntary treatment under 42 Pa.C.S. Ch. 64, the court must direct the filing of a petition to initiate commitment proceedings under that chapter. [64] Further proceedings would then be conducted pursuant to that chapter, the Court Ordered Involuntary Treatment of Certain Sexually Violent Persons statute.[65] (See § 10-8, "Special Disposition Review Procedures for Juveniles Committed to Placement for Specified Acts of Sexual Violence.")

- ***Address the parents/guardians*.** The judge should inquire as to whether or not the parents/guardians have been involved in the process and understand the next steps.

- ***Address the gallery*.** In too many courtrooms, victims, witnesses, family members and others are assembled for adjudicatory hearings, detained for a time, and dismissed without explanation or apology when admissions make their testimony unnecessary. As was noted earlier (see "General Conduct of Hearings," § 8-4, above), a better procedure is for the judge to address them directly, to explain what is happening and why, to thank them for taking time to contribute to the resolution of the matter, and to apologize for having inconvenienced them.

- ***Engage the victim of the crime*.** Judges should not focus so narrowly on the business being transacted in front of the bench that they forget that the hearing is for the victim, too. (See § 8-11 "Ensuring the Rights of Victims," below.)

- ***Call upon the juvenile.*** During the judge's inquiry of the juvenile, before accepting the juvenile's admission, the judge should ask the juvenile to describe what happened when the crime was committed. Depending on the sophistication of the juvenile the judge may inquire "*What were you thinking at the time of the crime?*" "*Have your thoughts changed since then?*" One kind of accountability—and not the least important kind—is simply accountability for explanations. That form of accountability can be severely undercut by a proceeding in which the juvenile never feels called upon to speak, to look anyone in the eye, to face up to anything publicly, or even to acknowledge that he is the person everyone is talking about. A perfunctory "Do you have anything to say?" may elicit nothing, of course. But judges should be aware of tendencies of their own that discourage responses from juveniles—such as the tendency to cut embarrassing pauses short, to suggest answers, to interrupt and scold. (Adults often "listen" to young people by arguing them into silence.) Even a direct, pointed question is unlikely to draw a meaningful response unless the judge is willing to wait—to let the hearing grind to a halt—for what may seem like a long time. And yet, considering the substantial investment that the juvenile justice system makes in arresting, processing, trying, placing, treating, and supervising a typical juvenile offender, doesn't it make sense for the official overseeing this sprawling project to make some effort—including the effort of waiting through a silence of 10 or 20 seconds—to find out what is going through his mind?

If the judge finds that the attorney has reviewed the written admission colloquy with the juvenile and that there is a factual basis for the admission, and has determined after an

independent inquiry with the juvenile that the admission has been made knowingly, intelligently and voluntarily, the judge may accept the juvenile's admission. After accepting the juvenile's admission the court must determine if the juvenile is in need of treatment, supervision, or rehabilitation. If the court finds that the juvenile is in need of treatment, supervision, or rehabilitation it must adjudicate the juvenile delinquent and move the case forward to the disposition phase. If the judge determines that the admission should not be accepted, the case must be scheduled for a contested adjudicatory hearing.

§ 8-9 Consent Decrees

At any time before the court has entered findings and an adjudication order, the parties may move to have the proceedings suspended pursuant to a consent decree imposing negotiated supervision conditions.[66] Nothing prohibits the entry of a consent decree after an admission under Rule 407 or after a finding under Rule 408. The court may not enter a consent decree over the objection of either the juvenile or the attorney for the Commonwealth.[67] On the other hand, the court need not approve a consent decree that is inconsistent with the public interest merely because the parties have agreed to it.

Nothing prohibits the entry of a consent decree after acceptance of an admission under Rule 407 or a ruling pursuant to Rule 408.

Consent decree terms and conditions, like disposition orders, must "provide balanced attention to the protection of the community, accountability for offenses committed and the development of competencies to enable the child to become a responsible and productive member of the community."[68] That means that, in determining the appropriateness of a consent decree, the court should consider the rehabilitative needs and strengths of the juvenile, the seriousness of the offense, and the impact on the victim and the community, just as it does when making a disposition determination. The court should also consider whether the needs of the juvenile can be addressed in the time the consent decree remains open. Consent decree conditions may include evidence-based programming specifically targeted to identified needs, restorative conditions including but not limited to restitution, and conditions targeted at community protection including reporting obligations, associational restrictions, and curfews.

Victims are entitled to submit prior comment on the appropriateness of a negotiated consent decree.[69] Before approving a consent decree, a judge should always confirm that

any required consultation with the victim has in fact occurred. In addition, as was noted in the previous discussion of "Informal Adjustment" (see § 4-8), the views of law enforcement may also shed light on the appropriateness of a proposed consent decree.

This approach has the virtue of clarifying, for the benefit of the juvenile and his family, the victim, and others interested in the case, what the juvenile justice system intends to accomplish through the consent decree. It also helps to ensure that district attorneys, juvenile probation officers, and others involved in negotiating consent decrees do not overlook essential provisions, and that judges do not approve consent decrees that are incomplete. (For more detailed information on appropriate terms and conditions for diverted cases, see the discussion of "Informal Adjustment" at § 4- 8.)

Under the Rules, the court is required to explain to the juvenile—"on the record or in writing"—the terms, conditions and duration of the consent decree and the consequences for violating it.[70] Although consent decrees in some jurisdictions are submitted on paper and approved routinely, without the appearance or participation of the juvenile, his family, or the victim, valuable opportunities may be lost thereby.

The better practice, if possible, is for the interested parties to be present in court for the approval and entry of the consent decree. Only an in-court consent decree procedure makes it possible for the judge to do all the following:

- Articulate both the specific terms and the broader purposes of the consent decree.
- Ensure that the parties, particularly the juvenile and his family, understand what is expected of them, and the consequences of failure to comply.
- Make it clear that the court's own authority is behind the consent decree.
- Call upon the juvenile to explain his conduct and acknowledge responsibility for it.
- Explain the availability of and process for expungement.

While one of the primary purposes of the consent decree procedure is to avoid imposing the stigma and serious collateral consequences of a delinquency adjudication on juveniles who are willing to accept supervision without it, it should never be employed in a case in which a juvenile is unwilling to admit wrongdoing.

When a juvenile has successfully fulfilled the terms and conditions of a consent decree, he or she is discharged by the probation office, the original petition is dismissed, and no further proceedings may be brought against him or her on the basis of the conduct alleged in the original petition.[71] On the other hand, if the juvenile violates conditions imposed by

the consent decree or has a new delinquency petition filed against him while subject to a consent decree, the attorney for the Commonwealth, following consultation with juvenile probation, may reinstate the original petition.[72]

The consent decree may be for a term of up to **6 months**.[73] However, upon motion, the court may discharge the juvenile earlier, or extend the consent decree for up to an additional 6 months.

Expungement: Upon motion or *sua sponte,* expungement proceedings may be commenced when **6 months** have elapsed since the final discharge from a consent decree supervision and no proceeding seeking adjudication or conviction is pending.[74] The court must ensure there is a process in place in their county for timely expungements.

§ 8-10 Trauma-Informed Court Process and Procedures[75]

A majority of children involved in the juvenile justice system have a history of trauma. Children and adolescents who come into the court system frequently have experienced not only chronic abuse and neglect but also exposure to substance abuse, domestic violence and community violence.

The psychological, emotional, and behavioral consequences of these experiences can be profound, but may go unrecognized if judges and related personnel do not delve more deeply into the backgrounds of children and adolescents who come before the court. By understanding the impact of trauma on the development, beliefs, and behaviors of children, judges can become more effective in addressing the unique needs and challenges of traumatized children and adolescents involved in the juvenile court system.

Child abuse and neglect have been shown to adversely affect the growth of the brain, nervous, and endocrine systems and to impair many aspects of psychosocial development, including the acquisition of social skills, emotional regulation, and respect for societal institutions and mores. Although a significant proportion of traumatized children seen in court meet the diagnostic criteria for posttraumatic stress disorder (PTSD), many others suffer from traumatic stress responses that do not meet the clinical definition of PTSD. Traumatic stress may manifest differently in children of different ages.

The following table summarizes child traumatic stress reactions by age group:

Age Group	Common Traumatic Stress Reactions
Young Children (Birth – 6 y)	• Withdrawal and passivity • Exaggerated startle response • Age outbursts • Sleep difficulties (including night tremors) • Separation anxiety • Fear of new situations • Difficulty assessing threats and finding protection (especially in cases where a parent or caretaker was aggressor) • Regression to previous behaviors (e.g., baby talk, bed-wetting, crying)
School-Age Children (6 – 12 y)	• Abrupt and unpredictable shifts between withdrawn and aggressive behaviors • Social isolation and withdrawal (may be an attempt to avoid further trauma or reminders of past trauma) • Sleep disturbances that interfere with daytime concentration and attention • Preoccupation with traumatic experience(s) • Intense, specific fears related to the traumatic event(s)
Adolescents (13 – 18 y)	• Increased risk taking (substance abuse, truancy, risky sexual behaviors) • Heightened sensitivity to perceived threats (may respond to seemingly neutral stimuli with aggression or hostility) • Social isolation (belief that they are unique and alone in their pain) • Withdrawal and emotional numbing • Low self-esteem (may manifest as a sense of helplessness or hopelessness

If any of the above reactions are displayed by the juvenile or the victim, or there is a traumatizing incident in the courtroom, the judge should inquire whether there is support for the affected person. If there is an identified person with whom the juvenile or victim can speak, arrangements should be made for these persons to timely meet. Where a traumatizing incident occurs in the courtroom or elsewhere before the commencement of proceedings, the judge should allow a delayed exit or ensure there is a safe exit for all affected persons from the courtroom and courthouse.

Although the court will receive information about the juvenile's trauma, the judge should refrain from discussing it openly in the courtroom – call a side bar. If there is information

about suicidal ideations, the judge should be especially mindful of the language he or she and others are using in in open court. Where possible, "One Family–One Judge" case assignment practices may serve to minimize the number of times juveniles or victims have to retell their traumatizing histories.

Formal trauma assessment is critical to identifying children and adolescents in the courtroom who are suffering from traumatic stress. Well-validated trauma screening tools include:

- UCLA PTSD Reaction Index[76]
- Trauma Symptom Checklist for Children (TSCC)[77]
- Child Sexual Inventory[78]

The court should ensure that these assessments are administered and interpreted by qualified professionals.

When referring traumatized children and families for care, courts have the unique opportunity to choose practitioners or agencies that understand the impact of trauma on children and can provide evidence-based treatment appropriate to the child's needs.

While treatment needs to be individualized depending on the nature of the trauma a child has experienced, clinicians should use treatments that have clinical research supporting their use. Evidence-based treatment practices are those that have been rigorously studied and found to be effective in treating child or adolescent trauma.[79]

The judge should consider requesting the juvenile probation department to develop a list of community providers who have training and experience in delivering evidence-based trauma practices. If the community lacks trained trauma professionals, creating an advisory group that can increase community awareness of evidence-based practices and necessary training requirements might be helpful. It is important to remember that trauma treatment may need to be combined with treatment for other conditions as well, such as substance abuse or aggression. By becoming trauma-informed and encouraging the development and mobilization of trauma-focused interventions, judges can make the difference between recovery and continued struggle for traumatized youth and their families.

§ 8-11 Ensuring the Rights of Victims

The victim of a juvenile's crime is required to receive notice of the adjudicatory hearing.[80] In addition, the victim, counsel for the victim, and any other person accompanying a victim for his or her assistance, have the right to attend the adjudicatory hearing.[81] If the victim is not present at the hearing, and the court determines that the juvenile is not in need of treatment, supervision or rehabilitation, and terminates jurisdiction, the victim is entitled to be notified of this outcome.[82]

The judge must ensure that a process is implemented to inform the court that a victim is present or wishes to be present at a hearing and that the victim is given information regarding their ability to be present and the ways they may participate. It is essential that victims receive accurate information about the juvenile justice system and the proceeding they will attend.

In 1995, during Special Session 1, the Pennsylvania Legislature changed the mission of the juvenile justice system with the passage of Act 33, amending the Juvenile Act with a new purpose clause reading in part as follows: "…consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community".[83] According to the Pennsylvania Council of Chief Juvenile Probation Officers and the Juvenile Court Judges' Commission: "This new purpose clause in the Juvenile Act is rooted in the philosophy of balanced and restorative justice, which gives priority to repairing the harm done to crime victims and communities and which defines offender accountability in terms of assuming responsibility for the harm caused by his/her behavior and taking action to repair that harm to the extent possible. At the foundation of this philosophy is the concept that crime victims and the community, as well as juvenile offenders, should receive balanced attention and gain tangible benefits from their interactions with Pennsylvania's juvenile justice system." [84]

The provision of balanced attention to crime victims essentially requires a commitment to three categories of rights to which crime victims are entitled at the adjudicatory hearing and throughout the entire juvenile justice process. These rights are codified in the Pennsylvania's Crime Victims Act[85] and the Rules of Juvenile Court Procedure for Delinquency Matters[86]:

- ***The right to be notified.*** Notification and information are essential needs of crime victims. It is not by choice that victims of juvenile offenders are involved in the juvenile justice system. That choice was made for them by the juvenile offender. The victim's lack of power to control the situation will affect every movement, every action and all of their choices in their journey toward recovery. Providing notification to victims of crime can contribute to the victim's restoration. Providing notification to victims of their rights at each stage of the process can also assist victims in assessing their own personal sense of safety and security. Notification and information also provide opportunities for victims to regain the power and control that was taken during the commission of the crime.

- ***The right to be present.*** The opportunity to be present during proceedings in the juvenile justice system is an important way in which victims feel included in the process. Victims may want and need to be present to see the offender, hear the arguments and or the recommendations of both the defense and the Commonwealth and see the reactions of all parties involved in the proceedings. Most importantly, when present, victims can see and hear the case unfold before their own eyes. Providing victims with the opportunity to be present allows them to determine for themselves what they will see and hear. They can stay or leave as the testimony proceeds. Their presence allows them to learn about the system first hand. Allowing victims to be present at proceedings removes them from the sidelines of justice and places them closer to the experience of justice. Ensuring the opportunity for victims to be present demonstrates the transparency of the juvenile justice system in addressing the crimes committed against them. Victims may not always choose to attend, but extending the right to be present acknowledges the victims' need to be included and the system's desire to include them throughout the process. Extending to victims the right to be present represents an effort by the system to restore the power and control taken from them as a result of the commission of the offense. Victims who are informed and involved in the process are more likely to be cooperative and satisfied with their experience in juvenile justice system.

- ***The right to be heard.*** The opportunity for victims to be heard by the juvenile justice system may have the greatest impact on their overall well-being and may influence their satisfaction with the justice system. The victim's initial complaint is a story on paper. It has no face, little feeling and is impersonal. When a victim is consulted on the potential for the reduction of charges, to provide testimony, or to submit a victim impact statement, the victim becomes a real person who is now part of the system of justice. These opportunities bring the victim in from the sidelines

toward the center of the process, where they can talk about their victimization, the long-term effects on them, their family and friends, and what they need to be made whole. Victims who have been heard are more likely to feel that they have experienced justice.[87]

The following activities are critical if a court is committed to achieving the purposes for which crime victims have been guaranteed these rights:

Victims ultimately depend upon judges to enforce and give substance to their participation rights.

- ***Groundwork.*** Creating a place for victims in juvenile court begins outside the courtroom. As administrators and leaders of their courts, judges should continually monitor the effectiveness and adequacy of local efforts to bring victims into the justice process. Do victims receive consistent, accurate, timely, and sensitive notification regarding court proceedings? Is there an orientation program to help them understand their rights? Is there a separate victim/witness waiting area in the courthouse? Are there victim advocates to accompany them to hearings? Is any effort made to determine their satisfaction with the process afterwards, or to offer them post-disposition advice and guidance?

- ***Pre-hearing consultation.*** Victims must be notified of significant proceedings pertaining to the case and the date, time, place, purpose, and outcome of the proceeding.[88] Victims must also be given an opportunity to submit comment prior to several key case processing events. In general, victims have a right to be heard before cases are resolved wholly or partially by any sort of agreement. Victims have the right to have their input considered in disposition decision-making as well. [89] While prosecutors and probation officers are given the primary responsibility for soliciting victim input in juvenile cases, victims ultimately depend upon judges to enforce and give substance to their consultation rights. If the judge always demands to know what the victim thought about a proposed consent decree or negotiated admission agreement, or why there is no impact statement in the predisposition report, prosecutors and probation departments will make it their business to find out—and will not come to court until they do.

- ***Sequestration.*** The victim, counsel for the victim, and other persons accompanying the victims for his or her assistance are permitted to attend all proceedings.[90] In rare instances to preserve the dignity and orderly functioning of the court, the court may exclude some persons from the proceedings. As a matter of basic due process, a

victim who is to be a witness in an adjudicatory hearing may have to be excluded from the hearing room during some part of the fact-finding phase. However, keeping in mind victims' own hearing attendance rights as well the practical and symbolic value of victim presence and participation in juvenile hearings, judges should take steps to keep these periods of sequestration to an absolute minimum, including requiring prosecutors to present their cases in such a way as to permit victims to return to the courtroom as soon as possible. In any case, judges should make sure that victims understand the purpose and necessity of sequestration.

- ***Participation*.** What has been said above about the judge's role in encouraging "maximum participation" in juvenile hearings (see "General Conduct of Hearings," §8-4), applies with special force to encouraging victim participation. Juvenile court judges must be alert for opportunities to acknowledge the victim's presence in the courtroom, to explain the court's methods and procedures, and to articulate the principles they are intended to serve. Once the fact-finding phase is concluded, the judge should take the opportunity afforded by the victim's presence to describe the disposition process, to solicit victim input orally, to gather additional details regarding written victim impact statements (see below), and where appropriate and with the support and consent of the victim, to orchestrate impromptu victim-offender interactions.

- ***Opportunity/encouragement to speak*.** No matter what the posture of the case, victims should always be afforded some opportunity to tell the court what they experienced and how it felt. A victim who has been given a chance to speak regarding these matters is more likely to accept the outcome of the judicial process—to feel that something like justice has been done. The victim's account may also help the juvenile to understand the consequences of his wrongdoing more fully. As long as the judge retains control of the situation, even the victim's anger may be good for the juvenile to hear. And it should lead to better disposition decision-making as well, by giving the court a deeper understanding of the harm caused by the juvenile's offense and the steps that must be taken to repair it. But affording victims a meaningful opportunity to speak in court will take groundwork as well—such as a victim advocate's help in the preparation of a statement, as well as an opportunity to speak with and receive support from an advocate after the hearing is over.

- ***Apologies in the courtroom.*** Before allowing an apology in the courtroom the judge should inquire whether the victim is ready to receive the apology at this time and whether the victim prefers that the juvenile address the court or the victim.

- ***Post-hearing consultation.*** In addition to the above notification requirements, the victim must be provided with notice of review hearings, of motions for early termination of court supervision,[91] and of details regarding the final disposition of the case. [92] When a juvenile has been adjudicated delinquent for a personal injury crime and ordered to a residential placement, shelter facility or detention center, the victim may request prior notice of the juvenile's release, including a release on a temporary leave or home pass, of any escape or failure to return from a temporary leave or home pass, and of any change in placement.[93]

§ 8-12 Accommodating Young Witnesses

Witnesses in adjudicatory hearings must be placed under oath, subject to penalties for perjury, and competent to testify. Since children and young adolescents are often key witnesses in juvenile proceedings, the judge must develop techniques for accurately assessing young people's competence, drawing out and interpreting their testimony, monitoring their examination by others, and adapting courtroom procedures to accommodate their needs.

Proper handling of a very young witness calls first of all for a realistic assessment of the child's current level of development. Basic background materials on the stages of child and adolescent development, including developmental skills typically found among children of various ages, can be found in *Child Development: A Judge's Reference Guide*, which is available from the National Council of Juvenile and Family Court Judges.[94]

Courtroom routines and procedures may have to be altered to accommodate young witnesses.

- ***Evaluating competence.*** While testimonial competence is ordinarily presumed, courts are required to inquire closely into the mental capacities of witnesses younger than 14 before allowing them to give evidence.[95] This involves scrutinizing (1) their ability to observe and recall the events about which they will testify, (2) their capacity to understand questions and frame intelligent answers regarding those events, and (3) their consciousness of the duty to testify truthfully.[96]

Confusion about the meaning of the term "oath" or about the purpose of the proceeding is not necessarily an indication of incompetence, as long as a child witness knows the importance of truth-telling.[97] Even a child who believed it was "good to lie" was found competent, where it appeared she understood that she would be punished if she did so.[98]

- ***Avoiding the wrong questions*.** Because judges are responsible for getting at the truth in juvenile proceedings, they must be vigilant regarding confusing, misleading, and otherwise inappropriately phrased questions, both in their own examination of young witnesses and in their monitoring of examinations conducted by attorneys. Children are more likely to give clear, complete, reliable, useful testimony if they are not faced with the following kinds of questions:
    - *Long, grammatically complex, or compound questions*. One authority suggests, as a rule of thumb, "the younger the child, the shorter the question."[99]
    - *Questions containing big, unfamiliar, or legal-technical words*. "Point to" works better than "identify."
    - *Questions that are phrased negatively*. "Did you not," etc.
    - *Questions that abruptly change the subject*. Judges should make sure that young witnesses are not confused by sudden and unexplained transitions in questioning.
    - *Repetitive questions*. Again, judges should recognize that children may not understand why the same thing is being asked repeatedly, and either limit or explain the reasons for the repetition.
    - *Closed yes-or-no questions.* Child witnesses should not be asked to restrict themselves to one-word answers, unless it's very clear that they understand the questions. The danger of misunderstanding can be partially avoided with open-ended follow-ups, giving them the opportunity to explain what they think their "yes" or "no" meant.
- ***Adapting court procedures*.** Judges should be flexible in accommodating the special needs of young witnesses in their courtrooms. Common accommodations include the following:
    - *Support persons*. Children are often allowed to have adult supporters with them while they testify, and even at times to sit in their laps while being

questioned. Some difficulty is presented when an adult support person is also a witness in the case—as when both a parent and a child have evidence to give regarding the alleged victimization of the child by a third party—or where there is reason to believe the presence of the support person will influence the content of the child's testimony. The former problem at least can be overcome by having the adult supporter testify first, outside of the child's hearing.

- *Other kinds of support*. Children should by all means be permitted to bring special blankets, stuffed animals, and other comfort objects with them into the courtroom, and to hold them while testifying.
- *Breaks*. When children have difficulty on the stand, judges should be liberal in granting recesses and allowing attorneys and others to confer with them privately to learn what is the matter.
- *Clearing courtroom of spectators*. In order to make it easier for a young witness to give testimony, the judge may at any time close the hearing to the general public, although the agreement of the parties may be required in a case designated an "open proceeding" by the Juvenile Act.[100]
- *Conferring or conducting examinations in chambers.* Likewise, judges should consider taking young witnesses into their chambers where necessary, to explain the proceedings, to put fears about testifying to rest, to assess their competency, or even to conduct the examination itself. In an adjudicatory hearing in which the child witness is testifying for the Commonwealth, however, a preliminary competency examination may be conducted in chambers, but the testimony itself must be given in the presence of the accused.
- *Changing physical courtroom arrangements*. There is no reason why the physical layout or seating arrangements in the courtroom cannot be temporarily changed to help put a young witness at ease (although, again, during the adjudication phase the court must be cautious about compromising the juvenile's confrontation rights).
- *Other courtroom changes*. Many experienced juvenile court judges have developed their own "tricks of the trade" for supporting, encouraging, and alleviating the stress of children giving evidence in their courtrooms. These may involve changing their usual tone of voice or terminology, raising ice-breaking topics to establish rapport and open up communication, and even using toys, puppets, and similar devices to relax and focus the child.

Accommodation of young witnesses may also include the use of advanced communication technology (ACT) at the adjudicatory hearing.[101] Under appropriate circumstances, in a case involving a child victim or child material witness, the General Assembly has provided a process for the court to order that the victim's or witness's testimony to be recorded for presentation in court.[102] In addition, an otherwise inadmissible out-of-court statement describing any one of a number of enumerated serious offenses, made by a child victim or witness no older than 12 at the time of the statement, may be admissible in evidence in a criminal or civil proceeding, provided the court finds in an *in camera* hearing that (1) the evidence is relevant, (2) the time, content and circumstances of the statement provide sufficient indicia of reliability, and (3) the child either testifies at the proceeding or is unavailable as a witness. In order to make a finding that the child is unavailable as a witness, the court must determine from the evidence that being required to testify as a witness would cause the child to suffer serious emotional distress that would "substantially impair the child's ability to reasonably communicate."[103] In making this determination, the court may observe and question the child, either inside or outside the courtroom, and/or may hear testimony of a parent or custodian or any other person, including a person who has dealt with the child in a medical or therapeutic setting. If the court hears testimony in connection with making a finding that the child is unavailable, the defendant, the attorney for the defendant and the attorney for the Commonwealth have the right to be present, except that if the court observes or questions the child, the court shall not permit the defendant to be present.[104]

ENDNOTES

[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

[3] Rules 406-409, Pa.R.J.C.P. and 42 Pa.C.S. §6336.

[4] 42 Pa.C.S. §6335(a) and Rule 240(D), Pa.R.J.C.P.

[5] 42 Pa.C.S. §6335(f).

[6] Rule 404, Pa.R.J.C.P.

[7] Note that the National Council of Juvenile and Family Court Judges' Juvenile Delinquency Guidelines call for, an adjudicatory hearing for a youth who is not in detention to be scheduled for no more than twenty business days from the initial hearing, unless the nature of the case is such that longer preparation time is required.

[8] Commonwealth v. Dallenbach, 1999 Pa. Super. 101, 729 A.2d 1218 (1999).

[9] 42 Pa.C.S. §6336.

[10] 42 Pa.C.S. §6305.

[11] Rule 187, Pa.R.J.C.P.

[12] 42 Pa.C.S. 6305(b). Rule 187(c) Pa.R.J.C.P.

[13] 42 Pa.C.S. 6305(b). Rule 187(c) Pa.R.J.C.P.

[14] In re A.M., 365 Pa. Super. 516, 530 A.2d 430 (1987)

[15] 42 Pa.C.S. 6305(c). Rule 191(b) Pa.R.J.C.P.
[16] 42 Pa.C.S. 6305(d). Rule 191(c) Pa.R.J.C.P.
[17] In Interest of Stephens, 277 Pa.Super. 470, 419 A.2d 1244 (1980).
[18] 42 Pa.C.S. 6305(d). Rule 191(c) Pa.R.J.C.P.
[19] In Interest of Perry, 303 Pa. Super. 162, 459 A.2d. 789 (1983).
[20] 42 Pa.C.S. §6336.
[21] 42 Pa.C.S. §6336(d).
[22] See Rule 131, Pa.R.J.C.P.
[23] 42 Pa.C.S. §6336(e).
[24] 42 Pa.C.S. §6336(e).
[25] 42 Pa.C.S. §6336(f).
[26] Rule 128, Pa.R.J.C.P.
[27] Rule 131, Pa.R.J.C.P. Guardian's Presence. Guardian is defined by Rule 120 to include any parent, custodian, or other person who has legal custody of a juvenile, or person designated by the court to be a temporary guardian for purposes of a proceeding. 42 Pa.C.S. §6310 (relating to parental participation).
[28] 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.
[29] Rule 139, Pa.R.J.C.P. and 42 Pa.C.S. §6336.2.
[30] Rule 151, Pa.R.J.C.P. and 42 Pa.C.S. §6337.1.
[31] Rule 152 A(3)(b), Pa.R.J.C.P.
[32] See "The Pennsylvania Juvenile Collateral Consequences Checklist" available for download at https://padmc.org/the-pa-juvenile-collateral-consequences-checklist/
[33] 42 Pa.C.S. §6338(a).
[34] 42 Pa.C.S. §6337. Rule 151, Pa.R.J.C.P.
[35] 42 Pa.C.S. §6336(b).
[36] Rule 408, Pa.R.J.C.P.
[37] Rule 408(B), Pa.R.J.C.P.
[38] 42 Pa.C.S. §6341(a).
[39] See Rule 408(C), Pa.R.J.C.P., which specifies that the court must proceed to the adjudication phase if it finds "that the juvenile committed any delinquent act…"
[40] Rule 409(B) Pa.R.J.C.P. and 42 Pa.C.S. §6341(b).
[41] Rule 362(6), Pa.R.J.C.P.
[42] Rule 409(A)(2)(b), Pa.R.J.C.P.
[43] 42 Pa.C.S. §6338(b).
[44] 42 Pa.C.S. §6338(b).
[45] Commonwealth ex rel. Freeman v. Superintendent of State Correctional Institution at Camp Hill, 212 Pa. Super. 422, 431, 242 A.2d 903, 908(1968).
[46] Commonwealth v. Mangillo, 250 Pa. Super. 202, 205,378 A.2d 897, 898 (1977).
[47] Commonwealth v. Fox, 445 Pa.76, 282 A.2d 341 (1971).
[48] 42 Pa.C.S. §6339.
[49] Rule 406 (B), Pa.R.J.C.P. and Rule 127(A), Pa.R.C.P.
[50] Rule 127(B) and Comment, Pa.R.J.C.P. See also Rule 406(B), Pa.R.J.C.P.
[51] Rule 128(C), Rule 129(A)(1) and Rule 406(C), Pa.R.J.C.P.
[52] Rule 128, Pa.R.J.C.P.
[53] 42 Pa.C.S. §6341(a).
[54] 42 Pa.C.S. §6341(b).
[55] Rule 408(B), Pa.R.J.C.P.
[56] Rule 409(A)(1), Pa.R.J.C.P

[57] Rule 409(A)(1)(b), Pa.R.J.C.P.
[58] See the Comment to Rule 408, Pa.R.J.C.P.
[59] Rule 407, Pa.R.J.C.P.
[60] http://www.pacourts.us/forms/juvenile-delinquency-forms
[61] 42 Pa.C.S. §6302.
[62] 42 Pa.C.S. §6302.
[63] 42 Pa.C.S. §6358(b).
[64] 42 Pa.C.S. §6358(f).
[65] 42 Pa.C.S. §6401, *et seq.*
[66] 42 Pa.C.S. §6340(a) and Rule 370, Pa.R.J.C.P.
[67] 42 Pa.C.S. §6340(b) and Rule 371, Pa.R.J.C.P.
[68] 42 Pa.C.S. §6340(c.1). See also Rule 373(A), Pa.R.J.C.P.
[69] See 18 P.S. §11.201(4) and Comment, Rule 370, Pa.R.J.C.P. By its terms, the Crime Victims Act provision giving victims the right to submit prior comment on the appropriateness of a consent decree applies only in personal injury or burglary cases. However, the Comment to Rule 370 states that "the victim(s) of the offense should be consulted" before a juvenile is placed on consent decree, without mentioning any restrictions as to the type of offense involved, and this is clearly the best practice. In general, the Rules of Juvenile Court Procedure for Delinquency Matters have dispensed with offense restrictions in extending notice and comment rights to victims in juvenile delinquency cases.
[70] Rule 370(B), Pa.R.J.C.P.
[71] 42 Pa.C.S. §6340(e).
[72] 42 Pa.C.S. §6340(d).
[73] Rule 373(B), Pa.R.J.C.P.
[74] Rule 170(A)(3), Pa.R.J.C.P.
[75] National Child Traumatic Stress Network, Justice System Consortium (2009). Helping Traumatized Children: Tips for Judges. (Footnotes Omitted). See also, National Council of Juvenile and Family Court Judges, Juvenile and Family Court Journal, Special Issue – Winter 2006, Vol. 57, No. 1. Special Issue - Child Trauma, https://www.ncjfcj.org/sites/default/files/Winter%20Journal%202006%20Special%20Issue%20-%20Child%20Trauma.pdf
[76] http://tdg.ucla.edu/sites/default/files/UCLA_PTSD_Reaction_Index_Flyer.pdf
[77] http://www.nctsn.org/content/trauma-symptom-checklist-children
[78] http://www.nctsn.org/content/child-sexual-behavior-inventory
[79] Information on specific evidence-based treatments for child traumatic stress is available from: The National Child Traumatic Stress Network, Empirically Supported Treatments and Promising Practices, http://www.nctsn.org/nctsn_assets/pdfs/promising_practices/NCTSN_E-STable_21705.pdf, The National Crime Victims Research and Treatment Center – Child Physical and Sexual Abuse: Guidelines for Treatment, https://mainweb-v.musc.edu/vawprevention/general/saunders.pdf
[80] Rule 360, Pa.R.J.C.P.
[81] 42 Pa.C.S. 6336 and Rule 132, Pa.R.J.C.P.
[82] Comment to Rule 409, Pa.R.J.C.P.
[83] 42 Pa.C.S. 6301
[84] Pennsylvania Council of Chief Juvenile Probation Officers, 2015.
[85] http://www.legis.state.pa.us/WU01/LI/LI/US/HTM/1998/0/0111..HTM
[86] http://www.pacourts.us/courts/supreme-court/committees/rules-committees/juvenile-court-procedural-rules-committee/juvenile-court-committee-rules-and-forms
[87] Adapted from "A Handbook for Juvenile Justice Professionals and Victim Service Providers" Pennsylvania Council of Chief Juvenile Probation Officers and the Juvenile Court Judges' Commission, January 2016. A copy of the handbook is available for download at http://www.pachiefprobationofficers.org/victim_restoration.php
[88] 18 P.S. §11.201(2), Rule 241 (Detention Hearing), Rule 360 (Summons and Notice of the Adjudicatory Hearing) and, Rule 500 (Summons and Notice of the Dispositional Hearing), Rule 600 (Summons and Notice of Dispositional Review Hearing, Pa.R.J.C.P.)
[89] 18 P.S. §11.201(4), (5) and, (5.2), Rule 311(B), Pa.R.J.C.P., and Comment, Rule 370, Pa.R.J.C.P.

[90] Rule 132, Pa.R.J.C.P., 42 Pa.C.S. §6336(d) and 18 P.S. §11.201(3).
[91] Rule 632(B), Pa.R.J.C.P.
[92] 42 Pa.C.S. 6336(f) and 18 P.S. 11.201(12).
[93] 18 P.S. §11.201(8.1).
[94] This 1993 publication can be ordered from the National Council at (775) 784-6012, or online at http://www.ncjfcj.org.
[95] In the Interest of C.L. and P.G., 436 Pa.Super. 630, 648 A.2d 799(1994).
[96] Commonwealth v. Trimble, 419 Pa.Super. 108, 615 A.2d 48 (1992), quoted in In the Interest of J.R., 436 Pa. Super. 416, 648 A.2d 28 (1994).
[97] In the Interest of C.L. and P.G., 436 Pa.Super. 630, 648 A.2d 799 (1994).
[98] In the Interest of J.R., 436 Pa.Super. 416, 648 A.2d 28 (1994).
[99] This rule of thumb, along with all subsequent text material on questioning and accommodating child witnesses, has been adapted from Matthews, E., and Saywitz, K. "Child Victim Witness Manual." California Center for Judicial Education and Research Journal 12(1), 1992.
[100] 42 Pa.C.S. §6336(e).In writing this Chapter reference was made to West's Pennsylvania Practice, Vol. 18, Juvenile Delinquency Practice and Procedure, Fifth Edition, by Francis Barry McCarthy.
[101] Rules 129 and 406, Pa.R.J.C.P.
[102] 42 Pa.C.S.§ 5984.1
[103] 42 Pa.C.S.§ 5985.1
[104] 42 Pa.C.S.§ 5985.1(a.1) and (a.2).