

**Colorado Supreme Court Rules of Juvenile Procedure Committee
Minutes of April 24, 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	
Cara Nord (for Sheri Danz)	X	
Traci Engdol-Fruhworth	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	

Attachments & Handouts:

(1) Draft Minutes of 2/7/20 Meeting

I. Call to Order

II. Chair's Report

A. The 2/7/2020 meeting minutes were approved by the committee.

B. Quick Catch Up & Planning for Future (including additional emergency rules)

Judge Welling recapped the process for the recent emergency rule change to C.R.J.P. 3.5. He indicated that the suggestion came from someone who noticed a gap in the juvenile rules after the criminal rule changed. The chair thanked everyone on the committee for acting quickly.

Justice Gabriel also thanked the committee for their work on the rule change and explained that the supreme court has been working on several emergency rule changes in different contexts. He emphasized that the court is open to any needed rule change, so if anyone has suggestions, please reach out. Contact JJ, Judge Welling, or Justice Gabriel if other concerns present themselves that can be solved by rule.

Judge Welling opened the floor. He wanted to hear from committee members about the new world we are all working in.

Judge Meinster related that things have changed, but hearings are getting done, people are being cooperative, patient and, somehow, it's working. She feels that some of the new things we are doing will forever change the practice. She urges the committee to think about the draft rules we've worked on in light of what is going on now and how things have changed because she believes that some of the changes have been very helpful and would like to see those practices continue.

Cara Nord stated that OCR has put together a [COVID resource page](#), which compiles a wide variety of resources and is open for anyone to use. She also stated that OCR has been concerned about blanket orders issued in some jurisdictions (stopping all hearings or all visitations) and prefers access to the courts (even if it's just a phone hearing or videoconference) and case by case inquiry into what is best for a specific family. Cara also reported that, in El Paso County, parents' participation rates during video services is much higher than prior rates of in-person services. Several other committee members echoed that virtual family services has increased participation substantially.

Peg Long from CASA also reported that CASAs are having more frequent virtual contact with children – shorter, but more frequent. She noted that 50% of kids were in their homes. She too reported that family engagement in services were up. She also felt like virtual visiting was a new tool that CASAs will continue to use.

John Thirkell added that Douglas County is using video conferencing as well (for court, for visitation, etc.). He stated that there have been a couple of demands for live court hearings. Overall, he believed that counties should approach child welfare cases reasonably. For example, there may be due process concerns about filing a

termination motion at this time, so a reasonable course would be not to file those motions right now.

Jennifer Conn said that Adams County has not done webex videoconferencing yet, but they are having court hearings over the phone, which seems to work. She's also noticed that it's easier to have more frequent contact with clients using a variety of apps that she's recently started using.

Professor Colene Robinson indicated that the law school has adapted to the new environment. Because many students are no longer able to work in their summer job, the clinic will continue over the summer and will be offering coverage for GALs and RPCs. Other legal services organizations have reached out to the clinic due to high demand, so the clinic will also be taking on protection order and eviction cases. She also noted that Boulder is not currently doing any hearings other than shelter hearings, but they are doing written pleas, so cases are able to stay moving. She said that law students are mostly worried over the bar exam and whether it will be postponed.

Pam Wakefield stated that, because of her illness, she's been using remote and virtual options for a while, so not much has changed for her. She agrees that it is easier to get a hold of clients virtually. New filings have diminished – likely due to lack of interaction with mandatory reporters. Caseworkers are going to houses with masks, which helps Pam do FaceTime with children who do not have smartphones. Staffings have occurred virtually and, overall, participation has been great.

Ruchi Kapoor related that continuing visits is an important issue for ORPC. ORPC is concerned about the impact of lack of visits on TPR filings. She also reports problems with the record in virtual proceedings-delays and pauses lead to people to talk over one another and it's hard to identify who is speaking. ORPC has worked on a tip sheet for ensuring that the record is clear and audible. Justice Gabriel recommend raising a hand before talking to deal with the pauses. Judge Welling recommended, when people talk over one another, acting to clarify the record in real time. John Thirkell returned to reasonableness and feels like it would be unreasonable to rest a termination motion on lack of visits when visits have been prohibited because of current circumstances.

Terri Morrison indicated that SCAO, the courts, and IT are working together to train judges and court staff on using webex for court hearings. There have been some difficulties because many courts are down to skeleton staffs. Also, obtaining PPE and cleaning supplies for staff and the public coming to in-person court dates to comply with local and state public health orders has been an issue for the

courts. She also expects the court will be challenged with the same budget issues facing all other governments.

Judge Slade echoed other members' observations that everyone is pulling together and working as a team to solve issues and keep cases moving constructively. She stated that Douglas County is having difficulties getting video pleas in delinquency cases--the jail doesn't have the technology that the court uses, and she hasn't been able to locate a spare judicial laptop to give to the jail for juvenile pleas. The district attorney feels that telephone pleas are not authorized under Crim. P. 43. Thus, this is one area where there has been no resolution and cases are stalled. A committee member from OCR and Judge Meinster, offered to work with Judge Slade on the issue.

Traci Engdol-Fruhworth noted that some parents are able to participate in services virtually, but others are not. She worries that two months without progress is a lot in an EPP case, but the lack of progress is due to circumstances beyond the control of the parents. Committee members noted that a "spirit of reasonableness" is important in working on D&N cases at this particular moment.

On this note, Judge Meinster believed that, at this time, the definition of "reasonable efforts" may be different than what it was two months ago. She also has seen early adoption of services that will be valuable under "Families First." She is co-chair of the Juvenile Institute this July; they are in the planning stage and will go forward with some version of the institute. If committee members have ideas for sessions, please email her.

Magistrate Spangler related that the 8th JD hasn't issued blanket orders on visitation, services, etc.-they are addressing issues on a case-by-case basis. They are holding shelter hearings in person, but other hearings are through webex. Even for shelter hearings, they are doing a pre-hearing webex among the parties to see if they can work things out or if they truly need a hearing. He's finding a good spirit of cooperation among all the parties. Parties are being reasonable and judicious in filing motions. He has also observed that participation is up – 85% by his account. Many providers are doing virtual services and this has really increased participation. He noted the only problem area seems to be getting mandatory forms back.

Judge Ashby is enjoying her retirement and has time available; she's very impressed by the work everyone is doing. If anyone needs someone to be a touchstone and talk an issue through, she is available, and offers her support by phone and email. Feel free to reach out to her.

The chair related that it was helpful to share and hear what is going on. He offers kudos to everyone for working well as a team and making sure that child welfare

cases are able to move forward in some form. He also reminded members that, if any issues surface, he's willing to form a subset of this group to address any COVID-19 related issues.

III. Old Business (tabled until next meeting)

- A. CASA in Rules? Peg Long
- B. Reviewing Current Rules-See spreadsheet

IV. New Business (tabled until next meeting)

- V. Adjourn-Next Meeting June 26, 2020, 9:00 AM, 3rd floor Court of Appeals Conference Room (public health circumstances permitting)**

The Committee adjourned at 9:55 AM.

Respectfully Submitted,
J.J. Wallace