

IN THE COURT OF COMMON PLEAS OF WASHINGTON COUNTY, PENNSYLVANIA
CIVIL DIVISION

IN RE: ADOPTION OF LOCAL)
RULES OF JUDICIAL) No. 2023-1
ADMINISTRATION)
L-1907.2, L-4002, L-4008,)
AND L-5000)

FILED
MAR 14 2023
LAURA H. HOUGH
PROTHONOTARY

ADMINISTRATIVE ORDER

AND NOW, this 14th day of March, 2023, it is hereby ORDERED, ADJUDGED, and DECREED that Washington County Local Rules of Judicial Administration L-1907.2, L-4002, L-4008, and L-5000 (attached) are hereby adopted, effective thirty (30) days after publication of this ORDER in the *Pennsylvania Bulletin*.

It is further ORDERED that Local Rule of Judicial Administration L-1907.1 is RESCINDED.

This ORDER shall be processed in accordance with Pa. R. J. A. 103(d)(5) and (6). The District Court Administrator is directed to:

1. Distribute copies of the adopted local rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;
2. File one (1) copy with the Administrative Office of Pennsylvania Courts;
3. Publish the local rules on the Court's website within thirty (30) days of the effective date; and
4. Cause a copy hereof to be published in the *Washington County Reports* once a week for two (2) successive weeks at the expense of the County of Washington.

BY THE COURT:


_____, P.J.
John F. DiSalle, President Judge

Washington County – Local Rules of Judicial Administration

RULE L-1907.2. Constable Review Board

(A) Purpose. A Constable Review Board (“CRB”) is hereby created to assist in resolving any disputes related to the performance of judicial duties by a constable in accordance with the Pennsylvania Rules of Judicial Administration and the *Constable Policies, Procedures, and Standards of Conduct* issued by the Administrative Office of Pennsylvania Courts.

(B) Definitions.

(1) “Constable” is defined as any elected or appointed constable or deputy constable performing judicial duties for any magisterial district court within the Twenty-Seventh Judicial District.

(2) “Judicial Duties” are services performed pursuant to 44 Pa. Con. Stat. §§7161 and 7161.1 or set forth in the *Constable Policies, Procedures and Standards of Conduct*.

(C) Scope.

(1) The jurisdiction of the CRB extends only to constables in the performance of judicial duties.

(2) The CRB may receive complaints by or against constables regarding:

(a) the performance of judicial duties;

(b) financial or payment disputes; or

(c) other matters relevant to judicial duties including, but not limited to, *Constable Policies, Procedures and Standards of Conduct* or the Unified Judicial System of Pennsylvania *Policy on Non-discrimination and Equal Employment Opportunity*.

(3) Nothing contained herein shall preclude any person or surety of a constable from filing a verified petition in accordance with 44 Pa. Con. Stat. §7172 alleging that a constable is incompetent to discharge official duties.

(D) Authority.

(1) The CRB may make recommendations to the President Judge with respect to practices and procedures as related to constables generally and make recommendations regarding the continued use of the services of a constable by the Court.

(2) The CRB shall forward any findings of suspected criminal activity to the Washington County District Attorney or other appropriate law enforcement agency.

(3) The President Judge has the ultimate authority with regard to performance of judicial duties by a constable within Washington County. The President Judge may place a moratorium on the use of a particular constable pending the review and recommendation of the CRB on a complaint.

(E) Membership of the Constable Review Board. The CRB shall be comprised of the following members, who serve at the pleasure of the President Judge:

- (1) a Common Pleas Judge;
- (2) the District Court Administrator;
- (3) a Magisterial District Judge;
- (4) a certified constable and an alternate constable to be used in the case of a conflict;
- (5) the County Controller (subject to the limitation set forth below); and
- (6) a member of the public.

The Common Pleas Judge shall act as Chairperson. The Chairperson shall be responsible for conducting, coordinating, and overseeing the business of the CRB. The District Court Administrator shall serve as Secretary of the CRB, and is responsible for maintaining the records of all proceedings. A majority of the voting members shall constitute a quorum.

(F) In instances where a conflict of interest exists for a member of the Board, the President Judge may name a substitute for that complaint, or permit the Board to proceed without the participation of the member. The Controller shall be deemed to have a conflict of interest in every complaint where the allegations involve the expenditure of County funds for services, or where the complaint is submitted by the Controller or a person under his or her employ.

(G) Filing Procedures. Constables shall make every attempt to resolve their disputes with the party or agency involved prior to filing a complaint with the CRB.

(1) A complaint by or against a constable must be in writing on the form set forth below and shall be signed by the complainant and specify in detail the alleged misconduct, financial dispute, or other matter related to the performance of judicial duties.

(2) The complaint may be submitted in person or by mail, to the following contact:

Special Courts Administrator
Washington County Courthouse
1 South Main Street, Suite 1003
Washington, PA 15301

WASHINGTON COUNTY CONSTABLE REVIEW BOARD COMPLAINT

Filing Date: _____

Complainant's Name: _____ (your name)

Address: _____

Telephone Number: _____ Email: _____

Constable's Name: _____

Type of Issue: Performance of Judicial Duties

Financial/Payment Issues

Other issues relevant to a constable's judicial duties

Was an attempt made to resolve this issue before filing the request for review?

YES NO

If yes, briefly explain:

Please describe in full detail the issue and attach all relevant documents. Attach additional pages if necessary.

Date: _____

Signature: _____

This complaint may be mailed to the following:

Special Courts Administrator
Washington County Courthouse
1 South Main Street, Suite 1003
Washington, PA 15301

(3) If a complaint is filed with the Special Courts Administrator, he or she shall inform the Chairperson of the receipt of a complaint. The Chairperson is responsible for initially determining if the complaint falls within the jurisdiction of the CRB.

(i) If the complaint is not within the jurisdiction of the CRB, the Special Courts Administrator shall notify the complainant of the determination and that the matter is closed.

(ii) If the complaint is within the jurisdiction of the CRB, the Special Courts Administrator shall forward a date-stamped copy of the complaint to the constable by certified mail. The constable will have twenty (20) days to respond in writing to the complaint. The Special Courts Administrator shall forward the response to the Chairperson.

(4) Failure of a constable to respond to a written allegation, or failure to appear before the CRB when requested, shall be interpreted as an admission of no contest to the allegation.

(H) Actions and Dispositions of the CRB and the President Judge.

(1) The Chairperson shall convene the CRB upon the filing of a complaint that falls within the jurisdiction of the Board.

(2) The CRB may interview all parties involved, or designate any of its members to interview or investigate. The Chairperson shall have discretion as to whether to conduct a hearing on the matter. Any hearing shall be transcribed for use by the CRB and the President Judge.

(3) The CRB shall have the authority to act, absent the filing of a complaint, on any potential violations that may be discovered in the course of investigating a matter, or that otherwise come to its attention.

(4) A recommended decision by the CRB should be submitted to the President Judge. Individual members of the CRB may submit separate opinions in addition to the recommended decision.

(5) A copy of the recommended decision shall be promptly sent by certified mail to the affected constable and to the complainant. Accompanying the recommended decision shall be a summary of the provisions of paragraph (6) of this subsection, relating to review by the President Judge.

(6) The President Judge shall have authority to approve, reject, modify, or dismiss the recommended decision. Any interested party shall have twenty (20) days from the date of the recommended decision to submit any exceptions to the President Judge. The President Judge may act on the recommended decision without further input from the constable or complainant, or conduct further proceedings including, but not limited to, argument, briefing, and/or a hearing.

(7) Notwithstanding paragraph (6) above, if the CRB considers a matter urgent, it may recommend to the President Judge that immediate action be ordered pending the filing and disposition of any exceptions and the President Judge shall have discretion to act upon any such recommendation.

(8) A copy of the decision of the President Judge shall be promptly sent by the District Court Administrator to the constable and any complainant by certified mail or by such other means as the President Judge may direct.

(9) In the event that the President Judge orders the moratorium or suspension of a constable, the constable will not be authorized to perform services in the County of Washington, including any court or political subdivision, for the specified period. Upon receipt of the suspension notice, the constable shall immediately return to all courts and agencies all warrants, writs, subpoenas, and civil papers to the proper issuing authority. Failure to do so promptly may be cause for further action by the President Judge.

(I) Notice by President Judge.

The District Court Administrator shall provide notice of any action taken by the President Judge in accordance with applicable authority.

(J) Rules of Civil Procedure. Filings. Costs and Fees.

(1) The Pennsylvania Rules of Civil Procedure shall not apply to proceedings of the CRB. The Chairperson may order the production of documents or such testimony as necessary to conduct the business of the CRB.

(2) Absent order of court, a party and/or participant in a matter before the CRB is prohibited from filing any papers with the Clerk of Courts or Prothonotary related to a proceeding before the CRB.

(3) If a finding of misconduct in the course of performing judicial duties is sustained by the President Judge, the President Judge may make the decision available to the public, including filing the decision, and any other part of the file that he or she deems appropriate, in the Office of the Prothonotary. Unless made public by the President Judge, any filing related to a complaint shall be deemed a confidential filing.

(a) Any filing fees related to a matter pending before the CRB shall be waived. Filings are to be docketed in a manner prescribed by the Court.

(4) Any costs related to the business of the CRB shall be paid by the County.

Washington County – Local Rules of Judicial Administration

RULE L-4002. Definition of Proceeding. Digital Audio Files

(A) As contained in these rules, the term proceeding shall be defined as a hearing or trial in which testimony is given and/or exhibits are admitted into evidence.

(B) Digital audio files are to be used only as an aid to transcription and shall not be disclosed, provided, or otherwise disseminated to attorneys, parties, participants, or the public. Digital audio files of motions or conferences shall not be transcribed absent order of court for good cause shown.

(C) Nothing in this rule shall be construed to in any way limit or modify the inherent authority of the President Judge or his/her designee, or the judge or hearing officer to whom a case is assigned, to use digital audio files as an aid in making case determinations, to review recordings for the confirmation of accurate transcription, or any other appropriate purpose.

Comment: This rule should not be interpreted to conflict with the provisions of Rules of Criminal Procedure 115, 313, 500, and 501.

Washington County – Local Rules of Judicial Administration

RULE L-4008. Transcript Costs for a Private Individual or Entity. Waiver of Costs for the Commonwealth or a Subdivision. Economic Hardship

(A) The transcript costs for a requesting party other than the Court and the Commonwealth shall be the maximum rate set forth in Pennsylvania Rule of Judicial Administration 4008.

(1) The rates set forth above shall include the original transcript, filed of record with the appropriate filing office, one (1) copy of the transcript for the presiding judge (if requested), and one (1) copy of the transcript to be provided to the initial requesting party. When more than one party requests the transcript, or is required by general rule to file the transcript, the cost shall be divided equally among the parties, and each party shall receive one (1) copy of the transcript.

(2) When the transcript is in bound paper format, the requesting party shall be charged a surcharge of \$0.25 per page.

(3) Payments for all transcript costs shall be made at the filing office. If paying by check or money order, the payee shall be the County of Washington. A convenience fee may be charged for payments by debit or credit card or made online.

(a) Monies collected for transcripts shall be remitted by the filing office to an account maintained by the Treasurer of the County of Washington. The monies collected shall be deposited monthly by the Treasurer to the general fund of the County of Washington to be used to supplement the County's appropriation for court reporters and court reporting services.

(b) Refunds for deposits or payments related to transcript costs may only be authorized by the District Court Administrator or his or her designee.

(4) All requests for a copy of any transcript previously ordered, transcribed, and filed of record shall be made to the filing office in which the transcript is lodged of record, unless the transcript is of a confidential matter or dissemination if prohibited by law.

(a) The cost for a copy of any transcript previously ordered, transcribed, and filed of record shall be \$0.75 per page for bound, paper format, and \$0.50 per page for an electronic copy. Copies shall be obtained from the filing office in which the transcript is lodged of record.

(b) Monies collected for copies shall be remitted by the filing office to an account maintained by the Treasurer of the County of Washington. The filing office may deduct a \$0.25 fee per page for administrative costs. The remaining monies collected for copies of transcripts shall be deposited monthly by the Treasurer to the general fund of the County of Washington to be used to supplement the County's appropriation for court reporters and court reporting services.

(B) The transcript costs for a request made by the Court or the Commonwealth, if applicable, shall be set by administrative order.

(1) For the purpose of this local rule, the Court is defined as any common pleas judge, hearing officer, master, or the District Court Administrator conducting official business of the Court. The Commonwealth is defined as the District Attorney, Public Defender, court-appointed counsel, or any other department or agency of the County of Washington that is a party to the proceeding. Officials acting in an individual capacity shall not be deemed as the Commonwealth. Any dispute concerning a waiver or modification of costs shall be determined by the President Judge or District Court Administrator.

(2) A filing office may not charge a fee to the Court or Commonwealth for a copy of a transcript previously ordered, transcribed, and filed of record.

(C) At the discretion of the trial judge, a reasonable surcharge may be imposed on a transcript request in cases such as mass tort, medical malpractice or other unusually complex litigation where there is a need for court reporters to significantly expand their dictionary. The surcharge shall be set in consultation with the District Court Administrator.

(D) At the discretion of the District Court Administrator or his/her designee, a reasonable fee may be charged for a secure electronic feed which instantaneously delivers the translated notes from the court reporter to a laptop, tablet, phone, or other portable electronic device to parties, the media, or other interested individuals. Permission to install or obtain such a feed must be received from the presiding judge and the District Court Administrator, and will be subject to the availability of the necessary court reporting resources.

(E) Transcript costs for ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation shall be waived for a litigant who has been permitted by the court to proceed *in forma pauperis* or whose income is less than 125 percent of the poverty line as defined by the United States Department of Health and Human Services for the calendar year in which the request is made, and shall be reduced by one-half for a litigant whose income is less than 200 percent of the poverty line as defined by the United States Department of Health and Human Services for the calendar year in which the request is made.

(1) Litigants who are represented by a free legal aid service for low-income citizens shall not be required to prove economic hardship, and are entitled to obtain ordinary transcripts in matters under appeal or where the transcript is necessary to advance the litigation for no cost.

(a) To receive a no-cost ordinary transcript, clients of a free legal service must demonstrate that a legal aid service attorney has entered an appearance on their behalf in the case for which a transcript is requested. Legal aid services shall provide the District Court Administrator with a letter certifying that the client meets financial eligibility and that the matter is under appeal or is necessary to advance the current litigation.

(2) Transcript costs for ordinary transcripts in matters that are not subject to appeal or necessary to advance the litigation shall not be waived or reduced for litigants who qualify for economic hardship, unless ordered by the court for cause shown.

Note: The procedure to waive all or a portion of costs for ordinary transcripts is set forth in Local Rule of Judicial Administration 4007.

(F) Nothing in this rule shall be read to prescribe or specify a fee to be paid to a court reporter or transcriptionist for both transcripts requested by litigants and transcripts requested by the Commonwealth or a subdivision thereof. The compensation of court reporters or transcriptionists is a matter for the judicial district and county funding authority.

Washington County – Local Rules of Judicial Administration

RULE L-5000. Court-Appointed Counsel

(A) The President Judge shall issue a policy governing the appointment and payment of counsel in cases within any division of the Court.

(1) The policy shall set forth the following:

(a) an hourly rate for billable activity;

(b) standards for what activity is considered appropriate and allowable as compensable time and a reimbursable expense;

(c) presumptive caps for fees based on the type of case; and

(d) the process for submitting a request for payment of fees and expenses.

(2) Expenses for professional services, including but not limited to, investigators, experts, and transcription services, must be approved in advance by the presiding judge. The presiding judge shall set forth a specific amount to be expended by order of court if the request is approved. Failure to secure prior approval may lead to the denial of reimbursement or other appropriate sanctions.

(3) The invoices underlying payment shall be considered confidential and may not be released by the County or its officials without prior authorization from the Court. Absent authorization from the Court, invoices for juvenile cases may not be disclosed to the Children and Youth Services agency of the County or a solicitor for the County.

Note: Any request under the Right-to-Know-Law for invoices or billing information from court-appointed counsel should be forwarded to the open records officer (Rule 509 manager) for the judicial district to determine if the record is to be disclosed. *County of Centre v. Grine*, 138 A.3d 88 (Pa. Cmwlth. 2016).

(B) Appointment of counsel shall only occur in cases where a right to counsel exists as established by statute or rule. In appointing counsel, the presiding judge must determine that the individual is indigent and/or that the interests of justice require the appointment.

(C) Payments shall be reviewed by the District Court Administrator or his/her designee. Any unusual aspects concerning the request for fees or expenses are to be brought to the attention of the presiding judge. The President Judge may provide the District Court Administrator with authority to approve or disapprove a fee or expense subject to direction from the presiding judge;

provided, however, that the President Judge retains the final authority over the payment of a fee or expense for any appointment.

(D) The determination of whether time is reasonably spent or if an expense is appropriate lies solely with the Court. In determining reasonableness, consideration may be given to whether the time spent was necessary or if less time consuming alternatives existed.

(E) Counsel should consider that appointment by the Court is a public trust and strive to keep requests for compensation and reimbursement to a fair and reasonable sum consistent with any other request for payment out of the public funds. If counsel does not feel that such a request can remain within this standard, he/she should decline the appointment.