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PART II. DELINQUENCY

1. Delinquency Scope and Procedures

Rule 201. Scope of the Delinquency Rules

(a) Application. These rules apply to delinquency proceedings in the superior court and in limited jurisdiction courts.

(b) Incorrigibility. The delinquency rules apply to incorrigibility proceedings.

Rule 202. Referral; Diversion

(a) Definition of "Parent." "Parent" as used in the delinquency rules includes a parent, guardian, or custodian.

(b) Referral. A referral for incorrigible or delinquent conduct must include:

(1) the name, age, gender, and address of the juvenile named in the referral;

(2) the names and addresses, if known, of the juvenile's parents or the juvenile's spouse, if any;

(3) if the juvenile is in custody, the place of detention and the date and time the juvenile was taken into custody;

(4) a concise statement of facts, including with reasonable particularity the date, time, place, and manner of the alleged acts of the juvenile that bring the juvenile within the court's jurisdiction, and the law or standard of conduct that the acts allegedly violated; and

(5) the signature of the person responsible for filing the referral.

(c) Record of Referral. Any authorized juvenile court personnel who receives a referral must make a record of the referral in the manner prescribed by the juvenile court in that county.

(d) Citation. A referral for any designated misdemeanor or petty offense may be made by the filing of an Arizona Traffic Ticket and Complaint, otherwise known as a citation, in lieu of a petition. Service of the citation upon the juvenile by a law enforcement officer serves as notice that the juvenile is to appear at the location, date, and time stated on the citation. A case initiated by citation may be diverted by the prosecutor pursuant to section (e).

(e) Diversion.

(1) ***Meaning.*** "Diversion" is a way of resolving a referral under A.R.S. § 8-321 without filing a petition.

(2) ***Prosecutorial Discretion.*** The prosecutor has sole discretion to divert the prosecution of a juvenile to a community-based program or to a program administered by the juvenile court.

(3) ***Notice to the Victim.*** If the juvenile is accepted into such a program, the victim must be notified as provided by A.R.S. § 8-388.

(f) Submission. If the juvenile is not eligible for diversion, the authorized juvenile personnel must submit the referral to the prosecutor.

Rule 203. Content of a Petition

(a) Content. A petition must be captioned: "In the Matter of___, a person under the age of 18 years." The petition must be under oath and include the following information:

(1) the name, age, gender, and address of the juvenile named in the referral;

(2) the names and addresses, if known, of the juvenile's parents or the juvenile's spouse, if any;

(3) if the juvenile is in custody, the place of detention and the date and time the juvenile was taken into custody; and

(4) a concise statement of facts, including with reasonable particularity the date, time, place, and manner of the alleged acts that bring the juvenile within the court's jurisdiction, and the law allegedly violated by such acts that bring the juvenile within the jurisdiction of the court.

(b) Amendments to a Petition. Before adjudication, a prosecutor may file a motion requesting a court order that permits amendments to a petition. If the court grants the motion, it must allow the parties sufficient time to respond to the new allegations.

Rule 204. Filing a Petition

(a) Filing. All petitions must be filed with the court clerk.

(b) Time Limits for Filing. A petition must be filed within the following time limits:

(1) ***Detained Juvenile.*** If the juvenile is detained, the petition must be filed no later than 24 hours of initial detention.

(2) ***Juvenile Not Detained.*** If the juvenile is not detained, the petition must be filed no later than 45 days after submission of the referral to the prosecutor. The time for filing a petition is extended for an additional 30 days pending the prosecutor's further investigation. No more than one 30-day extension is allowed unless the court for good cause orders otherwise.

(3) ***Diversion.*** The time limit for filing a petition is tolled during the period required to comply with the terms of diversion. If the juvenile does not complete diversion, a petition must be filed no later than 30 days after the matter is resubmitted to the prosecutor for action.

Rule 205. Notice to Appear; Service; Failure to Appear

(a) Notice to Appear. After the State has filed a petition, the juvenile and the juvenile's parent must be given written notice to appear in court. The court for good cause may waive the appearance of the parent. The notice must:

(1) contain the name and address of the person to whom the notice is directed;

(2) contain the location, date, and time of the hearing on the petition;

(3) contain the name of the juvenile involved in the alleged offense;

(4) advise the person to whom the notice is directed that failure to appear will result in sanctions against the person, which may include being held in contempt; and

(5) advise the juvenile, if the juvenile is appearing for an offense listed in A.R.S. § 13-610(O)(3), to appear at a designated time and place for taking a sample of buccal cells or other bodily substances for DNA testing, and to provide proof of compliance at the proceeding to which the juvenile has been summoned.

(b) Service of the Petition and Notice to Appear.

(1) ***First Class Mail.*** The petition and notice to appear must be served by first class mail upon the juvenile, the juvenile's parent, and if the juvenile is not living with the parent, upon the juvenile's guardian or custodian. A single notice may be mailed to both the parent and the juvenile if they have the same residence address.

(2) ***Certified Mail, Personal Service.*** If the court finds that the parent and juvenile failed to appear at the advisory hearing after service by first class mail, the court may approve:

(A) service by certified mail, return receipt requested. Return of the receipt or an affidavit of service is prima facie evidence of service; or

(B) personal service by an authorized juvenile court officer or an officer authorized to serve process in a civil action. Each party must be personally served.

(c) Failure to Appear.

(1) ***Provisional Warrant.*** Whenever it appears that the juvenile cannot be found, or the juvenile's address cannot be ascertained after reasonable efforts to do so, the court may issue a provisional warrant to ensure the juvenile's appearance. A provisional warrant authorizes a juvenile probation officer or a law enforcement officer to temporarily detain a juvenile for the limited purpose of obtaining a future court date from the court and providing that date to the juvenile. A

provisional warrant may also be known as a discretionary warrant, a temporary detention warrant, or by other names.

(2) ***Warrant.*** For good cause and in the interests of justice, the court may compel the juvenile's attendance by issuing a warrant for the juvenile's arrest, if it appears the juvenile's failure to appear was willful.

(3) ***Contempt.*** If, without good cause, a parent fails to appear in court after being served with a notice to appear, the court may set a hearing on an order to show cause why the parent should not be held in contempt. The order to show cause must be served as required under section (b). The parent's failure to appear does not prevent the court from proceeding.

Rule 206. Appointment of an Attorney for a Juvenile

(a) Right to an Attorney. A juvenile has the right to be represented by an attorney in all delinquency and incorrigibility proceedings initiated by petition as provided by law.

(b) Appointment of an Attorney. Upon the filing of a petition or a citation, the court must appoint an attorney for the juvenile if the court finds that the juvenile is indigent.

(c) Meaning of Indigent. "Indigent" means that a juvenile is not financially able to retain an attorney. A juvenile is deemed indigent and has the right to be represented by a court-appointed attorney as provided in A.R.S. Title 8.

(d) Determination of the Cost of a Court-Appointed Attorney. The court may order the juvenile or the juvenile's parent to provide proof of financial resources by completing the court's financial questionnaire. The court also may question the parent under oath about the parent's available financial resources. If the court determines the juvenile is entitled to a court-appointed attorney, the court may order the juvenile and the juvenile's parent to pay a reasonable portion of the cost of a court-appointed attorney. The cost of a court-appointed attorney may not be assessed against DCS or ADJC.

(e) Manner of Appointment. The court must provide a copy of its order or minute entry appointing or denying the appointment of an attorney to the juvenile, the parent, the court-appointed attorney, and the State.

(f) Waiver of Counsel. A juvenile may waive the right to an attorney if the court finds, after a colloquy with the juvenile and considering the juvenile's age, education, apparent maturity, and understanding, that the juvenile's waiver is knowing, intelligent, and voluntarily. A waiver of the right to an attorney must be in writing or in a minute entry. The court should obtain a waiver of an attorney in the presence of the juvenile's parent.

Rule 207. Attorney's Appearance and Withdrawal

(a) Appearance.

(1) ***Court-Appointed Attorney.*** A court-appointed attorney must enter an appearance by personally appearing in open court and advising the court that the attorney is representing the juvenile, or by filing a notice of appearance and providing copies to the assigned judicial officer and the prosecutor.

(2) ***Retained Attorney.*** A retained attorney must file a notice of appearance and provide copies to the assigned judicial officer and the prosecutor.

(b) Withdrawal.

(1) ***Court-Appointed Attorney.*** Unless the court permits otherwise, a court-appointed attorney is automatically relieved of representing a juvenile if no hearings are scheduled and the time for filing the notice of appeal has expired.

(2) ***Retained Attorney.***

(A) *Before the Disposition Hearing.* A retained attorney may withdraw from a case before the disposition hearing only by motion.

(B) *After the Disposition Hearing.* A retained attorney may file a notice of withdrawal if no hearings are scheduled and the time for filing a notice of appeal has expired.

Rule 208. The Juvenile's Attendance at Court Proceedings; Competence; Restraints

(a) Personal Appearance. A juvenile must personally appear in court for the following proceedings:

(1) a detention hearing;

(2) an advisory hearing;

(3) a transfer hearing;

(4) a change of plea hearing;

(5) an adjudication hearing; and

(6) a disposition hearing.

(b) Virtual Appearance. If the parties agree and if authorized by the court, the juvenile may make a personal appearance virtually as provided by this rule and Rules 110 and 209.

(c) Voluntary Absence. The court may infer that a juvenile's absence is voluntary if the juvenile:

(1) was notified of the date, time, and place of the hearing;

(2) was advised that the hearing would proceed in the juvenile's absence if the juvenile failed to appear;

(3) fails to appear; and

(4) has not shown good cause for the non-appearance.

(d) Effect of a Voluntary Absence. The court may proceed with a hearing, other than a disposition hearing, if the court finds the juvenile is voluntarily absent. Following the juvenile's non-appearance at any hearing, the court also may issue a warrant to secure the juvenile's attendance for a future hearing.

(e) Competence. A juvenile may not participate in a delinquency proceeding if the court determines that the juvenile is not competent. The procedure for making that determination is provided in A.R.S. §§ 8-291 through 8-291.11.

(f) Mechanical Restraints. Mechanical restraints include handcuffs, leg irons, belly chains, zip ties, spit hoods and masks, and any other device used to restrain movement of the arms, legs, or torso.

(1) When a juvenile appears before a judicial officer at a hearing in the juvenile's delinquency case, the juvenile must be free of mechanical restraints, unless there are no less restrictive alternatives that will prevent flight or physical harm. A

juvenile appearing before a judicial officer may object to the use of restraints. After the judicial officer has heard from the juvenile, the State, and any detention personnel, and after considering the factors in subpart (f)(2), the judicial officer must approve or disapprove of the use of restraints.

(2) Relevant factors in determining whether the use of mechanical restraints is warranted include:

(A) the juvenile has displayed threatening or physically aggressive behavior;

(B) the juvenile has expressed an intention to flee or has previously attempted to flee from detention; and

(C) a present security situation in the courtroom or courthouse, including a risk of gang violence or gang-related conduct or a specific concern due to a witness's presence, which warrants the use of mechanical restraints.

(3) A prior judicial determination that the juvenile should appear free of mechanical restraints remains in effect until the court orders otherwise.

(4) Any restraints should allow the juvenile to read, handle documents, and write.

(5) The use of mechanical restraints outside the courtroom is governed by the Arizona Juvenile Detention Standards.

Rule 209. Virtual Attendance of Witnesses and of Attorneys

(a) At Adjudication Hearings. All witnesses must personally appear for adjudication hearings unless the court, after considering the juvenile's constitutional right of confrontation, orders otherwise.

(b) At Other Proceedings. For proceedings other than adjudications, a party may request the court to permit witness testimony or an attorney's appearance by virtual means. Unless the court orders otherwise, the request must be in writing.

Rule 210. Disclosure

(a) Disclosure by the State.

(1) ***Time Limits.*** No later than 10 days after the advisory hearing, the State must make available to the juvenile the material and information that is in the State's possession or control.

(2) ***Material and Information.*** The State must disclose the following material and information:

(A) the names, addresses, and the relevant written or recorded statements of all persons the State will call as witnesses at the adjudication hearing;

(B) all statements of the juvenile and of any juvenile or adult co-defendant;

(C) all existing original and supplemental reports prepared by a law enforcement agency in connection with the charged offense;

(D) for each expert who has examined a juvenile or any evidence in the case, or who the State intends to call at trial:

(i) the expert's name, address, and qualifications;

(ii) any report prepared by the expert and the results of any completed physical examination, scientific test, experiment, or comparison conducted by the expert; and

(iii) if the expert will testify at trial without preparing a written report, a summary of the general subject matter and opinions on which the expert is expected to testify;

(E) a list of all papers, documents, photographs, tangible objects, or electronically stored information that the State will use at the adjudication hearing, and upon written request, the State must make available to the juvenile any specified items contained in the list for examination, testing, and reproduction. The State may impose reasonable conditions, including an appropriate stipulation concerning chain of custody, to protect physical evidence produced under this section; and

(F) all material or information that tends to mitigate or negate the juvenile's alleged delinquent conduct.

(3) ***The State's Duty to Obtain Information.*** The State's obligation under this rule extends to material and information in the possession or control of the prosecutor, members of the prosecutor's staff, and any other persons and law

enforcement agencies that have participated in the investigation or evaluation of the case and who are under the prosecutor's control.

(4) ***Disclosure by Court Order.*** On a juvenile's motion that the juvenile has substantial need for additional material or information not otherwise covered in these rules, and the court's finding that the juvenile is unable, without undue hardship, to obtain the material or information or substantial equivalent by other means, the court may order any person to make the material or information available to the juvenile. The court may, upon the request of any person affected by the order, vacate or modify the order if compliance would be unreasonable or oppressive.

(b) Disclosure by Juvenile.

(1) ***Physical Evidence.*** At any time after the filing of a petition, on the State's written request and if ordered by the court, the juvenile, in the presence of counsel, must:

(A) appear in a line-up;

(B) speak for identification by witnesses;

(C) be fingerprinted, palm printed, footprinted, or voice printed;

(D) pose for photographs not involving re-enactment of an event;

(E) try on clothing;

(F) permit the taking of samples of hair, blood, saliva, urine, or other specified materials that involve no unreasonable intrusions of the juvenile's body;

(G) provide handwriting samples; or

(H) submit to a reasonable physical or medical examination, provided such examination does not include a psychiatric or psychological examination.

(2) ***Notice of Defenses.*** No later than 15 days after the advisory hearing, the juvenile must provide the State with written notice of all defenses that the juvenile will introduce at the adjudication hearing including, but not limited to, alibi, insanity, self-defense, defense of others, entrapment, impotency, mistaken identity, and good character. The notice must specify for each defense the persons, including the juvenile, who will be called as witnesses at the adjudication hearing. The notice may be signed by either the juvenile or the juvenile's attorney and must be filed with the court.

(3) ***Disclosures by Juvenile.*** Simultaneously with the filing of the notice of defenses, the juvenile must provide to the State:

(A) the names and addresses of all persons, other than the juvenile, who will be called as witnesses at the adjudication hearing, together with all statements they made that are related to the case;

(B) for each expert who has examined a juvenile or any evidence in the case, or whom the juvenile intends to call at the adjudication hearing:

(i) the expert's name, address, and qualifications;

(ii) any report prepared by the expert and the results of any completed physical examination, scientific test, experiment, or comparison conducted by the expert; and

(iii) if the expert will testify at trial without preparing a written report, a summary of the general subject matter and opinions on which the expert is expected to testify;

(C) a list of all papers, documents, photographs, other tangible objects, and electronically stored information which the juvenile will use at the adjudication hearing. On written request, the juvenile must make available to the State any specified items contained in the list for examination, testing, and reproduction.

(4) ***Extent of Juvenile's Duty to Obtain Information.*** The juvenile's obligation under this rule extends to material and information within the possession or control of the juvenile, the juvenile's attorney, and the attorney's staff and agents.

(5) ***Disclosure by Court Order.*** On the State's motion that the State has substantial need for additional material or information not otherwise covered in these rules, and the court's finding that the State is unable, without undue hardship, to obtain the material or information or substantial equivalent by other means, the court may order any person to make the material or information available to the State. The court may, upon the request of any person affected by the order, vacate or modify the order if compliance would be unreasonable or oppressive.

(c) Disclosure Standards.

(1) ***Materials Not Subject to Disclosure.*** The following materials and information are not subject to disclosure:

(A) *Work Product.* Disclosure is not required of legal research or of records, correspondence, reports, or memoranda to the extent that they contain the opinions, theories, or conclusions of the prosecutor, members of the prosecutor's legal or investigative staff or law enforcement officers, or of defense counsel or defense counsel's legal or investigative staff.

(B) *Informants.* Disclosure of the existence or identity of an informant who will not be called to testify is not required where disclosure would result in substantial risk to the informant or to the informant's operational effectiveness, provided the failure to disclose will not infringe on the juvenile's constitutional rights.

(2) ***Use of Materials.*** Any materials furnished to an attorney pursuant to this rule must not be disclosed to the public but only to those necessary to the proper disposition of the case.

(3) ***Statements.*** The term "statements" means:

(A) a writing signed or otherwise adopted or approved by a person;

(B) a mechanical, electrical, or other recording of a person's oral communications or a transcript thereof; and

(C) a writing containing a verbatim record or a summary of a person's oral communications.

(4) ***Adjudication Hearing.*** References to an adjudication hearing include a probation violation hearing.

(d) Excision and Protective Orders.

(1) ***A Court's Discretion to Deny, Defer, or Regulate Disclosure.***

(A) *Witness Identity.* For good cause, a court may grant a request to defer disclosing a witness's identity for a reasonable period of time, but no later than 5 days before the adjudication hearing.

(B) *Other Matters.* A court may order that other disclosures required by Rule 210 be denied, deferred, or regulated if it finds that:

(i) Disclosure would result in a risk or harm outweighing any usefulness of the disclosure to any party; and

(ii) The risk cannot be eliminated by a less substantial restriction of discovery rights.

(2) ***A Court's Discretion to Authorize Excision.*** If the court finds that only a portion of material or other information is subject to disclosure under Rule 210, it may enter an order authorizing the disclosing party to excise the portion that is not subject to disclosure.

(3) ***Protective and Excision Order Proceedings.*** If a party files a motion seeking a protective or excision order or requesting the court to determine whether any material or other information is subject to disclosure, the court may conduct an *in camera* inspection of the material. Counsel for all parties have the right to be heard on the matter before any *in camera* inspection is conducted.

(4) ***Preserving the Record.*** If the court orders that any portion of any material or information is not subject to disclosure under Rule 210, the entire text of the material or information must be sealed and preserved in the record for appeal.

(5) ***Claims of Privilege or Protection.*** A party who redacts a portion of a disclosed document must clearly identify the redaction and state the legal basis, if it is not clear from the context.

(e) Continuing Duty to Disclose. Each party has a continuing duty to disclose all information or materials that are subject to disclosure upon discovery of such information or materials. If additional information or materials are discovered, all parties must be notified and disclosure must be promptly made.

(f) Sanctions. If it brought to the court's attention that a party violated a disclosure obligation under Rule 210 or any court order, the court may impose any of the following sanctions:

(1) ordering disclosure of the information not previously disclosed;

(2) granting a continuance;

(3) holding a witness, party, or counsel in contempt;

(4) precluding a party from calling a witness, offering evidence, or raising a defense not disclosed;

(5) dismissing all or part of a petition, with or without prejudice;

(6) declaring a mistrial when necessary to prevent a miscarriage of justice; or

(7) any other appropriate sanction.

Rule 211. Subpoenas

(a) Generally. The clerk or prosecutor may issue subpoenas to compel the attendance of witnesses. The subpoena must advise the witness of the location, date, and time of the hearing and that failure to appear will result in sanctions being entered against the witness, which may include being held in contempt. The subpoena must state that "requests for reasonable accommodation for person with disabilities must be made to the court at least 3 working days in advance of a scheduled court proceeding." The subpoena must advise a witness with limited English proficiency, in English and Spanish, to request an interpreter from the court at least 10 working days in advance of the hearing.

(b) Service. Any person may serve a subpoena to compel the attendance of a witness at a delinquency proceeding. The witness must be personally served. If the court finds that it is impracticable to personally serve a witness, it may approve service by certified mail, restricted delivery, return receipt requested. The returned receipt or an affidavit of service is evidence of service.

(c) Contempt. Unless there is good cause for the non-appearance, if a person fails to appear in court after being served with a subpoena, the court may set a hearing on an order to show cause why the person should not be held in contempt and sanctioned. The order to show cause must be personally served as required under section (b).

Rule 212. Computation of Time in a Delinquency Case

(a) Computation. Time is computed as provided by Criminal Rule 1.3, unless these rules state otherwise.

(b) Excluded Time. The following periods are excluded from the computation of time limits in these rules.

(1) ***Delays Occasioned by or on Behalf of the Juvenile.*** Delays occasioned by or behalf of the juvenile are excluded including the following:

(A) delays caused by an examination and hearing to determine competence, and if the juvenile is found incompetent, the time for restoration to competence;

(B) delays resulting from continuances requested by the juvenile and granted by the court under Rule 216(d);

(C) delays resulting from the juvenile being referred to a diversion or community-based alternative program, and

(D) the juvenile's absence.

(2) ***Surrender on, or Execution of, an Arrest Warrant.*** The court must exclude a reasonable amount of time, not exceeding 30 days, for the parties to prepare for a hearing after the juvenile's surrender on an arrest warrant or a court appearance following the execution of a warrant.

(3) ***Calendar Congestion.*** Delays necessitated by the court's calendar congestion are excluded only when the congestion is attributable to extraordinary circumstances. In that event, the Presiding Juvenile Judge must promptly apply to the Chief Justice of the Arizona Supreme Court for suspension of any of the Rules of Procedure for the Juvenile Court.

Rule 213. Speedy Justice

(a) Duty of Counsel. The prosecutor and the juvenile's attorney must advise the court of the impending expiration of time limits in the juvenile's case. The court may consider defense counsel's failure to do so in determining whether to dismiss a petition with prejudice.

(b) Motion to Dismiss. On the juvenile's motion or on its own, the court may set a hearing to determine whether the time limits in these rules have been violated. If the court finds that time limits were violated, it must dismiss the petition without prejudice, unless it finds that the interests of justice require dismissal with prejudice.

Rule 214. Victim's Rights

(a) Applicable Offenses. The rights afforded victims by law apply to an act committed by a juvenile that would be a criminal or petty offense if committed by an adult.

(b) Enforcement. The court must ensure that the rights of victims are enforced as provided in the Victims' Bill of Rights, Arizona Constitution, Article 2, Section 2.1 and A.R.S. §§ 8-381 through 8-422.

Rule 215. Records and Proceedings

(a) Juvenile Court Delinquency Files.

(1) ***Legal File.***

(A) *Contents.* The juvenile court's legal file consists of all pleadings, motions, minute entries, orders, or other documents as provided by rule or court order.

(B) *Public Access.* The legal file must be open to public inspection, except for portions of the file that are closed because they are designated by the judge as confidential. The court may close all or part of the legal file after finding a need to protect the welfare of the juvenile or the victim or finding a clear public interest in confidentiality.

(C) *Confidential Documents.* The clerk must file and segregate confidential documents within the legal file, including any documents and information originating in the social file. *See* A.R.S. § 8-208(G).

(D) *Disposition File.* The disposition file includes the Rule 222 disposition report, any attachments to the disposition report, and any documents from the legal or social file that were included with the disposition report. Documents in the disposition file are confidential documents.

(2) ***Social File.***

(A) *Contents.* The social file is maintained by the probation department and consists of all social records, including diagnostic evaluations, psychiatric and psychological reports, treatment records, medical reports, social studies, DCS records, police reports, detention records, and records and reports or work product of the probation department.

(B) *No Public Access.* A juvenile's social file is confidential and is not open to public inspection without a court order.

(b) Proceedings. Delinquency proceedings are open to the public, except upon the court's written finding of a need to protect the interests of a victim, the juvenile, a witness, the State, or a clear public interest.

(1) ***Request to Close Proceeding.***

(A) *Notice of Request.* Any person who requests that all or a portion of a proceeding be closed to the public must give the parties reasonable notice of the request. The person also must give notice to any other person designated by the court, which may include media representatives.

(B) *Hearing.* The court must hold a hearing before the proceeding to determine whether the proceeding should be closed and must consider the positions of the parties.

(C) *Factors.* In determining whether to close all or part of a proceeding, the judge may consider any relevant factor, including the likelihood that an open proceeding may:

(i) be emotionally harmful to a particular participant or victim; or

(ii) inhibit testimony or the disclosure or discussion of information material to the truth finding or rehabilitation process.

(c) Release of Juvenile Court Files.

(1) ***Release to Juvenile Probation Departments.*** The juvenile court may release a legal and social file to a juvenile probation department in another jurisdiction when release is necessary for the juvenile's supervision.

(2) ***Release to Federal Authorities.*** Upon request of the United States Attorney's Office, the juvenile court must promptly release to that office for presentment to a federal magistrate judge any records concerning a juvenile who is arrested for a criminal offense, pursuant to 18 U.S.C. § 5032.

Rule 216. Motions.

(a) Form. Unless the court permits an oral motion, motions must be in writing and contain the basis for the requested relief. A motion must include a memorandum that states facts, arguments, and authorities pertinent to the motion.

(b) Time for Filing. Unless otherwise ordered by the court:

(1) ***Motion.*** A motion must be filed and served no later than 10 days before a contested hearing.

(2) ***Response and Reply.*** No later than 5 days after service, another party may file and serve a response, and no later than 3 days after service of the response, the moving party may file and serve a reply. A reply must be directed only to matters raised in a response. If no response is filed, the court may deem the motion submitted on the record.

(c) Oral Argument. On a party's request or on its own, the court may set a motion for argument or hearing.

(d) Motion to Continue. A motion to continue must advise the court of pending time limits. The court may grant a motion to continue only if there is good cause for the delay and the delay is indispensable to the interests of justice. A continuance may be only for so long as is necessary to serve the interests of justice. In deciding the motion, the court must consider the victim's views and the victim's right to a prompt and final resolution of the case. If the court grants a continuance, it must state its reasons on the record.

Rule 217. Mandatory Judicial Determinations.

(a) Application. The procedures in this rule apply if:

(1) the juvenile court has entered into signed agreements to obtain reimbursement under Title IV-E of the Social Security Act as implemented by:

(A) the Adoption and Safe Families Act of 1997 (ASFA), Pub. L. No. 105-89 (42 U.S.C. §§ 671(a)(15) through 672(a)(1)) and the implementing regulations of the Department of Health and Human Services (45 C.F.R. § 1356.21), or

(B) the FFPSA; and

(2) a juvenile in a delinquency case is removed from the juvenile's home or continues in a court-sanctioned placement out of the home and receives services that are eligible for federal reimbursement.

(b) Generally. When a juvenile has been removed from the juvenile's home by state authority in a delinquency proceeding, the court must:

(1) protect the juvenile from abuse or neglect;

(2) make the mandatory determinations required by this rule in writing and within the designated times; and

(3) state in a signed minute entry or order a factual basis for each determination.

(c) The Court's First Order.

(1) ***Contrary to Welfare Determination.*** In the court's first order that authorizes or sanctions the removal of a juvenile from the home in a delinquency proceeding, the court must determine in writing whether continuation of the juvenile's residence in the juvenile's home would be contrary to the welfare of the juvenile.

(2) ***Reasonable Efforts Regarding Removal Determination.*** After the juvenile is removed from the home, the court's first order must determine in writing if reasonable efforts were made to prevent the juvenile's removal or if it was reasonable to make no efforts to prevent the juvenile's removal. If the court does not make this finding in its first order, the court must make the finding no later than 60 days after the removal.

(d) Periodic Judicial Reviews.

(1) The court must review a case subject to this rule at least every 6 months after the disposition hearing, or as otherwise required by law. At each review the court must determine:

(A) whether the juvenile is in a safe placement;

(B) whether the placement is appropriate, and whether it is still necessary;

(C) the extent of compliance with the case plan; and

(D) the extent of progress that has been made toward alleviating or mitigating the causes necessitating the out-of-home placement.

(2) The court should also project a likely date by which the juvenile may be returned to and safely maintained in the home, or a likely date when the court will finalize an alternative permanency plan.

(e) Determination of Reasonable Efforts to Finalize a Permanency Plan. No later than 12 months after the juvenile is removed from the juvenile's home, and at least once every 12 months thereafter, the court must determine whether reasonable efforts have been made to finalize the existing permanency plan. The court's findings must be in writing and contain a factual basis for each finding. Before the time by which the judicial determination must be made, the probation department must file a report outlining the efforts made to finalize the permanency plan that is then in effect.

(f) Qualified Residential Treatment Program ("QRTP"). The procedures in Rule 335 apply if a child is placed in a QRTP during a delinquency proceeding and the placement agency seeks Title IV-E funding for that placement.

(g) Basis and Legal Effect of Title IV-E Judicial Determinations. Title IV-E judicial determinations may be based upon written or oral information received by the court. Title IV-E judicial determinations may not be used as evidence of delinquent acts by a juvenile.

2. Delinquency Proceedings

Rule 218. Detention and Probable Cause Hearing

(a) Admission to Detention. Any law enforcement officer who brings a juvenile to a juvenile court detention facility, other than a juvenile who was arrested pursuant to an arrest warrant, must provide a report or documentation to an authorized juvenile court officer that supports the juvenile's admission to detention in the manner prescribed by the juvenile court in each county.

(b) Requirements Upon Admission. Upon admission to the detention facility, the authorized juvenile court officer must do the following:

(1) notify the juvenile of the reason for the admission and the location, date, and time of the detention hearing;

(2) notify the juvenile's parent of the reason for the admission and the location, date, and time of the detention hearing, and that the hearing may proceed in the absence of the juvenile's parent if they fail to appear for the hearing;

(3) make a written record of the time and manner of notifications;

(4) advise the juvenile of the right to telephone a parent and an attorney immediately after admission to the facility; and

(5) advise the juvenile of the right to visitation, in private, with a parent and an attorney. After the initial visit, the juvenile may have visitation during normal visiting hours, or by special appointment if necessary to prepare for a hearing.

(c) Length of Detention.

(1) ***No Petition or Criminal Complaint is Filed.*** A juvenile must not be held in detention for longer than 24 hours after admission to detention unless a petition or criminal complaint has been filed.

(2) ***After a Petition or Criminal Complaint is Filed.*** No later than 24 hours after the filing of a petition or criminal complaint, a juvenile must be brought before the court for a detention hearing under section (d). If a detention hearing is not held within 24 hours after the filing of the petition or criminal complaint, the juvenile must be released from the detention facility to a parent or other responsible person. If no parent or other responsible person can be located to assume physical custody, the court must release the juvenile to DCS.

(d) Detention Hearing.

(1) ***Finding of Probable Cause.*** A juvenile may be detained only if there is probable cause to believe that the juvenile committed the acts alleged in the petition or complaint. Probable cause may be based upon allegations in a police report or a citation narrative prepared by a law enforcement officer, or a properly executed affidavit or sworn testimony.

(2) ***Basis for Detention.*** In addition to a finding of probable cause under subpart (d)(1), a juvenile may be detained only if there is probable cause to believe, and the court finds on the record, one or more of the following:

(A) the juvenile otherwise will not be present at any hearing;

(B) the juvenile is likely to commit an offense injurious to self or others;

(C) the juvenile must be held for another jurisdiction;

(D) the interests of the juvenile or the public require continued detention until a less restrictive placement for the juvenile can be found; or

(E) the juvenile must be held pending the filing of a complaint under A.R.S. § 13-501.

(3) ***Absence of the Juvenile's Parent.*** The detention hearing may be held in the absence of the juvenile's parent if the juvenile's parent cannot be located or failed to appear for the hearing.

(4) ***Victim's Right to be Heard.*** The victim of the offense has the right to be heard at the detention hearing, as provided by law.

(e) Release from Detention. The court may release the juvenile and set terms and conditions of release. Upon release from any detention facility, the court must advise the juvenile that any violation of release conditions or the failure to appear at future proceedings could result in the issuance of a warrant for the juvenile's arrest and detention, and that the court may proceed with future hearings in the juvenile's absence. A victim may request, and the court must provide to the victim, a copy of the juvenile's terms and conditions of release.

(f) Violations of Conditions of Release. If there is probable cause to believe the juvenile has violated a condition of release, the juvenile probation officer responsible for the juvenile's supervision or the prosecutor may file a request to revoke the juvenile's release. The request must state the substance of the conduct alleged to have violated the conditions of release. If the probation officer or prosecutor does not file a

request to revoke release, the victim may file a request directly with the court, as provided by law.

(g) Taking of DNA.

(1) ***In Custody.*** An arresting authority or custodial agency may submit a petition under penalty of perjury stating that the juvenile is detained for an offense listed in A.R.S. § 13-610(O)(3) and that the juvenile refused to provide a sample of buccal cells or other bodily substances. The court must order that the juvenile appear at a designated time and place and permit the taking of a sample of buccal cells or other bodily substances for DNA. The arresting authority or custodial agency must provide to the juvenile a copy of the court order before or at the time of taking the sample.

(2) ***Revocation of Release.*** The supervising juvenile probation officer or the prosecutor may file a motion to revoke the juvenile's release if there is probable cause to believe that a juvenile who the court ordered as a condition of release to provide a DNA sample pursuant to A.R.S. § 8-238 and to provide proof of compliance has not complied with that order. The court having jurisdiction over the juvenile may issue a warrant or summons to secure the juvenile's presence in court and must proceed in accordance with the requirements of this rule and A.R.S. § 8-238.

(3) ***DNA Testing.*** DNA may not be submitted to the Department of Public Safety for testing unless the juvenile has been adjudicated delinquent for an offense in A.R.S. § 13-610(O)(3).

(h) Release to County Jail. A juvenile may be released from a juvenile detention facility to a county jail upon the filing of a criminal complaint charging a juvenile with an offense listed in A.R.S. § 13-501. The filing of a criminal complaint is the date of arrest for purposes of Criminal Rules 4 and 8.2.

(i) Review of Detention Status. The court may review the detention status of a juvenile upon written motion of the juvenile, the prosecutor, or on its own. A party's motion must allege material facts not previously presented to the court. The court must hold a hearing on a motion to review detention status no later than 5 days after the motion is filed. The victim has the right to be heard concerning the release of the juvenile and the conditions of release, as provided by law. The court may accelerate a hearing on the motion upon written request demonstrating extraordinary circumstances and that acceleration is necessary in the interests of justice.

Rule 219. Advisory Hearing

(a) Generally. After a petition alleging a delinquent act has been filed, including a petition filed under Criminal Rule 40, the court must set an advisory hearing to advise the juvenile and the juvenile's parent of the allegations against the juvenile. Copies of the petition must be given to the juvenile and the parent, and to the juvenile's counsel, either in person or pursuant to Rule 205.

(b) Time Limits.

(1) ***For a Detained Juvenile.*** If the juvenile is detained, the advisory hearing must be held no later than 24 hours after the filing of the petition. If the juvenile is already detained on a prior matter and a new petition is filed, the advisory hearing on the new petition must be held no later than 72 hours after the new petition is filed.

(2) ***For a Juvenile Who is Not Detained.*** If the juvenile is not detained, the hearing must be held no later than 30 days after the filing of the petition.

(c) Procedure. At the advisory hearing:

(1) ***Advise of Rights.*** The court must advise the juvenile and the juvenile's parent of the juvenile's constitutional rights, including the rights:

(A) to be represented by counsel, and to have the court appoint counsel if the juvenile is indigent, as provided by law;

(B) to remain silent throughout the proceeding;

(C) to an adjudication hearing on the allegations in the petition;

(D) to confront witnesses presented by the State; and

(E) to call witnesses on the juvenile's behalf.

(2) ***Allow a Victim to be Heard.*** The court must determine whether the victim of the offense has requested to be present and to be heard.

(3) ***Enter the Juvenile's Admission or Denial.*** The court must determine whether the juvenile wishes to admit or deny the allegations or enter a plea. If the juvenile wishes to admit the allegations, the court may accept the admission or plea as provided in Rule 220.

(4) ***Set an Adjudication Hearing.*** If the juvenile denies the allegations of the petition, the court must set an adjudication hearing under Rule 221.

(5) ***Determine Release Conditions.*** The court may set conditions of release and must advise the juvenile that a violation of the release conditions may result in a

revocation of the juvenile's release and the issuance of a warrant for the juvenile's arrest. The court must provide a copy of the release conditions to the juvenile and the juvenile's parents.

(6) ***Special Release Condition.*** If the juvenile has been arrested for an offense listed in A.R.S. § 13-610(O)(3), and the court has found probable cause, the judicial officer must order as a condition of release that the juvenile submit a DNA sample as provided by law.

(7) ***DNA Testing.*** DNA may not be submitted to the Department of Public Safety for testing unless the juvenile has been adjudicated delinquent for an offense in A.R.S. § 13-610(O)(3).

Rule 220. Admission or Change of Plea

(a) Generally. A juvenile may enter an admission to an offense charged in a petition, or may enter into a plea agreement, at any pre-adjudication or adjudication hearing.

(b) Procedure. The court must do the following when taking an admission or plea agreement:

(1) ***Determine the Accuracy of a Plea Agreement.*** A plea agreement must be in writing or entered on the record in open court. Before accepting a plea agreement, the court must address the juvenile and confirm the terms of the agreement, that the plea agreement contains all the agreement's terms, and that the juvenile understands and agrees to those terms.

(2) ***Advise the Juvenile of Rights.*** Before accepting an admission or a plea agreement, the court must inform the juvenile, and determine that the juvenile understands, all the following:

(A) the nature of the charges to which the juvenile will admit or plead;

(B) the constitutional rights that the juvenile will be waiving by the admission or plea;

(C) the possible dispositional consequences of the admission or plea. If the juvenile is being adjudicated for an offense that would be a felony if the juvenile were convicted in a criminal court, the court must provide the felony offender and prohibited possessor advisements; and

(D) immigration consequences. The court must specifically inform the juvenile that "If you are not a citizen of the United States, admitting to a delinquent act or entering a no contest plea may affect your immigration status. Your admission to a delinquent act or plea of no contest could result in your deportation or removal, could prevent you from ever being able to get legal status in the United States, or could prevent you from becoming a United States citizen."

(3) ***Determine Compliance with Victim's Rights.*** Before accepting an admission or plea agreement, the court must question the prosecutor and determine if the victim has been afforded rights provided under A.R.S. §§ 8-381 through 8-422.

(c) Findings. Before accepting an admission or plea agreement, the court must find the following:

(1) the juvenile wishes to admit the allegation or enter into the plea agreement, and that the admission or plea is knowing, intelligent, and voluntary, and not the result of force, threats, or promises;

(2) the juvenile wishes to forego the juvenile's constitutional rights; and

(3) a factual basis exists to support the adjudication for each offense that the juvenile admits to or to which the juvenile pleads. The factual basis may be based on the juvenile's statement to the court, a police report, or another reliable source.

(d) Rejecting a Plea Agreement. If the court rejects a plea agreement, the court must set the matter for an adjudication hearing.

(e) Accepting the Plea. After accepting an admission or plea agreement, the court must adjudicate the juvenile and proceed to disposition or set a disposition hearing.

Rule 221. Adjudication Hearing

(a) Generally. At an adjudication hearing, the court determines whether the juvenile committed the acts alleged in the petition.

(b) Time Limits.

(1) ***Detained Juvenile.*** The court must hold an adjudication hearing for a detained juvenile no later than 45 days after the advisory hearing, unless the juvenile waives time or time is excluded by the court under Rule 212.

(2) ***Juvenile Not Detained.*** The court must hold an adjudication hearing for a juvenile who is not detained no later than 60 days after the advisory hearing, unless the juvenile waives time or time is excluded by the court under Rule 212.

(3) ***Exceptions.*** The time limits in subparts (b)(1) and (b)(2) do not apply if a motion for transfer or a petition to revoke probation has been filed.

(4) ***Reversal of Judgment.*** If an appellate court reverses a judgment and orders an adjudication hearing, the court must hold the hearing no later than 60 days after the appellate court entered its order or issued its mandate.

(c) Burden of Proof. At an adjudication hearing, the State must prove the allegations in the petition beyond a reasonable doubt.

(d) Amendment to Conform to the Evidence. Unless the juvenile consents to the amendment, the petition may be amended only to correct mistakes of fact or to remedy formal or technical defects that conform to the evidence presented at the adjudication hearing.

(e) Judgment of Acquittal. On the juvenile's motion or its own, the court must enter a judgment of acquittal, after the close of the evidence on either side, if there is no substantial evidence to support an alleged offense.

(f) Findings and Orders. The court must make one of the following findings in writing for each offense alleged in the petition:

(1) the alleged offense was proven beyond a reasonable doubt and the juvenile is adjudicated delinquent; or

(2) the alleged offense was not proven beyond a reasonable doubt and the count in which the offense is alleged is dismissed.

(g) Disposition. After a finding of delinquency, the court must set a disposition hearing and may address detention, set conditions of release, or enter other orders as appropriate.

Rule 222. Disposition

(a) Disposition Report. Before the disposition hearing, the court may order the probation officer to prepare and submit a written report to the court with recommendations regarding the juvenile's disposition. The disposition report and any attachments to that report are confidential and must be withheld from public inspection except upon court order. The report must be submitted to the court and be made available to the attorneys for the parties, or to the juvenile if unrepresented by counsel, at least 3 court days before the disposition hearing.

(1) ***Contents of the Report.*** The disposition report must include:

(A) the juvenile's delinquency referral and detention history;

(B) an evaluation of the juvenile's risk of reoffending and identified needs, including the strengths of the juvenile and family;

(C) a victim impact statement;

(D) any information furnished by the victim regarding restitution; and

(E) the probation officer's case assessment and recommendations for treatment and disposition.

(2) ***Availability of Report to the Victim.*** On request, the court must provide the victim with the following information contained in the disposition report:

(A) the juvenile's delinquency referral and detention history;

(B) the probation officer's case assessment and recommendations for treatment and disposition.

(3) ***Waiver of Report.*** If the victim has provided, or has had an opportunity to provide, a written or oral impact statement, the parties with court approval may waive the disposition report.

(4) ***Evaluation of Juvenile.*** Before the disposition hearing, the court may order the juvenile to submit to a physical, psychiatric, or psychological evaluation, or any combination of evaluations.

(5) ***Release of Information.*** The court may withhold from the parties any material that might be psychologically damaging to them, or that might be destructive of relationships between family members.

(6) ***Disposition Reports and Records.*** Disposition reports and any Rule 215(a)(2) social file records included with the report must be retained in a confidential and segregated disposition file pursuant to Rule 215(a)(1)(D). In the event of an

appeal, the disposition file must be transmitted by the clerk as part of the record on appeal.

(b) Disposition Hearing.

(1) ***Time Limits.***

(A) *Juvenile Who is Detained.* If the juvenile is detained, the court must hold a disposition hearing no later than 30 days after the adjudication, unless the juvenile waives time or time is excluded by the court under Rule 212.

(B) *Juvenile Who is Not Detained.* If the juvenile is not detained, the court must hold a disposition hearing no later than 45 days after the adjudication, unless the juvenile waives time or time is excluded by the court under Rule 212.

(C) *Continuance.* The court on its own or on a party's motion may continue a disposition hearing for good cause. If the juvenile is detained, the disposition may be continued for more than 30 days after the date initially set for disposition, but only if the juvenile consents in open court.

(2) ***Procedure.*** When the court makes a finding that a juvenile is delinquent, the court must make a disposition of the matter as provided by law or set the matter for a disposition hearing. The court may assign the matter to another judge or a juvenile hearing officer. The victim has the right to be present and to address the court.

(3) ***Findings and Orders.*** At the close of the disposition hearing, the court must make findings in a signed minute entry or written order. If the disposition is probation, the order must include the conditions of probation.

(4) ***Advisements.*** Following the entry of its disposition order, the court must advise the juvenile and provide written notice of the following:

(A) the right to appeal and the method of appeal;

(B) the ability to set aside the adjudication;

(C) the right to destruction of records;

(D) if appropriate, a felony offender warning; and

(E) if the disposition is for a felony offense, the prohibition concerning firearms.

Rule 223. Probation

(a) Imposition of Probation. The court may place a juvenile on probation at the time of disposition. The court must impose conditions of probation designed to promote the juvenile's positive development, assure accountability, and protect the public. In addition, the probation officer may impose directives that are consistent with and necessary for implementing the conditions imposed by the court.

(b) Notice. All conditions imposed by the court and directives imposed by a probation officer must be given to the juvenile in writing, unless exigent circumstances require the probation officer to give oral notice directly to the juvenile. When oral notice is given, the juvenile must also be provided with prompt written notice that confirms the oral notice.

(c) Modification of Probation.

(1) A probation officer may modify or clarify any directive that the probation officer has imposed.

(2) After notice to the prosecutor and the juvenile, and after the parties have had an opportunity to be heard, the court may modify any condition it has imposed or any directive imposed by a probation officer.

(3) The juvenile, probation officer, or the State may ask the court to modify or clarify any condition or directive, and the court may hold a hearing if requested. The court must give the juvenile a written copy of a modification or clarification.

(4) Upon a victim's request, the court must notify the victim of any proposed modification of the terms of probation if the modification will substantially affect the juvenile's contact with, or the safety of the victim, or if the modification affects restitution or incarceration of the juvenile. The court must afford the victim an opportunity to be heard, as provided by law.

(d) Termination of Probation.

(1) The court may terminate the juvenile's probation at any time, but no later than the following:

(A) no later than one year after the disposition, except as provided by A.R.S. § 8-341(B);

(B) upon the juvenile's eighteenth birthday; or

(C) for cases filed pursuant to A.R.S. § 8-202(H), upon the juvenile's nineteenth birthday.

(2) If the victim requests notice, the court must notify the victim of any proceeding in which the court is asked to terminate the juvenile's probation. The court must afford the victim an opportunity to be heard, as provided by A.R.S. §§ 8-381 through 8-422.

Rule 224. Revocation of Probation

(a) Initiation. The prosecutor or probation officer responsible for supervising the juvenile may petition the court to revoke probation if there is probable cause to believe that the juvenile has violated a condition or directive of probation. If the victim requests notice, the court must notify the victim of any probation revocation proceeding and afford the victim an opportunity to be heard, as provided by A.R.S. §§ 8-381 through 8-422.

(b) Petition. The petition must state the substance of the conduct alleged to have violated the conditions or directives previously imposed, and in all other respects must conform to Rule 203(a).

(1) ***Notice to Appear.*** Promptly after the petition to revoke probation has been filed, the juvenile, the juvenile's attorney, and the juvenile's parent must be given written notice that they are required to appear before the court. For good cause, the court may waive the parent's appearance. The notice to appear must:

(A) contain the name and address of the person to whom the notice is directed;

(B) contain the location, date, and time of an advisory hearing on the petition; and

(C) advise that a failure to appear may result in sanctions, including contempt.

(2) ***Service and Failure to Appear.*** The juvenile, the juvenile's attorney, and the juvenile's parent must be served with a copy of the petition and a copy of the notice to appear in the manner provided by Rule 205(b). The court may address a failure to appear as provided by Rule 205(c).

(3) ***Amendment to the Petition.*** A petition to revoke probation may be amended as provided in Rule 203(b).

(c) Warrant. If a probation officer, when or after a petition to revoke probation is filed, requests an arrest warrant for the juvenile, the court must determine based upon allegations in the petition whether there is probable cause to believe that the juvenile violated a condition or directives of probation.

(d) Advisory Hearing.

(1) ***Time Limits.***

(A) *Juvenile Who is Detained.* If the juvenile is detained on a petition to revoke probation, the court must hold an advisory hearing no later than 24 hours after the initial detention.

(B) *Juvenile Who is Not Detained.* If the juvenile is not detained, the court must hold an advisory hearing no later than 14 days after the filing of the petition and notice to appear.

(2) ***Procedure.*** At the advisory hearing,

(A) *Advise of Rights.* The court must advise the juvenile and the juvenile's parent of the juvenile's constitutional rights, including the rights:

(i) to be represented by counsel, and to have the court appoint counsel if the juvenile is indigent, as provided by law;

(ii) to remain silent throughout the proceeding;

(iii) to an adjudication hearing on the allegations in the petition;

(iv) to confront witnesses presented by the State; and

(v) to call witnesses on the juvenile's behalf.

(B) *Confirm Disclosure.* The court must confirm that the probation officer has disclosed to the attorneys for the parties any documents, notes, and evidence related to the violation, other than confidential information protected under Supreme Court Rule 123.

(C) *Allow a Victim to be Heard.* The court must determine whether the victim of the offense has requested to be present and to be heard.

(D) *Juvenile's Statements at Revocation Proceeding.* The court must advise the juvenile that if the alleged violation involves a delinquent act for which the juvenile has not yet been adjudicated, regardless of the outcome of the probation revocation proceeding, the juvenile may still be adjudicated for the alleged offense, and any statement made by the juvenile at the probation revocation proceeding may be used against the juvenile at the adjudication hearing.

(E) *Enter the Juvenile's Admission or Denial.* The court must determine whether the juvenile wishes to admit or deny the violations of probation. If the juvenile wishes to admit a violation of probation, the court may accept the admission or plea agreement as provided in Rule 220.

(F) *Set an Adjudication Hearing.* If the juvenile denies the violations of probation, the court must set a probation violation hearing.

(G) *Determine Release Conditions.* The court may set conditions of release and must advise the juvenile that a violation of the release conditions may result in

a revocation of the juvenile's release and the issuance of a warrant for the juvenile's arrest. The court must provide a copy of the release conditions to the juvenile and the juvenile's parents.

(e) Probation Violation Hearing.

(1) ***Time Limits.*** The court must hold a probation violation hearing no later than 21 days after the advisory hearing unless the juvenile waives time or time is excluded by the court under Rule 212.

(2) ***Burden of Proof.*** The State must prove a violation of probation by a preponderance of the evidence.

(3) ***Procedure.*** Each party may present evidence. The court may admit any evidence as provided by Rule 104(b), which may include hearsay.

(4) ***Amendment to Conform to the Evidence.*** Unless the juvenile consents to the amendment, the petition may be amended only to correct mistakes of fact or to remedy formal or technical defects that conform to the evidence presented at the probation violation hearing.

(5) ***Findings and Orders.*** The court's findings must be in writing in the form of a signed minute entry or order and state specifically:

(A) whether each allegation in the revocation petition has been proved; and

(B) findings of fact that establish a violation of probation.

(6) ***Disposition.*** If the court finds a violation of a condition or directive of probation, then the court may proceed directly to disposition, or it may set a disposition hearing pursuant to Rule 222. The court may impose any disposition provided under A.R.S. § 8-341.

(7) ***Subsequent Acts.*** If a juvenile who is on probation subsequently commits a new act and is thereafter adjudicated delinquent or incorrigible, the juvenile is deemed to have violated the terms of probation. No violation petition or hearing is required, and the court may proceed directly to disposition or set a disposition hearing pursuant to Rule 222.

Rule 225. Intercounty Transfers

(a) Transfer of Disposition Hearing.

(1) The court may order the transfer of a disposition hearing to the county of the juvenile's residence if the parties agree, the victim has an opportunity to be heard and agrees to the transfer, and the juvenile waives time pending the disposition hearing. The presiding juvenile judge or the judge's designee in the sending county must also confer with, and obtain the consent of, the presiding juvenile judge or designee in the receiving county before entry of the order. The sending county must send a copy of the transfer order to the receiving county.

(2) No later than 10 days after entry of the transfer order, the court clerk in the sending county must forward a certified copy of the legal file, together with a transmittal letter, to the court clerk in the receiving county. Upon receipt, the transmittal letter must be signed by court clerk in the receiving county and returned to the court clerk in the sending county.

(3) No later than 10 days after entry of the transfer order, the probation department in the sending county must send copies of the social file and any other pertinent information to the probation department in the receiving county.

(b) Post-Disposition Transfer of the Case.

(1) After the disposition, the court may order the transfer of a case from the county in which the disposition occurred to the county of the juvenile's residence if:

(A) the juvenile and the juvenile's parent reside or will reside outside the county of original jurisdiction;

(B) provision is made for the victim to be heard; and

(C) the court in the receiving county consents to the transfer.

(2) The court may order the transfer of a case upon request of the probation department, or upon a request or petition from a party. The court may set a hearing on the request or petition.

(3) If the court orders the transfer, the clerk of the court in the county of original jurisdiction must forward a certified copy of the legal file, together with a transmittal letter, to the clerk of the court in the receiving county no later than 10 days after the order of transfer. Upon receipt, the transmittal letter must be signed by the clerk in the receiving county and returned to the clerk in the county of original jurisdiction.

(4) The county probation department transferring the case must send copies of the social file and any other pertinent information to the director of court services in the receiving county for processing.

(5) The juvenile probation officer must request the court to conduct a review hearing to affirm or modify the terms and conditions of supervision to include the payment of fees and restitution. Upon granting a transfer of probation supervision, the court in the receiving county assumes jurisdiction of the case.

(c) Courtesy Probation Supervision.

(1) "Courtesy probation supervision" means the transfer of the probationer's supervision to another county. In a case with courtesy probation supervision, the sending court retains jurisdiction over the probationer and is responsible for the collection of fees, restitution, and any violations of probation.

(2) The court may authorize a juvenile placed on probation to reside in another county upon verification that the juvenile probation department in the receiving county can provide courtesy probation supervision in accordance with the terms and conditions originally imposed upon the juvenile.

(3) If the receiving county is unable to ensure that the terms and conditions of probation can be supervised as ordered, the court in the sending county may, after a hearing, amend the terms and conditions of probation to permit transfer.

(d) Residential Placements. This rule does not apply to out-of-county residential placements.

Rule 226. Transfer for Criminal Prosecution

(a) Generally. The prosecutor may file a motion requesting the juvenile court to waive jurisdiction and order the transfer of the juvenile to the criminal division of the superior court for prosecution as an adult.

(b) Motion and Complaint. A motion to transfer must be accompanied by a criminal complaint that identifies the offense or offenses for which transfer is sought. Copies of the motion and complaint must be served pursuant to Rule 106.

(c) Amending the Complaint. On the prosecutor's motion, the court may allow amendments to the complaint to conform to the evidence, but the amendments must be made before entry of an order to transfer, and the juvenile may not be transferred or held to answer for an offense other than one for which the court found probable cause at the transfer hearing. An amended complaint must be served on the parties in the same manner as the original motion and complaint.

(d) Time Limits. The motion and complaint must be filed no later than 15 days after the date of the advisory hearing, except the court on a finding of good cause for delay may allow a later filing if the juvenile will not be substantially prejudiced as a result of the delay.

(e) Transfer Investigation. On receipt of the motion for transfer, the probation officer must conduct a transfer investigation and prepare a written report addressing the factors specified in A.R.S. § 8-327. The juvenile probation officer must provide a copy of the report to the parties no later than 7 calendar days before the transfer hearing, unless the time is waived by the parties.

(1) ***Evaluation of Juvenile.***

(A) *Order.* At any time after the filing of the motion to transfer, the court on a party's request or on its own may order the juvenile to submit to physical, psychological, or psychiatric evaluations, or any combination thereof.

(B) *Report.* The experts must submit their reports to the court no later than 7 calendar days before the transfer hearing. Upon receipt, court staff will provide the expert's report to the juvenile's counsel. The juvenile's counsel is responsible for editing the report by redacting any statement or summary of the juvenile's statements concerning the charged offense. Juvenile's counsel must then return the edited copy to court staff no later than 24 hours after receipt and provide the edited version to the prosecutor.

(C) *Prior Transfer.* If the juvenile has previously been transferred for criminal prosecution by any juvenile court of this state, at any time before the hearing the court may waive the juvenile probation officer's transfer investigation or

the experts' evaluations. Any prior orders of transfer, probation reports, or reports pertaining to physical, psychological, or psychiatric evaluations conducted as part of the prior transfer proceedings must be provided to the parties and counsel.

(2) ***Incompetence.*** As provided in A.R.S. §§ 8-291 through 8-291.11, the court must not transfer for criminal prosecution a juvenile who is not competent.

(f) Transfer Hearing. A transfer hearing must be conducted by a judicial officer. The transfer hearing must be conducted in two phases. The first phase includes a determination of probable cause that an offense was committed and whether the juvenile committed the alleged offense. The second phase determines whether public safety would best be served by the transfer of the juvenile for prosecution. The two phases may be heard consecutively or on separate dates as the court determines.

(1) ***Time Limits.*** A transfer hearing must be held no later than 30 days after the filing of the motion to transfer. The court may continue the hearing for good cause.

(2) ***Waiver.*** The juvenile may waive an evidentiary hearing on either phase of the transfer proceeding. A waiver of the evidentiary hearing on the probable cause phase of the transfer proceeding must be in writing and signed by the juvenile, the juvenile's counsel, and the prosecutor. Before accepting a waiver, the court must inform the juvenile of the consequences of a waiver and the rights under Criminal Rules 5.3 and 5.4(c) that the juvenile is waiving. The court must make written findings concerning the waiver.

(3) ***Probable Cause Determinations.***

(A) *Applicable Rules.* The probable cause phase must be conducted on the record and as provided in Criminal Rules 5.3 and 5.4(c). The probable cause phase of the transfer hearing, or a waiver of that phase under these rules, constitutes compliance with the defendant's right to a preliminary hearing under Criminal Rule 5.1.

(B) *Unlawfully Obtained Evidence.* A court must not exclude evidence during a probable cause hearing solely on the ground that it was obtained unlawfully.

(C) *Probable Cause Finding.* If the court finds there is probable cause to believe that the charged offense has been committed and that the juvenile committed it, the court must proceed to the public safety determination. If the court does not find probable cause for the charged offense, it may find probable cause as to lesser included offenses.

(D) *No Probable Cause Finding.* If the court finds that probable cause does not exist, the court must dismiss the complaint without prejudice.

(4) ***Public Safety Determination.*** In determining whether public safety would best be served by transferring the juvenile, the court must consider the factors specified in A.R.S. § 8-327.

(5) ***Order of Transfer.*** If the court determines that transfer is appropriate, the court must state its reasons in writing in a signed minute entry or order. The court also must order that a certified transcript of the probable cause phase of the hearing be filed with the clerk no later than 20 days after the hearing was completed.

(6) ***No Transfer.*** If the court determines that transfer is not appropriate, the court must deny the motion to transfer and set an adjudication hearing no later than 30 days after entry of the order denying the motion. The complaint will serve as the petition for purposes of further juvenile proceedings.

Rule 227. Post Transfer

(a) Court Actions. Once the judicial officer finds that the juvenile should be transferred to the criminal division of the superior court, the juvenile court must:

(1) ***Hold to Answer.*** Designate the counts of the criminal complaint on which the juvenile will be held to answer in the criminal division and order that no preliminary hearing or grand jury occur.

(2) ***Amendments.*** Order that the complaint must not be amended to add additional or different charges unless the juvenile consents. The complaint may be amended to correct mistakes of fact in the complaint or to remedy technical defects.

(3) ***Initial Appearance.*** Conduct an initial appearance as required by Criminal Rule 4.2. At the initial appearance the court must:

(A) order the juvenile to appear before the criminal division for an arraignment at a specific location, date, and time;

(B) appoint an attorney if the juvenile is indigent to represent the juvenile in all further criminal proceedings;

(C) determine the conditions of release under Rule 7.2, unless the court determines that release on bail is prohibited;

(D) provide the juvenile with a copy of the conditions of release, including the next court date and location, and have the juvenile acknowledge an understanding by signing a copy of the conditions of release in the court's presence;

(E) inform the juvenile that a violation of conditions of release or the failure to appear for an arraignment could result in the issuance of a warrant for the juvenile's arrest; and

(F) determine, if the juvenile is not released, the facility that will have custody of the juvenile pursuant to A.R.S. § 8-305(C) and (D) and remand the juvenile to the custody of an appropriate officer.

(b) Time Limits. Criminal Rule 8.2 applies for determining time limits for trying a juvenile in the criminal division after transfer.