

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

**Minutes of Meeting
Friday, July 17, 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:

| Name | Present | Excused |
|-------------------------------|----------------|----------------|
| 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 | |
| Non-Voting Participant | | |
| Terri Morrison | X | |
| Karen Yacuzzo | X | |

I. Attachments & Handouts

- A. Agenda
- B. April 17, 2015 Meeting Minutes
- C. Discovery Sharing System Memo
- D. SB 14-190

II. Approval of Minutes

The committee approved the April 17, 2015 Meeting Minutes with the following amendments:

- 1. Roman Numeral IV, A, paragraph 1, in the last sentence, “32” was added in after “Crim. P.” and before “(g)”;

2. Roman Numeral IV, A, Rule 32, (a)(2) “Court May Order Examination.”, “(2)” was amended to appear in track changes text;
3. Roman Numeral IV, A, Rule 32, “(b)(3) Judgment.”, “(3) Judgment.” was amended to appear in regular text; and
4. Roman Numeral IV, A, Rule 32, “(c) Advisement.”, “(c)” was amended to appear in regular text.

III. Announcements from the Chair

Judge Dailey announced that the supreme court adopted Rule 32 on May 21, 2015, effective immediately. Rule 24(g) was resubmitted to the supreme court on April 27, and Rule 17(e) was submitted to the supreme court on June 24. No action has been taken yet on either of these rules.

IV. Old Business

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

Mr. Jacobson and Mr. Vandenberg, who have been receiving regular updates from the Discovery Project Steering Committee, reported that the Xerox Corporation was selected to develop the statewide discovery sharing system.

Judge Dailey asked about the “actual cost” discussion from a few years ago, where SCAO, working with the Colorado District Attorneys’ Council and the State Public Defender, asked the committee to consider an amendment to Rule 16. Mr. Jacobson said that he does not anticipate that this will be an issue. Because, under SB 14-190, discovery is going electronic and district attorneys’ offices will no longer be duplicating and providing hard copies of discovery materials, Rule 16 may need to be amended to state that district attorneys will no longer seek reimbursement of costs.

The committee then discussed issues that SB 14-190 does not address, such as, (1) how information will be exchanged when the defense is obliged to provide the prosecution with discovery; (2) how discovery will be handled, for matters falling outside the scope of the discovery covered by the e-discovery sharing system; and (3) place of discovery, for things such as reciprocal discovery, tangible objects, or other items which are not able to be scanned or posted online, for purposes of the new discovery program.

The committee also discussed how technological differences in different judicial districts’ systems could affect how they interface with the statewide discovery sharing system, and whether judicial districts lacking the technology to participate in the new system could opt out of it.

The subcommittee, with Judge Nichols, will consider the committee’s comments and questions and work towards presenting a proposal at the next meeting.

B. CRCP 106

Ms. Reed began, by saying she had raised this issue, but due to the infrequent nature, it does not warrant creating a new criminal rule, similar to CRCP 106. The committee agreed this item would be removed from future agendas.

V. New Business

New Legislation

Mr. Whitley said that, although he had gone through the 2015 criminal procedure legislation, he had not found any new law that would require an amendment to the criminal rules. Because the other subcommittee members, Judge Grohs and Abe Hutt, were excused today, Judge Dailey would like them to weigh in on this either via email or at the next meeting. If they agree with Mr. Whitley, the new legislation topic will be removed from this year's future agendas.

VI. Future Meetings

October 16, 2015

January 15, 2016

April 15, 2016

The committee adjourned at 2:00 pm.

Respectfully submitted,
Jenny A. Moore