

MINUTES

**Supreme Court's Advisory Committee
on the Rules of Criminal Procedure**

Administrative Office of the Courts
450 South State Street
Salt Lake City, Utah 84114

March 27, 2006

ATTENDEES

Laura Dupaix
Rob Heineman
Craig Ludwig
Professor Erik Luna
Judge Sheila McCleve
Judge Brendan McCullagh
Vincent Meister
John O'Connell
Michael Wims

EXCUSED

Julie George
Judge Bruce Lubeck
Steven Major

STAFF

Matty Branch
Brent Johnson

I. WELCOME AND APPROVAL OF MINUTES

Michael Wims welcomed the Committee members to the meeting. The minutes from the previous meeting were approved.

II. RULE 15.5

Judge Brendan McCullagh provided the report from the Rule 15.5 subcommittee. Judge McCullagh stated that the Evidence Committee did not accept the committee's suggestion to have separate provisions in both the rules of criminal procedure and the rules of evidence. Judge McCullagh also noted that the recent decision in the Henriod case upheld the constitutionality of the second portion of Rule 15.5. Therefore, Judge McCullagh proposed an amendment to Rule 15.5 that would provide for video taped testimony when the child is available to be cross-examined.

Michael Wims asked whether § 76-5-411 would still need to be repealed. Judge McCullagh stated that it might be best, however, the statute references the rule and therefore it is not critical. After brief discussion, the committee voted in favor of Judge McCullagh's proposal, with two members voting against.

III. RULE 27 SUBCOMMITTEE

Judge McCullagh provided the report from the Rule 27 subcommittee. Judge McCullagh stated that the Judicial Council has formed a committee to study justice court issues. The committee will look at statutes and rules and determine whether they are effective and need revision. Judge McCullagh suggested referring the Rule 27 issue to this committee for input and feedback. The committee agreed with this suggestion.

IV. STATE V. MANNING SUBCOMMITTEE

Laura Dupaix provided the report from the State v. Manning subcommittee. Ms. Dupaix stated that she has met with Joan Watt and they both determined that rule changes should be put in Rule 4 of the Utah Rules of Appellate Procedure. The proposed rule change has been discussed by the appellate procedure committee and will be finalized at its next meeting. The criminal procedure committee will not need to do anything else on this issue.

V. RULE 14 SUBCOMMITTEE

Laura Dupaix stated that the Rule 14 subcommittee has not met, because Julie George has had scheduling problems. Laura Dupaix will take over as chair and coordinate the activities of the committee. Ms. Dupaix noted that the recent case of State v. Gonzales stated that a victim must receive notice when information is subpoenaed. Ms. Dupaix will put the subcommittee together and present a proposal at the next meeting.

VI. SEARCH WARRANT SUBCOMMITTEE

Vincent Meister stated that, now that the Legislature is over, the subcommittee will be able to focus on search warrant rules. The subcommittee will hopefully have a product by the next meeting.

VII. OTHER BUSINESS

Michael Wims stated that the recent case of State v. Todd had identified a conflict between Rules 22 and 24. Laura Dupaix suggested that there is a quick fix to the conflict. Ms. Dupaix suggested changing the time for the motion from ten days after imposition of sentence to ten days after the written sentencing order is entered. The committee members agreed with the suggestion and Ms. Dupaix will present a proposal at the next meeting.

Professor Erik Luna notified the committee that on April 11, 2006, there will be a kick-off event for the criminal justice center. Everyone will be invited to this event. Michael Wims

noted that the criminal law section of the bar is planning several upcoming activities and encouraged people to join the section.

The next meeting was scheduled for June 12, 2006. The committee adjourned at 6:00 p.m.