

COLORADO RIVER INDIAN TRIBAL COURT
LOCAL RULES OF JUVENILE COURT PROCEDURE "LRJP"

I. SCOPE

LRJP 1

These Rules apply to Child Offender "CO" and Child in Need of Care "CNC" actions.

ANNOTATIONS

II. PLEADING AND FILING

LRJP 2

(a) **CO and CNC Affidavit by Officer.** In every cite and release, and in every detention, of every child, the Tribal Probation Officer or Tribal Police Officer responsible for detaining the child shall complete a typed or hand-written plain and concise statement of FACTS upon which the allegations or events giving rise to the detention are based, and sign and file this statement, which shall be deemed an affidavit of that officer, with a Tribal Probation Officer not later than 9:00 a.m. on the first business day of, or after, detention, whichever is first.

(b) **CO and CNC Petitions, Pleading.** A petition shall, at a minimum, state the facts required by DRC 1-313(C) or DRC 1-412(C), including the child's name, the allegations(s), including the Section and Subsection of the applicable Code therefor, the location of the allegation(s), and the approximate time and date of the allegation(s) and a plain and concise statement of FACTS upon which the allegations or events are based, which may be attached and incorporated from the affidavit therein by reference. A petition substantially completed is deemed to satisfy the requirements of Tribal law, including, but not limited to DRC 1-313 and 1-412.

(c) **Co and CNC Petitions, Filing, When Required, Limitation of Action.** A Petition shall be signed and filed with the Tribal Court, when and as provided under the DRC or other applicable law, and, in all cases, not later than the time and date of initial appearance of any child in custody on those allegations at that time per LRCP 6 (2) and LRJP 38 (c). All Co or CNC actions are commenced by filing a petition with the Tribal Court, and by either service of a summons and petition on the child and his or her parent, per LRCP 28, or by the citation and release of the child on a designated Traffic Code offense, per LRJP 3 (a), or by the detention of the child, per LRJP 3 (b) or (c).

LRJP 2 (Cont.) A CO or CNC petition shall be filed within a reasonable time from discovery or within Thirty (30) days from a CO or CNC request for action per DRC 1-312 and DRC 1-411, and the first adjudication date shall not be set more than Thirty (30) days after the date the petition is filed.

ANNOTATIONS

LRJP 22 (Continuance of Adjudicatory)

LRJP 3

CO Action, Traffic Citation and Release, CO and CNC Action, Detention. When a Tribal Police Officer may detain a child offender without a warrant under DRC 1-303(A)(2) on any L&O, Article VI, "Traffic Control and Operation of Vehicles" violation, excluding Driving Under the Influence per L&O 633, Reckless Driving per L&O 634, Racing per L&O 641, and Failure to Give Information and Render Aid per L&O 621 or L&O 623, the Tribal Police Officer may either:

(a) cite and release the child per DRC 1-303(B)(2) and file her affidavit per LRJP 2 (a) along with a copy of the citation, or

(b) detain the child and proceed per LRJP 10, whichever as pursuant to the Rules or procedures of the Department of that Tribal Probation or Police Officer and, in either event, the Officer shall complete and file the affidavit required per LRJP 2 (a), or

(c) when a Tribal Probation Officer or Tribal Police Officer may detain a child who is a Ward of the Court without an arrest warrant per DRC 1-302, DRC 1-303, or DRC 1-402(B)(4), the Tribal Probation Officer or Tribal Police shall complete and file the affidavit required per LRJP 2 (a) and proceed per LRJP 20.

ANNOTATIONS

III. CO HEARING PROCEDURE, CNC HEARING PROCEDURE

LRJP 4

CO and CNC Action, Hearing Procedure. At the commencement of any initial appearance, preliminary custody hearing, detention hearing, adjudication, and dispositional hearing, in any CO or CNC action, the Judge shall read the petition, explain the possible consequences and advise the child and her parent, guardian or custodian of their rights;

LRJP 4 (Cont.) however, if such has been done at least once at a prior proceeding in the same action, the Judge may inform all persons present she will not repeat such, unless anyone so requests, and in any event, the failure to so request shall be deemed a waiver of the right to a repeated reading of the petition, explanation of possible consequences, and information of rights.

ANNOTATIONS

IV. INITIAL APPEARANCE TIME AND DATE, INITIAL APPEARANCE, PROCEDURE

LRJP 5

(a) Children in Detention, Initial Appearance, Petition and Amendment. All children in custody, that is, children detained but not released per LRJP 10 by a.m. on any business day, shall have an initial appearance that same day set per insert B which initial appearance shall be per LRJP 6 and LRCP 38 (c), and at which day and time, the Chief of the Tribal Police, acting Chief, Lieutenant, duty sergeant, child matron, or jail duty officer, Tribal Probation Officer, or other officer having charge or custody of the child at that time shall cause the child to be delivered to the Tribal Court for the initial appearance, with the exception of children not in the Tribal detention facility but in protective custody, whether in a facility, home or with extended family members, where a Tribal Police or Probation Officer having who made the placement or has knowledge of the location of the child at that time, and/or the guardian ad litem for the child, if any is appointed.

(a) CNC and CO Action, Initial Appearance, Time and Date. Children cited for minor traffic offenses per LRJP 3 (a) shall be cited to the Tribal Court and shall appear at the Courthouse when and as indicated on the citation but the Court shall direct the minor to appear before a Probation Officer who may file a petition, direct the minor to Teen Court, or otherwise resolve the alleged driving problems with the minor.

ANNOTATIONS

LRJP 6

Initial Appearance ("Advisory") Procedure, Attorney Appearance. At initial appearance, the Judge shall first proceed to examine, amend, advise, and dismiss or set bail and otherwise proceed, on the complaint or citation per LRCF 38 (c) and thereafter the petition may be amended per LRCF 5 (a)(1)(ii) and summons and notice information per LRCF 6 (a)(3); provided, however, in no event, shall the Court's amendment, examination or solicitation from the child or parent of any opinion or fact in any amendment be later used against the child or parent in any way. In addition, the Judge shall enter a plea of no admission or plea of admission for the child, or upon request of the child or parent, shall grant a continuance so the child or parent or both may consult with, and/or have speak for him or her, any attorney per LRCF 7, or enter a denial for the child and appoint an attorney for the child.

ANNOTATIONS

See Bench Book for Standard Juvenile Advice of Rights Order and Supplement Read to Minors and Parents; cf. LRCF 38 (c)

LRJP 7

Adjudication Setting. Upon entry of a plea of no admission, the Court shall set the adjudication date per Insert B and approximately, but not more than, Thirty (30) days from initial appearance, see LRJP 2 (c), except that other dates may be set upon the stipulation of the parties. The adjudication date set under this Rule shall not be continued, absent a failure to appear or good cause shown on the motion of a party per LRJP 22. In addition, if the child is to remain in custody or detention after the advisory hearing, the Court shall set a preliminary custody or detention hearing to follow or be held not later than Twenty-Four (24) Hours after the advisory.

ANNOTATIONS

V. ADMISSION

LRJP 8

Plea of Admission, Findings, Findings. Prior to entry of any admission at initial appearance, the Court shall find the child understands the allegation(s) and possible consequences therefor, and has voluntarily, knowingly and intelligently waived his or her rights, and shall find a factual basis to support the admission. The Court shall not accept any admission on facts, that would, if found to be true, constitute a defense to the allegations, or in which the parent objects to the admission.

ANNOTATIONS

DRC 1-321 (B)(Admission by Child Offender); Admission and/or Consent for Admission of Parent, Guardian or Custodian Sometimes Required

LRJP 9

Dispositional Hearing. Upon entry of any plea of admission, the Court shall set a later dispositional hearing and order a dispositional report from the appropriate agency, but may make a disposition at the time of entering the plea, if there is no objection from either party or parent, and the Court, in its discretion, so permits.

ANNOTATIONS

DRC 1-322, DRC 1-323, DRC 1-324, DRC 1-325 (CO Action); DRC 1-420, DRC 1-421, DRC 1-422, DRC 1-423 (CNC Action)

VI. CO ACTION, RELEASE, CNC ACTION, RELEASE

LRJP 10

All children in custody or detained shall be held or released as follows:

(a) children detained on an arrest warrant shall be held on such terms as set forth in the arrest warrant, and if no terms are set forth, shall be delivered to a Tribal Probation Officer per LRJP 10 (b),

(b) pursuant to the Rules or procedures of the Tribal Prosecutor, or the Department of that Tribal Probation or Police Officer, children detained by a Tribal Probation or Police Officer without a warrant SHALL be released to parent, or consenting extended family member per DRC 1-303(C) or DRC 1-403(B)(1), or else shall be delivered to the appropriate Tribal Probation Officer as soon as such Officer can be located, which shall in no event be later than 9:00 a.m. on the first CALENDAR day of, or after, detention, whichever is first, whereupon the Tribal Probation Officer shall either release or detain the child; provided, however, no child shall be detained, that is, placed or otherwise withheld from the physical custody and control of his parents, guardians or custodians, unless the Probation officers file a petition and appear for initial appearance per LRJP 5, or

(c) by the Court at initial appearance, or thereafter, on such terms or conditions as, in its discretion, it may order.

ANNOTATIONS

DRC 1-102 (B) ("Detention")

VII. PRELIMINARY CUSTODY OR DETENTION HEARING

LRJP 11

(a) **Preliminary Custody or Detention Hearing.** Children not released per LRJP 7 or LRJP 10 and remaining in custody after initial appearance shall be afforded a preliminary custody or detention hearing to follow the initial appearance and in any event not later than Twenty-Four (24) Hours after the petition is filed, except in the event of a continuance due to lack of any available parent. Any preliminary custody or detention hearing shall not be continued or waived, except upon good cause shown by the child, Tribal Prosecutor or parent, or as may be due to the unavailability of a parent or attorney, except such hearing may be vacated, in the discretion of the Court, if the child is lawfully released from detention prior to the hearing, the parties so stipulate.

(b) **Preliminary Custody or Detention Hearing, Procedure.** A preliminary custody or detention hearing shall be conducted under the language of DRC 1-308 or DRC 1-408 or other applicable law.

(d) **Preliminary Custody or Detention Hearing, Attorney Appearance.** Consistent with the notice of appearance requirement for all appearances except at arraignment and initial appearances, per LRCP 11 (d), any attorney representing a juvenile shall file a notice of appearance prior to or at a preliminary custody or detention hearing, with the sole exception of at a preliminary custody or detention hearing held when the juvenile is in custody shall an attorney located by the Court and identified by minute order or other order be allowed to represent the juvenile at that hearing without filing of a notice of appearance either at or prior to the hearing, or even subsequent to the hearing, if the attorney shall not represent the juvenile thereafter.

(e) **Preliminary Custody Hearing, Condition of Release, Detention Hearing, Condition of Release.** At the preliminary custody or detention hearing, the Court may change or set appropriate conditions of release pending adjudication.

ANNOTATIONS

VIII. DISCLOSURE

LRJP 12

Availability and Disclosure of Police and Witness Statement. As soon as possible, and in no event later than the time and date of initial appearance for children in detention or the close of business on the Fifth (5th) business days after the time and date of initial appearance

LRJP 12 (Cont.) for children not in detention, the Tribal Prosecutor shall make available, and promptly thereafter upon a request disclosed to the Tribal Prosecutor per LRCP 19 or bring to initial appearance at Court copies for disclosure, to the child, child's parent, or their attorney(s), the affidavit required per LRJP 2(a)

ANNOTATIONS

LRJP 13

Filing and Disclosure of Witness and Evidence List by Prosecutor. Not later than five (5) business days prior to the time and date of the first adjudication setting held in the case(s), the Tribal Prosecutor shall file with the Court and make available and promptly thereafter disclose, with or without request, to the child, child's parent, or their attorney(s), a list of all witnesses and evidence it seeks to have admitted at trial in its case in chief, and all evidence identified on the list, which shall include reasonably adequate written reports or supplements by each Tribal Probation and Police Officer, and other police officer of any government, listed on such list.

ANNOTATIONS

LRJP 14

Disclosure of Special Alibi Defense by Juvenile. In only child offender actions per DRC 1-317(B), if the child intends to offer testimony or establish an alibi as a defense to an allegation, the child or child's attorney shall list the names of all witnesses and disclose the list to the Tribal Prosecutor as soon as possible, and in no event later than Five (5) business days prior to the date set for adjudication or hearing on the defense.

ANNOTATIONS

Cf. LRCP 8 (No Responsive Pleading Otherwise Required, but if Submitted See DRC 1-315 and DRC 1-414 (Pleading Must be Served Five (5) Days Prior to Hearing))

LRJP 15

Filing and Availability of Rebuttal Witness and Evidence List by Prosecutor. In the event of a disclosure per LRJP 14, the Tribal Prosecutor shall list the names of all rebuttal witnesses and disclose such list to the child or child's attorney not later than Forty-Eight (48) hours prior to the adjudication or hearing on the motion.

ANNOTATIONS

LRJP 16

Disclosure of Exculpatory Evidence by Prosecutor to Juvenile. The Tribal Prosecutor shall promptly disclose all exculpatory material, information or witnesses after discovery per LRCRP 17.

ANNOTATIONS

LRJP 17

(a) Disclosure by Both Prosecutor and Juvenile. Late received evidence, material or information may and shall be disclosed per LRCRP 18.

(b) Disclosure to Attorney General. The parties shall make such disclosure to each other and the Attorney General as are required to also be made to the Attorney General per LRCP 14.

ANNOTATIONS

LRJP 18

Form of Discovery Request, Report and Witness and Evidence List, Responsibility for Knowledge of Filed List. A discovery request, report and list may, and when required under these Rules, shall be per LRCRP 19, and disclosure to the juvenile in a CO Action constitutes disclosure to the juvenile's parent, guardian or custodian.

ANNOTATIONS

LRJP 19

Court Order on Discovery and Sanction. For any violation of LRJP 2 (a), the Court may, and most often shall, dismiss the action(s) with prejudice. For any other discovery violation of these Rules, the parties may move and/or the Court may make any such order as per LRCRP 20.

ANNOTATIONS

IX. VIOLATION OF COURT ORDER, BENCH OR ARREST WARRANT, ARREST WITHOUT WARRANT

LRJP 20

Any time a Probation Officer or Tribal Police Officer has reasonable grounds to believe an order of any of the Courts of the Tribes has been violated in any CO Action or CNC Action, the Probation Department or Tribal Police may immediately, and without a warrant, take the juvenile into custody or detention, per DRC 1-302 (c), DRC 1-402 (B)(4)(b), DRC 1-303 (A)(1), DRC 1-403 (A). Thereafter the action shall proceed if the violation allegedly occurs during the time the juvenile is a temporary or permanent Ward of the Tribal Court, a new petition need not be filed with the Court. Instead, only an affidavit reciting the FACTS of the alleged violation need be filed and a hearing held to amend the Court's initial release order or conditions, if requested by any party or the Court.

ANNOTATIONS

X. MOTION, CONTINUANCE.

LRJP 21

Motions. Contested pre-trial motions may not be filed later than the close of business of the next business day prior to the adjudication, and motions may be heard and decided immediately prior to adjudication, or, in the discretion of the Judge, shall supply good cause for a continuance running on the party filing the motion and may be heard as an evidentiary hearing at the time scheduled for the adjudication.

ANNOTATIONS

LRJP 22

Continuance. Continuances of adjudication or any hearing set shall not be granted, except upon stipulation or good cause shown upon motion of a party and may be granted for up to Twenty (20) business days at a time, but not to exceed 180 days total from the filing of the Petition, unless tolled with the minor's consent or due to unavailability of the minor.

ANNOTATIONS

XI. SPEEDY ADJUDICATION

LRJP 23

Speedy Adjudication. The right to a speedy adjudication commences on the filing of the petition and runs for six (6) months therefrom per DRC 1-316 (c) and DRC 415 (c).

ANNOTATIONS

CF. LRCP 5 (b)

XII. STAY OF PROCEEDING TO ENFORCE JUDGMENT OR SENTENCE.

LRJP 24

Stay. Any final order, judgment, or sentence -- whether made in the form of a minute order or not -- is immediately effective, unless the Court orders otherwise, and may be made per LRCP 17 (b) in open court, and if so made, and shall be deemed denied, unless granted at the hearing in which made, unless the moving party agrees otherwise, as any other motion for stay of proceedings. In addition, the Appeals Court shall hold a hearing per DRC 1-109 (c) and its Local Rules of Procedure prior to overruling the Juvenile Court's denial of a stay or suspension pending appeal.

ANNOTATIONS

LRCP 17 (Stay); TRCP 62 (Stay by Motion); LRCP 18 (Motion to Reconsider)