

Rule 11

- Note was discussed and the committee felt the Note is redundant because the statute is referenced in subsection 3 of the Rule.
- Mr. Gubler motioned to have the Note removed. Judge Manley seconded the motion, and it passed unanimously.

Rule 18

- The Note to Rule 18 predated the longest serving members of the committee so no historical information could be provided.
- Ms. Verdoia commented that section 78A-6-109 is already referenced in the Rule.
- There was discussion on whether service is required on a minor.
- Ms. Verdoia felt the Note was confusing rather than clarifying and should be removed.
- Ms. Cassell moved to have the Note removed. Mr. Putnam seconded the motion, and it passed unanimously.

Rule 24, 25 & 26

- Judge Lindsley noted that the same advisory note is given for Rules 24, 25 and 26. The Note was included for clarification on the requirement to advise parties of their rights, but members noted that confusion on available rights has not been an issue.
- Ms. Diaz suggested that the Note could be helpful to pro se parties to let them know they have additional rights beyond the ones discussed in the Rules.
- Ms. Verdoia agreed that the Notes were added for clarification, but asked members to consider whether the clarification could be included in the Rules.
- Judge Lindsley did not think the Note should be included in the Rules because it is rare to have pro se litigants in delinquency cases.
- The committee decided to have the issue brought to the Supreme Court to see if the Court would like the committee to take another look at the Note based on whether or not it impacts pro se litigants.

Rule 27

- Discussion took place on whether the Note was helpful to practitioners who do not regularly practice in delinquency proceedings.
- The cross reference in the Rule has the same effect as the Advisory Note. Members noted that the Code of Judicial Administration governs the destruction of evidence.
- Judge Lindsley motioned to have the Note removed. Ms. Diaz seconded the motion, and it passed unanimously.

Rule 27A

- Discussion took place on whether the Note was needed when juveniles are informed of their rights in the Miranda warning.
- The Note explains rights beyond those of Miranda and clarifies the intent of the Rule. However, members thought the Note could be too limiting.
- Ms. Cassel moved to have the Note removed. Mr. Butler seconded the motion, and it passed unanimously.

Rule 30

- This Note was included to provide clarification for out-of-state youth who receive a citation in Utah. However, the Note is not necessary because it is already included in the Rule.
- Mr. Butler motioned to have the Note removed. Mr. Gubler seconded the motion, and it passed unanimously.

Rule 41

- Judge Lindsley commented that the Note should be kept because it contains an example of the rule's application.
- Jordan Putnam mentioned that the Note is helpful for practitioners.
- Committee members agreed that the Note should be retained.

Action Item:	Present Rules 9, 11, 18, 27, 27A and 30 to the Supreme Court and request that the Advisory Committee Notes be deleted. Discuss Rules 24, 25 and 26 with the Supreme Court to address the needs of pro se litigants.
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AGENDA TOPIC

III. Continued Discussion of Tribal Participation in Juvenile Court	ALAN SEVISON
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Alan Sevison, as an *ex officio* member of the Committee, provided a draft rule pertaining to tribal participation in juvenile court for the committee to review and discuss. During the meeting Katie Gregory also sent an email to the committee containing a memo from Martha Pierce, which was previously circulated in March 2018. Judge Lindsley suggested the committee also consider the decision of the federal District Court in Texas.

Alan Sevison presented his proposed rule. His goal in drafting the rule was to outline some procedural steps for the court to take in determining if ICWA applies since current practice varies. The proposal outlines procedures for determining if ICWA applies. Once established the rule contains guidance on tribal access to the proceeding. He discussed intervention of right as well as joinder of a party by a court. If the tribe does not intervene and is not joined as a party, questions arise as to what rights a tribe has to participate and be heard. Mr. Sevison discussed his proposal to allow the court to determine what level of participation may be granted for a non-party.

The committee discussed examples such as participation by tribal social workers or ICWA specialists and issues this causes in determining who is a designated member with authority to represent the tribe. The issue is complicated by the fact that tribes often cannot afford and do not have the resources to have an attorney present to represent the tribe. The committee also discussed whether the proposed rule leaves sufficient room for judicial discretion in allowing participation. State statute and Intergovernmental Agreements also require DCFS to share information with tribes. The Office of Guardian ad Litem takes the position that a rule is not needed and promulgating rules may cause more confusion or create rights that have not previously existed. Further discussion included how to determine who is allowed to represent the tribe as a non-lawyer and the impact on *pro hac vice* rules.

Members suggested asking tribal representatives what they want and need regarding tribal participation in court. Bridget Koza suggested a discussion with the Utah Tribal Leaders at one of their upcoming meetings to collect their thoughts on a rule of procedure for tribal participation in juvenile court. Alan Sevison will ask Alisa Lee from DCFS to address this with the Utah Tribal Leaders.

Action Item:	Alan Sevison will ask Alisa Lee to discuss the position of the tribes at the Utah Tribal Leaders Meeting in November and give feedback to the Committee.
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AGENDA TOPIC

IV. Old or New Business	ALL
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The Committee discussed agenda items for the December 7 meeting. The Committee decided to move its prior Rule 9 amendments forward to the Supreme Court, but agreed to table discussion of the impact of *County of Riverside v. McLaughlin* on the constitutionality of Rule 9 due to pending litigation. Sophia Moore asked that a memorandum on the issue from the National Juvenile Defense Center be emailed to Committee members when the issue is next discussed.

Alan Sevison will contact Alisa Lee for input on the issue of a tribal participation rule. If information and feedback is available, the issue will be placed on the agenda for December 7. If not, the issue will be postponed until the January 2019 meeting.

Action Item:

Send already revised portions of Rule 9 to the Supreme Court for further action.