



Utah Supreme Court's Advisory Committee on the Rules of Juvenile Procedure

Meeting Agenda

Matthew Johnson, Chair

Location: Webex Meeting
Date: December 1, 2023
Time: 12:00 pm – 2:00 pm

Action: Welcome and approval of November 3, 2023, meeting minutes.	Tab 1	Matthew Johnson
Discussion & Action: Rule 19C . Delinquency, traffic and adult criminal matters. <ul style="list-style-type: none">• <i>Rule 19C has been revised to include the language from Rule 12 of the Utah Rules of Criminal Procedure regarding motions on the justification of the use of force.</i>• <i>The revisions were taken to the Supreme Court to request a public comment period. The Court recommended:</i><ul style="list-style-type: none">○ <i>Revising the title. It seems that traffic matters are no longer addressed in this rule.</i>○ <i>Consider removing "in writing" in line 32. Paragraph (a) states that motions are to be "written motion[s]."</i>○ <i>Changing the pronouns in line 36 to gender neutral language.</i>	Tab 2	All
Discussion: Old business or new business.		All

[URJP Committee Site](#)

Meeting Schedule:

December 1, 2023

March 1, 2024

January 5, 2024

April 5, 2024

February 2, 2024

May 3, 2024 (In-person)

TAB 1



Utah Supreme Court's Advisory Committee on the Rules of Juvenile Procedure

Draft Meeting Minutes

Matthew Johnson, Chair

Location: Webex Meeting

Date: November 3, 2023

Time: 12:00 p.m. – 2:00 p.m.

<p><u>Attendees:</u> Matthew Johnson, Chair William Russell Elizabeth Ferrin Thomas Luchs Judge Paul Dame Janette White Michelle Jeffs Arek Butler James Smith Sophia Moore Judge Debra Jensen David Fureigh, Emeritus Member Carol Verdoia, Emeritus Member</p>	<p><u>Excused Members:</u> Adrianna Davis Dawn Hautamaki Jordan Putnam</p>
<p><u>Staff:</u> Randi Von Bose, Juvenile Law Clerk Lisa McQuarrie, Juvenile Law Clerk Raymundo Gallardo Kiley Tilby, Recording Secretary</p>	<p><u>Guests:</u> Amy Giles, Program Coordinator with Administrative Office of the Courts Alicia Green, Program Coordinator with Administrative Office of the Courts</p>

1. Welcome and approval of the October 6, 2023, Meeting Minutes: (Matthew Johnson)

Mr. Gallardo introduced Lisa McQuarrie, who is the newest juvenile law clerk. Mr. Gallardo also welcomed Alicia Green and Amy Giles as guests to the meeting. Mr. Gallardo stated Ms. Green and Ms. Giles are program coordinators with the Administrative Office of the Courts and have been hired to take on the automatic expungement process.

Mr. Johnson welcomed everyone to the meeting. Mr. Johnson asked for the committee for approval of the October 6, 2023, meeting minutes. Judge Dame made a grammatical change to page seven, and the change was made. Judge Dame moved to approve the minutes. Ms. White seconded the motion, and it passed unanimously.

2. Discussion & Action: Rule 19C. Delinquency, traffic and adult criminal matters:
(All)

Mr. Johnson stated there is a proposal to amend Rule 19C to mirror the language outlined in Rule 12 of the Utah Rules of Criminal Procedure. Mr. Gallardo stated Randi, the juvenile law clerk, was approached by one of the judges regarding this language and they have been working with Mr. Russell regarding the proposal.

Mr. Russell stated he made suggestions and provided his opinion on the draft. Mr. Russell indicated the proposal is what he had hoped for, including the stylistic changes that were made. Mr. Russell noted that he circulated this amongst other practitioners and posed the question of whether there would be a reason that the juvenile rule should differ from the criminal rule. Mr. Russell stated the feedback he received was that it should be the same. Mr. Russell is happy with the verbatim transfer of Rule 12 language into Rule 19C, and Mr. Russell expressed thanks to Mr. Gallardo and staff for making it look exactly how he envisioned.

Mr. Johnson inquired if Judge Dame or Judge Jensen knew of or heard of any differences between the criminal rule versus the juvenile rule. Judge Dame stated he does not see a need for it to be different and believes there is an advantage to keeping it consistent with Rule 12. Judge Jensen agreed. Mr. Johnson requested a motion from the committee to send the proposal to the Supreme Court. Mr. Russell made the motion to send the proposal to Rule 19C to the Supreme Court. Ms. Jeffs seconded the motion, and it passed unanimously. Mr. Johnson stated it will be placed on the agenda when they meet with the Supreme Court on November 15th.

3. Discussion & Action - Rule 9. Detention hearings; scheduling; hearing procedure:
(All)

Mr. Johnson stated the proposed changes to Rule 9 were sent for public comment, the comment period closed, and there were no comments received. Judge Dame

suggested including “Utah Code section” in front of 80-6-503 in subpart (o). The committee agreed with Judge Dame’s suggestion, and the change was made.

Mr. Gallardo stated Ms. Hautamaki, who is a clerk of court and a committee member, brought to his attention a potential issue with the statute referred to in subpart (a) of Rule 9. Ms. Hautamaki indicated Rule 9(a) refers to a required report as outlined in Utah Code section 80-6-201. However, Ms. Hautamaki wondered whether it should refer to 80-6-203, which is the same report and detention booking sheet this committee was working on with JJYS a few months ago. The committee reviewed the two statutes. Judge Dame believes Ms. Hautamaki is correct, and subpart (a) is referring to the report outlined in 80-6-203(3)(c). Judge Jensen noted there is not a report noted or referenced in 80-6-201, so 80-6-203 would be the correct statute. The committee made the change to subpart (a) to the correct statute.

The committee discussed whether these changes to Rule 9 required it to be sent out for an additional comment period. Ms. Verdoia stated she always relied on a staff member with the AOC who knew the specific rules, but she is not sure who holds that position now. Mr. Johnson proposed they could place it on the agenda to discuss with the Supreme Court to determine whether it needs to be sent out for an additional comment period, or if it can be sent for final publication. Mr. Johnson requested a motion from the committee to send the proposal to the Supreme Court for publication and/or further comment period. Judge Jensen made the motion, Mr. Russell seconded, and it passed unanimously.

4. Discussion & Action - Rule 10. Bail for non-resident minors: (All)

Mr. Johnson stated this committee made proposed changes to Rule 10, it was sent for public comment, and no comments were received. Mr. Johnson requested a motion from the committee to send it to the Supreme Court for final publication. Ms. White made motion, Ms. Moore seconded, and it passed unanimously.

5. Discussion & Action - Proposed 2024 Meeting Schedule: (All)

Mr. Johnson inquired if the committee members have had a chance to look at the proposed 2024 meeting schedule. Mr. Johnson stated the July meeting is normally skipped, which he thinks is appropriate given that it is the day after the 4th of July holiday. Mr. Johnson also inquired whether the committee wanted to continue having an in-person meeting once a year, which would take place in May. The committee agreed. Judge Dame requested an option to appear virtually for those committee members who would have to travel a long distance to attend. Mr. Johnson stated he does not have a problem with a hybrid meeting.

Mr. Johnson requested a motion from the committee to approve the proposed meeting schedule for next year. Ms. Jeffs made the motion, Ms. White seconded, and it passed unanimously.

6. Old business/new business: (All)

Mr. Gallardo stated they received the Supreme Court Memo regarding voting and non-voting members. Mr. Gallardo indicated it was a good reminder that non-voting members such as emeritus members and recording secretaries cannot vote. Mr. Gallardo does not believe that is an issue with this committee.

Ms. Verdoia stated she attended the appellate rules committee meeting on the discussion surrounding Rule 52, which deals with child welfare appeals. Ms. Verdoia informed the committee that the appellate rules committee voted on an amendment to Rule 52. That proposed change deals with a party who was unaware that an appeal deadline had passed on a termination of parental rights case, such as they lost contact with their counsel. Ms. Verdoia indicated the party would still have to prove it was not their fault that their counsel did not file on time. This discussion was brought to the attention of the appellate rules committee due to a recent case, and the appellate rules committee decided on a 45-day deadline, with an option for a motion to reinstate the appeal to be entertained. Ms. Verdoia indicated a hearing could potentially be held if there is an issue about whose fault it was and whether it should be reinstated. Ms. Verdoia wanted to bring it to this committee's attention to watch for that.

Mr. Russell indicated the proposed changes to Rule 101 of the Utah Rules of Evidence were adopted by the Supreme Court and became effective as of November 1st. Mr. Russell wanted to make the committee aware of that, and stated there are a few rules that would no longer be necessary to articulate juvenile proceedings or adjudications. Mr. Russell stated he has heartburn with the applicability of Rule 404(c) of the Utah Rules of Evidence being applicable to juvenile proceedings, and he is contemplating approaching this committee at a future date about a possible carveout from 404(c) from juvenile proceedings.

Mr. Gallardo stated that this committee had a couple of rules from the Utah Rules of Juvenile Procedure that went into effect on November 1st as well, such as Rule 22 and Rule 37A. Mr. Gallardo indicated the next effective cycle date would be May 1, 2024, and inquired if there are any rules that this committee has worked on that will be submitted to the Supreme Court for publication soon but need to become effective sooner than the May 1, 2024, date. Mr. Johnson stated the only rule he can see that may need to become effective sooner rather than later is Rule 9. Ms. White stated she had a judge reach out to her and indicate they would like to see it effective as soon as possible, as it sounds like it would reduce hearings and issues that don't need to be addressed as often as they have been.

Judge Dame agreed it would be helpful for Rule 9 to become effective sooner, but he doesn't know what the standard is for deviating from the regular timeframes. Judge Jensen believes the changes will be well received but noted the types of cases that Rule 9 is dealing with don't come around as often as other cases, so it just depends. Judge Jensen stated she would love to see it become effective earlier but is not sure if it is a necessity. Mr. Russell agrees there is a burden on judges and probation staff and indicated he has several in his jurisdiction for which reviews are currently happening three times more often than what the rule amendment is proposing. Mr. Russell stated there is already a protection that anyone can request an earlier review if needed, so he would request it be published as soon as it can be.

The meeting adjourned at 12:50 PM. The next meeting will be held on December 1, 2023, via Webex.

TAB 2

1 **Rule 19C. Delinquency, ~~traffic~~ and adult criminal matters.**

Commented [RG1]: Supreme Court asked if traffic matters are still addressed by this rule.

2 (a) Any defense, objection, or request, including request for rulings on the admissibility
3 of evidence, which is capable of determination without the trial of the general issue may
4 be raised prior to trial by written motion. A motion ~~shall~~must state succinctly and with
5 particularity the grounds upon which it is made and the relief sought. A motion need not
6 be accompanied by a memorandum unless required by the court.

7 (b)The following ~~shall~~must be raised at least seven days prior to the trial unless otherwise
8 ordered by the ~~C~~court:

9 (1) defenses and objections based on defects in the petition, indictment, or
10 information;

11 (2) motions to suppress evidence;

12 (3) requests for discovery where allowed;

13 (4) requests for severance of allegations, charges, minors, or defendants;

14 (5) motions to dismiss on the ground of double jeopardy; or

15 (6) motions challenging jurisdiction, unless good cause is shown why the issue
16 could not have been raised at least seven days prior to trial.

17 (c) Motions for a reduction of criminal offense pursuant to Utah Code ~~S~~section 76-3-402(2)
18 may be raised at any time after disposition upon proper service of the motion on the
19 appropriate prosecuting entity.

20 (d) Motions to suppress. A motion to suppress evidence ~~shall~~must:

21 (1) describe the evidence sought to be suppressed;

22 (2) set forth the standing of the movant to make the application; and

23 (3) specify sufficient legal and factual grounds for the motion to give the opposing
24 party reasonable notice of the issues and to enable the court to determine what
25 proceedings are appropriate to address them.

26 If an evidentiary hearing is requested, no written response to the motion by the non-
 27 moving party is required, unless the court orders otherwise. At the conclusion of the
 28 evidentiary hearing, the court may provide a reasonable time for all parties to respond to
 29 the issues of fact and law raised in the motion and at the hearing.

30 (e) Motions on the justification of the use of force pursuant to Utah Code section 76-2-309
 31 must be filed:

32 (1) ~~in~~ writing; and

33 (2) at least 28 days before trial, unless there is good cause shown as to why the
 34 issue could not have been raised at least 28 days before trial.

Commented [RG2]: Supreme Court suggested “in writing” may be misleading. Paragraph (a) already states that motions are to be “written motion[s].”

35 ~~(e)~~(f) When the facts in a petition, information, or indictment fail to inform a minor of the
 36 nature and cause of the offense alleged so as to enable the minor to prepare ~~his or her~~
 37 minor’s defense, the minor may file a written motion for a bill of particulars. The motion
 38 ~~shall~~must be filed at arraignment or within 14 days thereafter, or at such later time as the
 39 court may permit.

Commented [RG3]: Supreme Court recommended replacing pronouns with gender neutral language.

40 ~~(f)~~(g) A motion made before trial ~~shall~~must be determined before trial unless the court
 41 for good cause orders that the ruling be deferred for later determination. Where factual
 42 issues are involved in determining a motion, the court ~~shall~~will state its findings on the
 43 record.

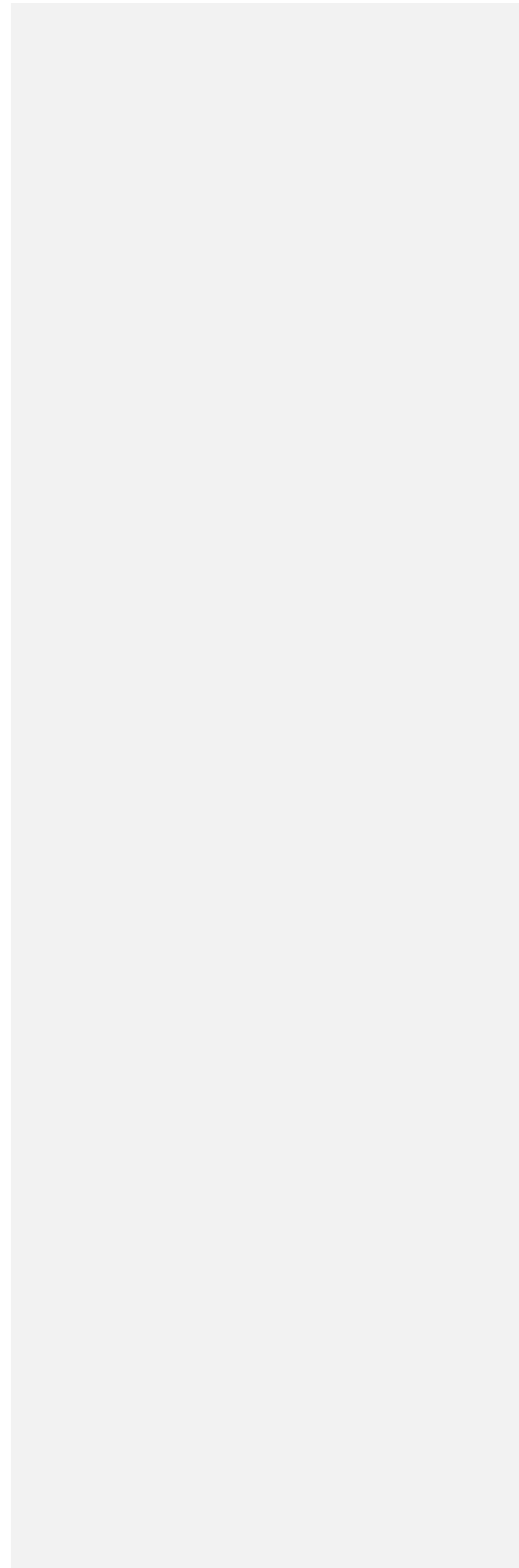
44 ~~(g)~~(h) Failure of the minor or defendant to timely raise defenses or objections or to make
 45 requests which must be made prior to trial or at the time set by the court ~~shall~~will
 46 constitute waiver thereof, but the court for cause shown may grant relief from such
 47 waiver.

48 ~~(h)~~(i) A verbatim record ~~shall~~will be made of all proceedings at the hearing on motions,
 49 including such findings of fact and conclusions of law as are made orally.

50 ~~(i)~~(j) If the court grants a motion based on a defect in the institution of the prosecution or
 51 in the petition or information, it may order that the minor or defendant be held in custody
 52 for a reasonable and specified time pending the filing of a new petition or information.

53 Nothing in this rule ~~shall~~will be deemed to affect provisions of law relating to a statute
54 of limitations.

55



1 **Rule 19C. Delinquency, traffic and adult criminal matters.**

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3 of evidence, which is capable of determination without the trial of the general issue may
4 be raised prior to trial by written motion. A motion must state succinctly and with
5 particularity the grounds upon which it is made and the relief sought. A motion need not
6 be accompanied by a memorandum unless required by the court.

7 (b) The following must be raised at least seven days prior to the trial unless otherwise
8 ordered by the court:

9 (1) defenses and objections based on defects in the petition, indictment, or
10 information;

11 (2) motions to suppress evidence;

12 (3) requests for discovery where allowed;

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16 could not have been raised at least seven days prior to trial.

17 (c) Motions for a reduction of criminal offense pursuant to Utah Code section 76-3-402(2)
18 may be raised at any time after disposition upon proper service of the motion on the
19 appropriate prosecuting entity.

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24 party reasonable notice of the issues and to enable the court to determine what
25 proceedings are appropriate to address them.

26 If an evidentiary hearing is requested, no written response to the motion by the non-
27 moving party is required, unless the court orders otherwise. At the conclusion of the
28 evidentiary hearing, the court may provide a reasonable time for all parties to respond to
29 the issues of fact and law raised in the motion and at the hearing.

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33 (2) at least 28 days before trial, unless there is good cause shown as to why the
34 issue could not have been raised at least 28 days before trial.

35 (f) When the facts in a petition, information, or indictment fail to inform a minor of the
36 nature and cause of the offense alleged so as to enable the minor to prepare the minor's
37 defense, the minor may file a written motion for a bill of particulars. The motion must be
38 filed at arraignment or within 14 days thereafter, or at such later time as the court may
39 permit.

40 (g) A motion made before trial must be determined before trial unless the court for good
41 cause orders that the ruling be deferred for later determination. Where factual issues are
42 involved in determining a motion, the court will state its findings on the record.

43 (h) Failure of the minor or defendant to timely raise defenses or objections or to make
44 requests which must be made prior to trial or at the time set by the court will constitute
45 waiver thereof, but the court for cause shown may grant relief from such waiver.

46 (i) A verbatim record will be made of all proceedings at the hearing on motions, including
47 such findings of fact and conclusions of law as are made orally.

48 (j) If the court grants a motion based on a defect in the institution of the prosecution or in
49 the petition or information, it may order that the minor or defendant be held in custody
50 for a reasonable and specified time pending the filing of a new petition or information.
51 Nothing in this rule will be deemed to affect provisions of law relating to a statute of
52 limitations.