## Utah Rules of Juvenile Procedure Committee- Meeting Minutes

August 6, 2010

Noon to 2:00 p.m.

**Executive Dining Room** 

MEETING D	ATE T	IME	LOCATION
MEMBERS:	Present Absent Excused	MEMBERS:	Present Absent Excused
Judge Elizabeth Lindsley		Renee Jimenez	
Judge Larry Steele		David Johnson	
Carol Verdoia		Narda Beas-Nordell	
Brent Bartholomew		Alan Sevision	
Brent Hall		Pam Vickrey	
Joan Carroll		Paul Wake	
Angela Fonnesbeck			
AOC STAFF:	Present Absent	GUESTS:	Present Absent
Katie Gregory		Susan Eisenman	
Whitney Kania			

## **AGENDA TOPIC**

I. Welcome & Appro	val of minutes	CHAIR: CAROL YERDOIA
Corrections to the M	inutes: None	
Motion: To approve the minutes of July 9, 2010 as written	By: Judge Steele	Second: Judge Lindsley
Approval		☐ Vote: In Favor Opposed

## AGENDA TOPIC

II. Consent by Parent/Guardian/Custodian	[PRESENTER] CAROL VERDOIA AND SUSAN EISENMAN
Prior to Juvenile's Waiver of Constitutional	
Rights if Interrogated by Law Enforcement	

Discussion: Carol Verdoia outlined the differences between Rule 8, Rule 26 and Rule 27A.

Rule 8: Relates to the rights of minors while in detention as pertains to interviews.

Rule 26: General statement regarding at what age (14) the youth is presumed capable of waiving the right to counsel when a petition has been filed.

Rule 27A: Relates to the admissibility of statements made during custodial interrogation.

A lengthy discussion followed regarding the interplay between the three rules. An issue was raised as to whether the rule should be changed to include permission to interview by the GAL in foster care cases. The committee also considered the affect on admissibility if a waiver is not properly obtained.

After discussion, the committee passed the three motions outlined below. Following their passage, Paul Wake made a motion that the language "or has given written permission for the child to be question" be inserted in Rule 27A(a)(1) after the clause "is present during waiver." The motion failed for lack of a second.

Action Item:	Susan Eisenman will draft new detention forms and take committee comments at the October 1, 2010 meeting. Katie Gregory will prepare amended rules incorporating the three			
	motions set forth below for discussion at the next meeting.			
Motion: To amend Rule 8 by adding a new subparagraph (c)(4) which states: "Nothing in this rule shall affect the admissibility of statements pursuant to Rule 27A."	By: Judge Lindsley			
Approval	Unanimous	☑ Vote: In Favor 9 Opposed 1		
Motion: To add a new subparagraph to Rules 8 and 27A stating: "Consent to interview a child in the custody of the Division of Child and Family Services must comply with 62A-4a-415."	By: Brent Hall	Second: Judge Lindsley		
Approval	Unanimous	☐ Vote: In Favor Opposed		
Motion: To amend Rule 8 to strike the following: In Rule 8(c)(2) and Rule8(c)(3) strike "as provided in Rules 26" and in Rule 8(d) strike "as described in Rule 26."	By: Judge Lindsley	Second: Paul Wake		
Approval	Unanimous	☐ Vote: In Favor Opposed		

## AGE

Parallel to URCrP 15A

Discussion: Brent Hall reported on his review of Melendez-Diaz v. Massachusetts, 129 S.Ct. 2527 (2009) and its impact on the Crawford decision. Crawford indicates that the Sixth amended requires all testamentary witnesses to be presented and confronted in criminal cases and only criminal cases. Melendez-Diaz confirms this, but acknowledges that all courts are free to set up their own notice requirements to let the defense know they must give notice by a certain time if they want the prosecution to bring all chain of custody, lab witnesses, etc. This provision has already been added to the criminal rules, so it could be added to the juvenile rules for delinquency, but should not apply in child welfare proceedings due to the potential for delay and other issues.

Other concerns addressed by the committee:

presentation of chain of *Adding Rule 15A to the that the prosecution bri * It may become standard	custody evidence.  URJP will cause de  ng all witnesses nec  ard practice for defe	w that they are waiving the relay by require the defense to sessary to prove the chain of the counsel to make the recountry which is occurring now in accountry that the recountry that is occurring the recountry that the re	o file a written reques custody. quest in every case in
designate that the prov	ision will only apply	ge similar to URJCrP 15A to to to delinquency proceedings. He to monitor the issue and n	. The motion failed for
Action Item: None			
Motion:	Ву:	Second:	
Approval	□ Unanimous	s □ Vote: # In Favor	# Opposed
NDA TOPIC			
IV. Old or New Busines	s	[PRESENTER]	
Discussion: None. Next meeting O	ctober 1, 2010.	,	