

1 Rule 7-301. Intake.

2 Intent:

3 To establish the duties, responsibilities and authority of the probation officer during
4 the intake process.

5 Applicability:

6 This rule shall apply to probation officers in the Juvenile Court.

7 Statement of the Rule:

8 (1) Definition. Intake is defined as the process undertaken by the probation
9 department from the time a referral is received until final disposition. Intake may include
10 a review of the written referral, an initial interview and a determination regarding
11 disposition of the referral.

12 (2) Review of written referral.

13 (2)(A) The probation department shall conduct a thorough review of the written
14 referral to determine whether the facts, as alleged, would bring the minor within the
15 court's jurisdiction. The probation department may be guided by the county attorney and
16 may consult with the county attorney in any case.

17 (2)(B) If the alleged facts would not bring the minor within the court's jurisdiction, the
18 complainant shall be so informed and no further action shall be taken.

19 (2)(C) If the minor appears to be within the court's jurisdiction, the probation
20 department shall continue with the preliminary inquiry to determine whether the minor's
21 or the public's interest requires that further action be taken.

22 (3) Preliminary inquiry. The probation officer may hold an initial interview with the
23 minor and parent, guardian or custodian. No person shall be ordered to attend this initial
24 interview. At the interview, all identifying information shall be reviewed for accuracy and
25 the minor's age verified to insure jurisdiction. The probation officer shall advise the
26 parties of the following:

27 (3)(A) That the probation officer has no judicial authority and that the preliminary
28 inquiry is not a court hearing.

29 (3)(B) That the purpose of the preliminary inquiry is to determine whether further
30 court action is necessary or whether the matter can be closed without filing a petition.

31 (3)(C) That the minor and at least one parent/guardian or custodian must be present.

32 (3)(D) That the interview is voluntary.

33 (3)(E) That the parties may be represented by counsel.

34 (3)(F) That the nature of the alleged offense and the age of the minor appear to give
35 the court jurisdiction to act.

36 (4) Determination. After reviewing the written referral or after the preliminary inquiry,
37 the probation officer shall determine whether to close the referral with no further action,
38 attempt a non-judicial adjustment or direct the filing of a petition.

39 (4)(A) No action closure. The probation officer has discretion to close out the referral
40 and take no further action based upon the following factors:

41 (4)(A)(i) inability to locate the child or the family;

42 (4)(A)(ii) lack of prosecutorial merit as determined by the county attorney; or

43 (4)(A)(iii) other extraordinary circumstances.

44 (4)(B) Non-judicial adjustment.

45 (4)(B)(i) The probation officer has discretion to attempt non-judicial adjustment of a
46 case based upon the following factors:

47 (4)(B)(i)(a) The severity of the offense(s).

48 (4)(B)(i)(b) Restitution made or planned where damage to persons or property
49 resulted from the offense.

50 (4)(B)(i)(c) Minor's prior court referral history.

51 (4)(B)(i)(d) Minor's attitude toward the offense(s).

52 (4)(B)(i)(e) Parent's ability to control the minor.

53 (4)(B)(i)(f) Previous family involvement with court or social service agencies.

54 (4)(B)(i)(g) Minor's school or employment situation.

55 (4)(B)(i)(h) Other relevant information concerning the offense or the minor.

56 (4)(B)(ii) As the attempt toward non-judicial adjustment begins, the probation officer
57 shall advise the parties of the following:

58 (4)(B)(ii)(a) That a petition may still be filed.

59 (4)(B)(ii)(b) That information obtained in the preliminary inquiry shall not be
60 admissible in an adjudicatory proceeding.

61 (4)(B)(ii)(c) That they may withdraw from the non-judicial adjustment process at any
62 time, but formal court action may result.

63 (4)(B)(ii)(d) That conditions may be agreed upon as part of the non-judicial closure
64 which may include:

65 (4)(B)(ii)(d)(1) Payment of a fixed sum to the Court.

66 (4)(B)(ii)(d)(2) Payment of restitution to the victim.

67 (4)(B)(ii)(d)(3) Satisfactory completion of compensatory service work hours.

68 (4)(B)(ii)(d)(4) Compliance with specified restrictions on activities and associations.

69 (4)(B)(ii)(d)(5) Attendance at substance abuse programs, counseling or other short-
70 term programs.

71 (4)(B)(ii)(d)(6) Any appropriate combination of the above.

72 (4)(B)(ii)(e) That a written report of the preliminary inquiry shall be placed in the file.

73 (4)(B)(iii) The probation officer may enter a non-judicial adjustment if:

74 (4)(B)(iii)(a) Prima facie jurisdiction is established.

75 (4)(B)(iii)(b) The minor admits to the facts alleged in the referral.

76 (4)(B)(iii)(c) The minor and the parent/guardian or custodian consent to the non-
77 judicial adjustment.

78 (4)(B)(iii)(d) In the judgment of the probation officer, a non-judicial adjustment is in
79 the best interest of the public and the minor.

80 (4)(B)(iii)(e) Conditions that have been agreed upon as part of the adjustment are in
81 writing and agreed to and signed by the juvenile and parent/guardian or custodian.

82 (4)(B)(iv) All sums collected under paragraph (ii)(d)(1) above for accounting
83 purposes ~~and for the collection of surcharges as required by Utah Code Ann. Section~~
84 ~~63-63a-1 et seq.~~ shall be treated as fines and shall be assessed in accordance with a
85 schedule approved by the Council.

86 (4)(B)(v) A "Non-Judicial Adjustment Agreement" shall be prepared on forms
87 approved by Juvenile Court staff in accordance with this Code and shall be signed by
88 the juvenile, the parent/guardian or custodian, and the assigned court officer. The
89 agreement shall reflect the terms and conditions agreed upon and shall contain a date
90 certain for completion. The agreement shall also contain a statement that failure to
91 comply may result in the filing of a petition and appearance before a judge of the court.

92 (4)(B)(vi) Conditions of Non-Judicial Adjustment:

93 (4)(B)(vi)(a) A probation officer shall not attempt non-judicial adjustment in cases
94 where the minor has a referral history of felony offenses or the minor is alleged to have
95 committed a felony level offense in the present case, or the minor's history contains
96 more than four misdemeanors committed in at least two separate delinquency episodes
97 and the offense in the present case is a repeat offense.

98 (4)(B)(vi)(b) Intake supervisors within a district may authorize attempted non-judicial
99 adjustment of cases otherwise precluded by paragraph (a) above in highly exceptional
100 circumstances including but not limited to cases involving children 11 years of age and
101 younger. Under no circumstances will non-judicial adjustment be attempted with
102 referrals which allege offenses which if committed by adults would be capital or first
103 degree felonies or for motor vehicle related offenses involving alcohol or drugs.

104 (4)(C) Filing of a petition. The probation officer shall direct the filing of a petition if:

105 (4)(C)(i) the minor denies the charge;

106 (4)(C)(ii) no action closure or non-judicial closure is inappropriate; or

107 (4)(C)(iii) the minor's or the public interest requires that a petition be filed.