

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

March 19, 2019
12:00 p.m. – 2:00 p.m.

Attendees

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

Excused

Keri Sargent
Judge Kelly Schaeffer-Bullock

Guests

Staff

Brent Johnson
Jeni Wood – recording secretary

1. WELCOME/APPROVAL OF MINUTES

Douglas Thompson welcomed the committee members to the meeting.

The Committee discussed the January 15, 2019 minutes. There being no changes to the minutes, Craig Johnson moved to approve the minutes. Cara Tangaro seconded the motion. The motion carried unanimously.

2. UPDATE ON RULES 22 AND 40

Brent Johnson stated the Supreme Court authorized rule 22 to be published for public comment with the proposed amendments and a note from Associate Chief Justice Lee. Mr. Johnson will send the proposed changes to the committee for review prior to sending it for public comment.

The Supreme Court rejected the proposed changes to rule 40. They decided to eliminate the committee note and leave the rule as it currently exists.

3. RULE 16 PUBLIC COMMENTS

Mr. Thompson proposed having the rule 16 subcommittee meet to review the public comments and suggest any necessary amendments. The subcommittee is comprised of four committee members. Ms. Tangaro recommended inviting a judge, a defense attorney, and a prosecutor to the subcommittee. Recommendations included Judge Vernice Trease, Sandi Johnson, Ann Marie Taliaferro, and Adam Palmer. Judge Elizabeth Hruby-Mills volunteered if needed. Ms. Tangaro will work on inviting more people to the subcommittee and scheduling a meeting.

4. RULES 7B AND 27 PUBLIC COMMENTS

Mr. Thompson noted rule 7B did not receive any comments. Mr. Thompson addressed the public comments received on rule 27. The committee reviewed the proposed changes to rule 27. The committee agreed to amend rule 27 sections (a)(4) and (b)(6) to state “. . . may petition the court with appellate jurisdiction.”

Craig Johnson moved to approve rule 7B to go to the Supreme Court for final approval, as presented. Judge Corum seconded the motion. The motion carried unanimously.

Mr. Thompson moved to approve rule 27 for final action, as amended. Mr. Stack seconded the motion. The motion carried unanimously.

5. RULE 14

Mr. Thompson first reviewed the rule 14 amendments proposed by Blake Hills. Mr. Hills said the Rules of Evidence Committee prefers to leave the deposition amendments to the Rules of Criminal Procedure Committee. Mr. Hills researched other states rules, where he found depositions are usually addressed in their rules of evidence. The committee approved Mr. Hills' proposed amendments to section (a)(8).

The committee next addressed the proposed changes to section (b) from Mr. Thompson and Mr. Stack. After brief discussion, the committee approved the proposed changes to rule 14 from Mr. Thompson and Mr. Stack. Mr. Stack believed the language is taking away too many protections for victims.

Mr. Stack moved to approve sending rule 14 for public comment, as amended. Judge Patrick Corum seconded the motion. The motion carried unanimously.

6. URE RULE 804 UPDATE

Mr. Hills said the Rules of Evidence Committee will not be taking action on this rule.

7. COMMITTEE NOTE REVIEW

Rule 14 – The committee note will be addressed after the rule has completed the public comment period.

Rule 18 – Mr. Jeffrey Gray recommended eliminating the committee note. After further discussions by the committee, Mr. Thompson recommended readdressing this at the next meeting after Mr. Gray has time to consider the committee members’ comments.

8. RULES 9 AND 9A SUBCOMMITTEE REPORT

Mr. Johnson said the Board of District Court Judges discussed rules 9 and 9A. The Board will send proposals to the committee. Mr. B. Johnson will seek a continued suspension of the rules until November 1 from the Supreme Court, pending review of the proposals from the Board.

9. STATE V. OGDEN AND NEW RESTITUTION RULE

Mr. Thompson said working on language for a new rule has been extensive and he will need more time.

10. RULE 7(d)

Mr. B. Johnson is working on this rule.

11. OTHER BUSINESS

No other business was discussed.

12. ADJOURN

The meeting adjourned at 1:30 p.m.