

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 84111
Council room

May 15, 2018
12:00 p.m. – 2:00 p.m.

Attendees

Douglas Thompson – Chair
Professor Jensie Anderson
Judge Patrick Corum
Jeffrey S. Gray
Blake Hills
Craig Johnson
Ryan Stack
Cara Tangaro - by phone

Excused

Judge Elizabeth Hruby-Mills
Keri Sargent
Judge Kelly Schaeffer-Bullock

Staff

Brent Johnson
Jeni Wood – recording secretary

Guests

Patricia Owen
Senator Todd Weiler

I. WELCOME/APPROVAL OF MINUTES

Douglas Thompson welcomed the committee members to the meeting. Mr. Thompson thanked Senator Todd Weiler and Patricia Owen for attending.

The Committee discussed the March 20, 2018 minutes. There being no changes to the minutes, Jeffrey Gray moved to approve the March 20, 2018 minutes. Judge Patrick Corum seconded the motion. The motion carried unanimously.

II. RULE 16

Senator Todd Weiler discussed proposed changes to rule 16. Craig Johnson explained the edits he made to the rule. Senator Weiler is concerned that law enforcement officers may not provide prosecutors with all the evidence they collected. Mr. Gray questioned the courts authority to impose sanctions on law enforcement. Senator Weiler said he spoke with a prosecutor who requires law enforcement officers to certify they provided the prosecutor with all

the evidence they had. Cara Tangaro said prosecutors have a duty to share information with defense counsel.

A subcommittee will be created, including Jeffrey Gray and Cara Tangaro to address this rule. Mr. Thompson will find two volunteers from the legal community to be included on this subcommittee.

III. RULES 18 – FINAL APPROVAL

Brent Johnson said there were no comments received.

Craig Johnson moved to approve rule 18 as presented, and send it to the Supreme Court for final approval with an effective date of November 1. Judge Corum seconded the motion. The motion carried unanimously.

IV. RULE 12 – FINAL APPROVAL

Ryan Stack reviewed proposed changes to rule 12.

Judge Corum moved to approve rule 12 as presented, and to again be published for public comment. Mr. Stack seconded the motion. The motion carried unanimously.

V. RULE 7C

Blake Hills reviewed his proposal of rule 7C. Mr. Hills said he reviewed rules from other states that address the content covered by rule 7C. Mr. Hills found very little caselaw about material witnesses. Professor Jensie Anderson said using the word “failure” in section (c) may be too harsh.

Judge Corum moved to approve rule 7C as presented, and send to the Supreme Court to be approved for public comment. Mr. Gray seconded the motion. The motion carried unanimously.

VI. RULE 8

Mr. Thompson reviewed both his proposed version and Joanna Landau’s proposed version. Mr. Thompson said Joanna Landau’s version contains wording from three Utah statutes. Mr. B. Johnson said judges will evaluate responses received from attorneys on rule 8 cases based only on the pool of responses they receive. Mr. Thompson said there are issues with justice courts in assigning counsel. Judge Corum said jail-time can not be imposed without the appointment of counsel. Mr. B. Johnson noted he can merge the proposed changes to the rule.

The committee proposed changing line 60 to “defendant on appeal from a court of record”

Judge Corum moved to adopt the rule as amended to send to the Supreme Court to be published for public comment. Mr. Gray seconded the motion. The motion carried unanimously.

VII. RULE 14(b)

Mr. Thompson reviewed the proposed changes to rule 14. Mr. Stack proposed removing section (b)(6). Judge Corum said the statute used in section (b)(6) should be Utah Code § 77-30-2. Mr. Thompson will review and edit this rule for the next meeting.

VIII. STATE V. OGDEN

Mr. Thompson has been working with the attorneys who were counsel on this case. Mr. Thompson will address this at the next meeting.

IX. RULE 27

This rule was not addressed. Mr. Thompson will address this at the next meeting.

X. SUBCOMMITTEE UPDATES

There were no updates. Mr. B. Johnson said the next meeting will address the new rule 16 subcommittee.

XI. OTHER BUSINESS

Mr. B. Johnson addressed an email from Judge Lyle Anderson regarding motions to quash bind-overs. Judge Corum reviewed the process for preliminary hearings in Salt Lake. Mr. Gray noted preliminary hearings are duties that are more magisterial. Mr. B. Johnson will prepare a rule amendment and address this at the next meeting.

XII. ADJOURN

The meeting adjourned at 1:24 p.m.