



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

Meeting Minutes

Matthew Johnson, Chair

Location: Webex Meeting

Date: August 1, 2025

Time: 12:00 p.m. – 2:00 p.m.

<p><u>Attendees:</u> Matthew Johnson, Chair William Russell, Vice Chair Adrianna Davis Alan Sevison, Emeritus Member Alexa Arndt Carolyn Perkins David Fureigh, Emeritus Member Dawn Hautamaki Elizabeth Ferrin James Smith Janette White Judge David Johnson Judge Debra Jensen Stephen Starr Thomas Luchs</p>	<p><u>Excused Members:</u> Michelle Jeffs</p> <hr/> <p><u>Guests:</u> Stacy Haacke, AOC Deputy General Counsel Paige Nelson, LRGC</p>
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Staff:

Blake Murdoch, Deputy Juvenile Court Administrator
Daniel Meza-Rincon, Deputy Juvenile Court Administrator
Erika Larsen, Juvenile Court Law Clerk
Joe Mitchell, Juvenile Court Law Clerk
Lisa McQuarrie, Juvenile Court Law Clerk
Tyler Ulrich, Recording Secretary
Raymundo Gallardo

1. Welcome and approval of the June 6, 2025, Meeting Minutes. (William Russell)

Committee Vice-chair William Russell informed the Committee that Chair Matthew Johnson was in a Court hearing and would be joining shortly. Vice-Chair Russell welcomed everyone to the meeting and invited each member of the Committee to introduce themselves for the benefit of the new members. Vice-Chair Russell then asked the Committee for approval of the June 6, 2025, meeting minutes. Judge David Johnson moved to approve the proposed minutes. Thomas Luchs seconded the motion, and it passed unanimously.

2. Discussion & Action: Rule 15. Preliminary inquiry; informal adjustment without petition. (Stacy Haacke, All)

Vice-Chair Russell reported that he has worked on some revisions to Rule 15 to better reflect the statutory changes, then turned the time over to Stacy Haacke from the Administrative Office of the Courts. Ms. Haacke reported that the Board of Juvenile Court Judges has met multiple times to review this issue and has drafted a template standing order regarding the release of police reports when a youth seeks to decline the offer of a nonjudicial adjustment. That template has been provided to the Committee and is being distributed to each judicial district to make sure the program is moving forward.

Raymundo Gallardo presented the current draft of Rule 15, and Blake Murdoch directed the Committee's attention to subparagraph (d). Mr. Murdoch suggested making a few minor changes to better reflect the statutory language, and Vice-Chair Russell suggested changing the word "advise" to "inform". After making those changes, Vice-Chair Russell presented the current draft to the Committee for comments. David Fureigh asked a clarifying question about whether the minor must initially decline the non-judicial adjustment before an attorney becomes available to advise the minor. Vice-Chair Russell explained the process when a nonjudicial adjustment is offered to a minor, including that the youth and parent meet with juvenile probation who explains the nonjudicial adjustment process and that the minor qualifies for that option to avoid filing a formal petition in the juvenile court.

Vice-Chair Russell stated that if the youth and/or parent seek to decline the nonjudicial adjustment, it triggers the requirement that probation explain that there is an attorney on-call that can speak with them and advise them concerning the potential benefits and impacts of the NJA option versus formal court proceedings. That attorney has the option to refer a case to a prosecutor to be reviewed for questions regarding legal sufficiency. Mr. Murdoch added that there is a standard form that has been developed to explain the process for youth and parents, including that they must be willing to share their information with the on-call attorney. Vice-Chair Russell then explained that the youth and parent can make their decision independent of the attorney's advice and choose to accept or decline the offer of a nonjudicial adjustment.

Mr. Murdoch posed a question regarding subparagraph (1) and is concerned about the use of the word "must" in that there is a lack of discretion from probation that does not mirror the statutory language to allow a case to be screened with a prosecuting attorney before the offer of a nonjudicial adjustment. Vice-Chair Russell approved of the language as it reflects the use of the word "shall" in Utah Code Ann 80-6-303.5(4), thus making the offer of a nonjudicial to a youth who qualifies for such a mandatory offer. Mr. Murdoch reported that probation officers have been informed by the AOC that cases can still be screened with prosecutors, but Vice-Chair Russell clarified that discretion applies only when not all the statutory criteria are met.

There was no further discussion or comment, and Dawn Hautamaki moved to adopt the current version of Rule 15 for submission to the Supreme Court. Elizabeth Ferrin seconded the motion, and it passed unanimously. The final draft will be submitted to the Supreme Court for presentation and public comment.

3. Discussion & Action: Rule 34. Pretrial hearing in non-delinquency cases. (All)

Vice-Chair Russell explained the recent history of revisions to Rule 34 and reported that the Supreme Court is very committed to making sure the final version is the best possible version of the rule. The Supreme Court recently suggested minor substantive changes that were presented to the Committee, and it has been offered for public comment. The Supreme Court had more suggestions to present to the Committee while the current version of the rule is available for public comment.

Mr. Gallardo presented the version of the rule that was submitted for public comment and explained that the Supreme Court focused on subparagraph (g), specifically suggesting removing references to the Utah Rules of Civil Procedure and simply leaving the reference to Rule 48, as it specifically refers to the related Rules of Civil Procedure.

Judge Johnson recalled some of the history that the Committee and subcommittees have gone through related to that specific subparagraph and reported that the

references to those civil rules were included to make sure the proposed rule was sufficiently thorough. Judge Johnson did not foresee any issues, however, in removing the specific references and simply referring to Rule 48. Judge Johnson then expressed his gratitude to Chair Johnson, Vice-Chair Russell, and Mr. Gallardo for all the work they have done in presenting various drafts of the rule to the Supreme Court.

Mr. Gallardo mentioned a video that was made by the AOC a few years ago to help families understand this specific rule and child welfare proceedings, and that it may need to be updated. Daniel Meza-Rincon reported that the link to that specific video has already been removed and is no longer available.

There were no further comments or discussion, and because the latest version is currently presented for public comments, the Committee will wait to vote on adopting the rule until the public comment period has closed.

4. Discussion: Defense Counsel Qualifications When Youth Face Risk of Adult Prosecution. (All)

Chair Johnson gave background to the new Committee members regarding the proposal of a new Rule 23B regarding qualifications for defense counsel when youth face adult prosecution. The Committee received some preliminary comments, mainly regarding whether or not there were enough attorneys that could meet the proposed requirements, especially in rural areas of the state.

Mr. Fureigh recognized that there are certain cases that do require higher levels of qualifications and asked what happens in adult cases in rural areas. Vice-Chair Russell referenced Rule 8 of the Utah Rules of Criminal Procedure and the requirements for appointed counsel in capital offense cases. Vice-Chair Russell explained that there were few attorneys who met the qualifications of Rule 8 of the URCP when it was first adopted, but since its effective date, more attorneys have sought to meet those requirements. Vice-Chair Russell stated that, in the interim, many counties had to contract with qualified defense counsel from outside of their jurisdiction and touched on the importance of having the same protections for youth in transfer cases to protect their rights and reduce the likelihood of a claim of ineffective assistance of counsel.

Judge Debra Jensen reported that she reached out to all the juvenile court judges statewide seeking feedback on this issue. Those judges in more urban areas were very much in favor of such a rule, while those in rural areas expressed concerns that it would be too restrictive and disqualify many of their usual practitioners. Judge Jensen suggested having a small group look more closely at this issue and include representatives from those rural areas.

Chair Johnson reported that there are some transfer cases where a Guardian ad Litem is appointed for the youth, but because the Guardian is simply appointed to represent best interests, Chair Johnson does not think these qualifications would extend to those attorneys. Vice-Chair Russell stated that he has never had a transfer case with a Guardian ad Litem, while Judge Jensen reported that it is fairly standard to have the Guardian appointed in the Second District.

Carolyn Perkins spoke of her own experience in representing youths facing adult prosecution in rural areas, and that she would often reach out to the Utah Juvenile Defender Attorneys (UJDA) in Salt Lake when she needed guidance or had questions. Ms. Perkins stated that she does feel qualified to represent youth in such cases now and worries that she would not meet the requirements in the proposed rule.

Vice-Chair Russell shared that UJDA and the Indigent Defense Commission (IDC) are working together to create more training opportunities to help practitioners meet the proposed requirements. Judge Johnson spoke about the differences in urban and rural areas and hoped that there could be a team approach that would help spread out the necessary experience. Judge Johnson feels that this is a due process concern for these minors and spoke of his own experience while at UJDA in helping rural districts when these cases are filed there.

Vice-Chair Russell suggested forming a work group and volunteered to join such a group. Mr. Gallardo suggested that the Committee inform the IDC that a working version of a rule has been drafted and invite them to join the discussion and formation of the rule. Chair Johnson supported inviting further participation from the IDC.

Judge Johnson made a motion to form a workgroup on the rule, and the motion was seconded by Judge Jensen. The motion passed unanimously, and a work group will be created. Judge Jensen stated that she will reach out again to the juvenile judges statewide to see if any are interested in joining the work group.

5. Discussion: Rule 20A. Discovery in non-delinquency proceedings. (All)

Mr. Gallardo shared some of the changes that have been made to conform to the style guide. Mr. Gallardo referred to subparagraph (i) regarding protection from discovery and noted that the current rule refers to a civil rule that no longer exists.

A discussion was had regarding the language “protective order” in subparagraph (i), and Judge Johnson expressed that he prefers to keep that language as it is used in practice when a judge makes certain protections regarding the dissemination of specific discovery. Mr. Fureigh expressed his preference for keeping the language in subparagraph (i) regarding protective orders. Stephen Starr suggested that the word “discovery” could be added before “protective order” as it is a narrow issue.

Lisa McQuarrie pointed out that several other sections refer to specific subparagraphs of other rules and suggested that the Committee may want to look at those in order to be consistent throughout all of the rules. Chair Johnson expressed a desire to be consistent among the rules, but Mr. Fureigh pointed out that some rules are very specific in referring to other rules for a reason, and thinks that changing the reference to Rule 37 only at this time is the best option.

Mr. Gallardo made the changes to the draft of the rule that were agreed upon by the Committee. Janette White motioned to present this draft of Rule 20A to the Supreme Court. The motion was seconded by Stephen Starr, and the motion passed unanimously.

6. Discussion: Rule 18. Summons; service of process; notice. (Daniel Meza Rincon, Dawn Hautamaki)

Mr. Meza Rincon and Ms. Hautamaki sought the Committee's guidance on the interplay between Rule 18 of the Utah Rules of Juvenile Procedure and Rule 5 of the Utah Rules of Civil procedure regarding service. Mr. Meza Rincon explained that CARE is being enhanced to allow judicial support teams to serve documents signed by the court directly to attorneys and other parties to a case directly from CARE via email. Teams statewide are working under the assumption that parents or non-attorney parties must stipulate to receive service by email. Ms. Hautamaki found, after reviewing the rules, that such stipulations are only required for unrepresented parties. Rule 18 has only one brief reference about such stipulations in subparagraph (d). Because subparagraph (f) refers to Rule 5 of the Civil Rules of Procedure, which includes email as an option for service, they asked if service can be done by email without a stipulation as explained in Rule 5 of the Civil Rules, and that service for represented parties can simply be sent to counsel.

Ms. Hautamaki has sought input from several districts and suggested courtesy copies be sent to parties even when it is being sent to their attorneys. Ms. Hautamaki explained that the new system upgrades will make this very simple and not require much extra time from court staff.

Mr. Fureigh asked for clarification on how this is done in delinquency matters, and does not think that a stipulation is necessary for everything, such as sending a Webex link. Mr. Fureigh stated that orders are already sent to all parties in child welfare matters by the assistant attorney general who prepares the proposed order. Chair Johnson asked what else is being sent by the court to the parties other than filings that already must be served on every party. Ms. Hautamaki clarified that the inquiry is specifically related to legal documents that are already sent to attorneys, and that the inquiry is related to whether court system should also send those directly to a party.

Judge Johnson suggested that this issue be taken to counsel for the AOC as it is not this Committee's responsibility to advise the AOC on how to interpret rules. Mr. Fureigh agreed that AOC counsel would be the appropriate venue to seek interpretation of the rule, and that if further clarification or amendments are needed, the issue could be brought back to the Committee.

Mr. Meza Rincon brought the discussion back to unrepresented parties receiving notice by email under Rule 5 of the Rules of Civil Procedure. Mr. Fureigh again believed that this was an interpretation issue that should be taken to counsel for the AOC.

Vice-Chair Russell asked for clarification on what is being sent out by the upgraded system and explained that outside of an initial summons, there are not many notices or orders in delinquency cases that need to be served on parties. Judge Johnson explained that orders, findings, and other rulings are often served in child welfare matters, and that those are generally served on counsel by email. Judge Jensen added that child protective orders are usually the only documents served by the court itself, and that those are sent to a local sheriff's office for personal service.

Mr. Meza Rincon expressed gratitude for the Committee's input and reported that he will reach out to the AOC general counsel for guidance on interpretation of specific rules.

7. Discussion: old business or new business. (All)

Mr. Gallardo addressed the Committee regarding the scheduled in-person meeting in October and reported that the room where the meeting is usually held is no longer available. Mr. Gallardo has explored other options and there are no other rooms at the Matheson court available that day. Mr. Gallardo suggested that the meeting could either be held virtually, that another month's meeting could be held in-person, or the scheduled meeting could be moved to October 10, 2025. Mr. Gallardo said that the Committee could revisit this question at the September Committee meeting, and that he will send out an email poll to gauge each member's preference.

Judge Johnson stated that he received an email from Judge Leavitt regarding subpoenas. Judge Leavitt noted that there does not appear to be a Juvenile Rule regarding subpoenas as Rule 14 of the Utah Rules of Criminal Procedure is not specifically referenced or adopted in the Juvenile Rules. Judge Leavitt suggested adding a reference to Criminal Rule 14 in Rule 20 of the Utah Rules of Juvenile Procedure so that there is a clear reference to subpoena powers. Judge Johnson offered to draft such a proposal and share it with Mr. Gallardo to be added to the September agenda.

The meeting adjourned at 1:48 p.m. The next meeting will be held on September 5, 2025, via Webex.