

**Colorado Supreme Court Rules of Juvenile Procedure Committee
Minutes of June 26, 2020 Meeting**

I. Call to Order

The Rules of Juvenile Procedure Committee came to order around 9:00 AM via videoconference. Members present or excused from the meeting were:

Name	Present	Excused
Judge Craig Welling, Chair	X	
Judge (Ret.) Karen Ashby, Chair		X
David P. Ayraud	X	
Magistrate Howard Bartlett		X
Jennifer Conn	X	
Sheri Danz	X	
Traci Engdol-Fruhirth	X	
Judge David Furman	X	
Ruchi Kapoor	X	
Shana Kloek	X	
Wendy Lewis		X
Peg Long	X	
Judge Ann Meinster	X	
Judge Dave Miller		X
Chief Judge Mick O'Hara		X
Trent Palmer		X
Professor Colene Robinson	X	
Magistrate Fran Simonet		X
Judge Traci Slade	X	
Magistrate Kent S. Spangler		X
John Thirkell	X	
Pam Wakefield	X	
Non-voting Participants		
Justice Richard Gabriel, Liaison	X	
Terri Morrison	X	
J.J. Wallace	X	

Special Guests: Jenny Bender from CASA; Clancy Johnson, SA from 1st JD

Attachments & Handouts:

- (1) Draft Minutes of 4/24/20 Meeting**
- (2) Emails from Peg Long Re CASA in Rules**
- (3) Excel Sheet of Issues with Draft Rules**
- (4) Judge Slade's Email**
- (5) C.R.J.P. 3.7 Materials**

I. Call to Order

II. Chair's Report

A. The 4/24/2020 meeting minutes were approved by the committee.

III. Old Business

A. CASA in Rules? Peg Long

Peg Long pointed out that the current draft rules are silent on CASA volunteers. She noted that CASA operates by MOU with each individual jurisdiction and that procedures can vary throughout the state, but CASA is most effective when appointed at the earliest stage of the proceedings. Jenny Bender, Executive Director of CASA, was also present and related that CASA operates in 18 of 22 judicial districts and has served over 4500 children. Peg Long provided all the statutory references to CASA and the amendments made in HB19-1219. The committee discussed whether to repeat parts of the statute on appointing case in a rule. As with other issues, the committee goes back and forth on this. Judge Furman suggested trying to mention CASA appointments as part of the procedures (for example, combined with the rule on filing a petition, so "At time of filing the petition, the court must appoint a CASA if feasible."). Pam Wakefield mentioned that CASAs are appointed in several different case types and wondered about whether a CASA rule should be a general provision (applicable in all Children's Code cases) or whether we should have a D&N-specific CASA rule. The committee decided to focus on D&N for now.

The chair broke the issue down into two parts: (1) should we mention CASA in the rules; and (2) if so, what would be the proposed language.

David Ayraud noted that other case participants, GALs, special respondents, intervenors, etc. are mentioned in the rules and it would be strange to only exclude CASAs. The committee thought this was a good point and decided to draft proposed language. Peg Long, Judge Welling, and Judge Meinster will volunteer to draft a proposal. If anyone else is interested in helping, email J.J.

B. Reviewing Current Rules-See spreadsheet

The draft rules excel sheet was tabled. The chair is going to ponder a good way to facilitate discussion via webex.

IV. New Business

A. Judge Slade's Email Re Adjudicatory Trials

Judge Slade noted that she has now continued adjudicatory jury trials twice and will soon be doing it for the third time. Finding good cause is not as problematic as the consequences of leaving cases unresolved for long periods:

- (1) Kids remaining out of home without an adjudication is troubling;
- (2) Parents are entitled to a jury trial on the issues, and children are also entitled to have resolution;
- (3) Cases remain pending with no treatment plan or services in place in the absence of an agreement;
- (4) Though some jurisdictions can get waivers or variances from the Chief Justice to start jury trials, D&N cases are tough because there are more lawyers and parties than in a standard case and there is not enough room in a standard courtroom to accommodate the number of people.

Judge Slade reported 3 delayed cases in Douglas; Shana Kloek reported 4-6 in Arapahoe; Judge Meinster reported 13 in Jefferson.

On treatment issues, the court can enter a protective order, but the court has limited powers to do so. Committee members expressed concern that the law does not authorize the court to rely on its emergency powers for such long periods of time. Sheri Danz mentioned CJD 96-08 and also related that DANSR had discussed this issue and came up with a model protective order. She will find it, send it to J.J. and J.J. will email it to the committee.

John Thirkell indicated that chief justice directive may be a way to offer guidance. The committee recognized that these were serious issues worthy of attention. Judge Furman suggested putting the issue on CIP's agenda and inviting Judge Slade to the CIP meeting. The committee agreed that CIP is a good home to brainstorm solutions. The committee is open to make any rule changes to assist if CIP comes up with creative solutions. The committee tabled the agenda item to see what happens at the CIP meeting.

B. Judge Meinster's email Re C.R.J.P. 3.7; Materials by Clancy Johnson

The committee agreed that, as of July 1, the C.R.J.P. will be in conflict with the statute due to the Juvenile Justice Reform Act, SB19-108. Judge Furman pointed out that the law is clear in dealing with this situation—the statute controls over a conflicting rule. The question is whether the committee should act to amend the rule, and if so, what the amendment should look like. Professor Robinson expressed concern over changing a delinquency rule. She said that the current charge to the committee was to overhaul the D&N rules. She worried that, by making this change, it would appear that the committee has been regularly reviewing the delinquency rules and has signed off on all of them—that would be a false impression. Judge Slade felt reluctant to make changes to the delinquency rules without input from DAs and PDs and other delinquency stakeholders. That said, the committee was troubled by letting the conflict between the rule and statute persist. Sheri Danz recommended reaching out to the Juvenile Justice Committee. It meets the last Tuesday of the month. She will email the contacts for that committee so that Judge Welling, Clancy Johnson, and J.J. Wallace coordinate with them. The committee made three suggestions for amending the rule: (1) deleting (h) entirely;

(2) adding a reference to article 2 of title 19 to (h); or

(3) delete (h) and add findings language to (g) with a cross-reference to the statutes. These proposals will be referred to the Juvenile Justice Committee for input.

- C. Ruchi Kapoor asked about the drafting subgroup. Judge Welling will work on it. Ruchi Kapoor, Judge Furman, Justice Gabriel, Sheri Danz, and Clancy Johnson volunteered.

V. Adjourn-Next Meeting August 7, 2020, 9:00 AM,

The Committee adjourned at approximately 10:40 A.M.

Respectfully Submitted,
J.J. Wallace