

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

**MEETING MINUTES**

Judicial Council Room (N301), Matheson Courthouse  
450 South State Street, Salt Lake City, Utah 84114  
May 21, 2019 – 12:00 p.m. to 2:00 p.m.

**APPROVED**

**MEMBERS:**

**PRESENT    EXCUSED**

<b>MEMBERS:</b>	<b>PRESENT</b>	<b>EXCUSED</b>
Douglas Thompson, <i>Chair</i>	•	
Jensie Anderson	•	
Judge Patrick Corum	•	
Jeffrey S. Gray	•	
Judge Elizabeth Hruby-Mills	•	
Blake Hills	•	
Craig Johnson – by phone	•	
Joanna Landau	•	
Kelly Sargent	•	
Judge Kelly Schaeffer-Bullock	•	
Ryan Stack	•	
Cara Tangaro	•	

**GUESTS:**

Judge Sam Chiara  
Michael Drechsel

**STAFF:**

Brent Johnson - excused  
Minhvan Brimhall (recording secretary)

**1. Welcome and approval of minutes:**

Douglas Thompson welcomed the committee members to the meeting. The Committee discussed the March 19, 2019 minutes. There being no changes to the minutes, Craig Johnson moved to approve the minutes. Ryan Stack seconded the motion. The motion was unanimously approved.

**2. Proposed new rule on probation supervision:**

Michael Drechsel, Associate General Counsel, discussed proposed changes to a new rule on probation supervision. The rule initially started as a proposed rule to consolidate probation supervision amongst court jurisdiction under the Code of Judicial Administration. The Board of District Court Judges met and determined that the proposal falls more in line as a rule under the Rules of Criminal Procedure. The proposed rule would allow district court probation cases to be consolidated into one case that would provide the judge a case history of the defendant’s probation history and current status. The rule was approved by the Policy and Planning Committee but then placed on

hold until it can be discussed with the Rules of Criminal Procedure Committee and ownership of the rule be transferred over.

Judge Hruby-Mills noted that concerns had been raised within the Third District Court that the proposed new rule would inundate the Salt Lake County courts with all the cases and did not have a clear understanding of how this would be implemented.

The committee discussed varying factors and concerns with the proposed new rule and reviewed the language used in the proposed rule. Mr. Drechsel noted that the rule is flexible as it is currently drafted that it could be rewritten in a manner to address all areas of probation and violation concerns. The consolidation of probation cases has the potential to reduce the number of probation cases being addressed throughout the state.

Mr. Thompson recommended that a subcommittee be formed to discuss the proposed new rule and consideration to transfer the rule to the Rules of Criminal Procedure. Cara Tangaro recommended that Mr. Drechsel be a part of the subcommittee as he has experience in criminal prosecution cases and a working knowledge of the background of the formation of the proposed rule. Mr. Drechsel accepted the invitation to be a part of the subcommittee.

No motion was made on the rule. The rule will be reviewed at another date once the subcommittee has had an opportunity to meet.

### **3. Rules 9 and 9A – Douglas Thompson**

Judge Chiara, Eighth District Court Judge, spoke to the committee regarding proposed changes to rules 9A and 9. Rules 9A and 9 were implemented a year ago but have since been suspended due to issues identified in the rule. The rule as currently written does not clearly define what a warrant, or state when an initial court appearance will be held when a person has been arrested and is incarcerated over a weekend or the holiday. The Board of District Court judges has reviewed the rule and made recommended changes to provide for more clarification. The proposed changes to rule 9A includes the definition of arrest warrant and denotes the time frame for initial court appearance to 5 pm on the next business when the arrest occurs over the weekend or on a holiday. The Board proposed that for arrests without a warrant, a filing of charges be completed within 4 days of an arrest, and the initial appearance be held within 5 business days of the arrest. This would allow for more time judge to review the probable cause statement and other information that the judge may not receive within 24 hours of the PSA notification.

The committee discussed the proposed recommendations made by the Board of District Court Judges and raised several concerns regarding implications of the rules and the

reality of judges covering hearings from a different district, as well as the impact the rule would have on rural courts that do not hold court as often as other courts.

The committee will review the proposed changes as presented by Judge Chiara and will report back to the Board of District Court Judges on further recommendations or a status update on the proposed changes. The committee thanked Judge Chiara for his attendance and participation in the meeting.

**4. Rule 16 subcommittee report – Cara Tangaro**

The subcommittee met last week to discuss rule 16. Cara Tangaro and Jeff Gray participated in the meeting. Rule 16 received several comments during the last comment period. The subcommittee did their best to address concerns and include recommended changes to the rule from those comments. Ms. Tangaro and Mr. Gray reviewed the proposed changes made by the subcommittee and asked for feedback from this committee. Due to the time constraint of the meeting, they were unable to review all of the proposed. Mr. Thompson asked that the subcommittee meet again to review changes as recommended by this committee and to report back at a future hearing. Ms. Tangaro and Mr. Gray agreed to have the subcommittee meet again for further review of the rule.

**5. Committee note review:**

**Rule 18:** This item was not discussed due to lack of time and will be addressed at a future meeting.

**6. State v. Ogden and new restitution rule – Douglas Thompson**

This item was not discussed due to lack of time and will be addressed at a future meeting.

**7. Rule 12 review for publication on final approval – Brent Johnson**

Mr. Johnson is out traveling and unable to attend today's meeting. Mr. Thompson noted that rule 12 will be going out for publication with no changes at this time.

**8. Other business – Douglas Thompson**

Mr. Thompson indicated he would not be available to attend the July 16 meeting. Ms. Tangaro stated she is unable to attend that meeting as well. No other members indicated their availability for meeting. It is undetermined at this time if the July 16 meeting will be held.

**9. ADJOURN**

With no other business, the meeting adjourned at 2 pm without a motion. The next meeting is scheduled for July 16 at 12 pm (noon) in the Judicial Council room.