

**COLORADO SUPREME COURT  
ADVISORY COMMITTEE ON THE RULES OF CRIMINAL PROCEDURE**

**Minutes of Meeting  
Friday, October 16, 2015**

A quorum being present, the Colorado Supreme Court’s Advisory Committee on the Rules of Criminal Procedure was called to order by Judge John Dailey at 12:45 p.m., in the Colorado Supreme Court Conference Room on the fourth floor of the Ralph L. Carr Colorado Judicial Center. Members present or excused from the meeting were:

<b>Name</b>	<b>Present</b>	<b>Excused</b>
Judge John Dailey, Chair	X	
Judge Susan Fisch	X	
Judge Shelley Gilman	X	
Judge Deborah Grohs		X
Judge Morris Hoffman	X	
Matt Holman	X	
Abe Hutt		X
Steve Jacobson	X	
Kevin McGreevy	X	
Judge Dana Nichols	X	
Donna Skinner Reed	X	
Karen Taylor	X	
David Vandenberg	X	
Robin Whitley	X	
<b>Non-Voting Participant</b>		
Terri Morrison	X	
Karen Yacuzzo	X	

**I. Attachments & Handouts**

- A. Agenda
- B. July 17, 2015 Meeting Minutes
- C. Discovery Sharing System Memo
- D. Statutes referenced in SB 14-190

**II. Approval of Minutes**

The July 17, 2015 minutes were approved with the following corrections:

- On page 2, Roman Numeral IV, letter A, paragraph two, a space was inserted in the last sentence between “Rule” and “16”;

- On page 3, letter “A” was changed to Roman Numeral “V” to be consistent with the format; and
- On page 3, Roman Numeral V, “New Legislation”, in the first sentence “had” was added in between “he” and “gone”.

### III. Announcements from the Chair

Judge Dailey had no formal announcements. He wanted, though, to discuss a matter that had come up after the July 17<sup>th</sup> meeting. At the July 17<sup>th</sup> meeting, it had been noted that several formatting errors had been discovered with respect to the proposed amendments to Crim. P. 32. After the July 17<sup>th</sup> meeting, Ms. Moore discovered a few more formatting errors with the rule. The formatting errors were corrected and sent to the committee with a message asking the committee to review the revised minutes and send any additional amendments. No additional amendments were received, so the revised minutes were adopted and posted on the court’s website. The additional, post-July 17<sup>th</sup> meeting corrections, were:

- In (a)(1) the “(1)” should be in regular text, not track changes text;
- In (a)(1)(I) the “(I)” should be in track changes text not regular text;
- In (b)(3)(I) the “(I)” should appear in track changes text not regular text; and
- In (c), numbers “(1)” and “(2)” should appear in track changes, not regular text.

### IV. Old Business

#### A. SB 14-190, E-Discovery Sharing System

Mr. Jacobson presented a proposed rule relating to the new, legislatively mandated electronically shared discovery system that is scheduled to be operative on or before November 1, 2016. After extensive discussion and the acceptance of several friendly amendments to the original proposal, a motion was made, seconded, and approved by a vote of 11-0, to recommend supreme court adoption of the following amendment to Crim. P. 16:

#### Rule 16. Discovery and Procedure Before Trial

##### (c) Cost and Location of Discovery.

~~(1)~~ The prosecution’s costs of providing duplicating any material discoverable material to the defense, electronically or otherwise, under this rule shall be paid from funds allocated by the general assembly borne by the party receiving the material, based on the actual cost of copying the same to the party furnishing the material. The prosecution Copies of any discovery provided to a defendant by court appointed counsel shall not otherwise charge for discovery be paid for by the defendant. For any materials provided to the prosecution as part of the defense discovery obligation, the cost shall be borne by the prosecution based on the actual cost of duplication. Copies of any discovery provided to a defendant by court appointed counsel shall be paid for by the defendant.

(2)The place of discovery ~~and furnishing of~~ for materials not capable of being provided electronically shall be at the office of the party furnishing it, or at a mutually agreeable location.

**(d) [NO CHANGE]**

Mr. Jacobson was asked to prepare a transmittal letter, referencing, among other things, the need for flexibility with respect to the date the amendments would take effect.

**B. 2015 Legislation**

Mr. Hutt and Judge Grohs were not here to comment on whether or not they believe any of the 2015 legislation requires any amendment to the court rules, so the topic will appear on the next meeting's agenda.

**V. New Business**

Judge Dailey announced that Mr. Jacobson is retiring from the committee. The committee will be having a thank you and farewell party at his last meeting, on January 15, 2016. Hopefully all members can attend.

**VI. Future Meetings**

January 15, 2016

April 15, 2016

July 15, 2016

The committee adjourned at 2:00 pm.

*Respectfully submitted,*

*Jenny A. Moore*