

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

**Minutes of Meeting
Friday, April 18, 2014**

A quorum being present, the Colorado Supreme Court’s Advisory Committee on Rules of Criminal Procedure was called to order by Judge John Dailey at 12:45 p.m., in the 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	
Donna Skinner Reed	X	
Karen Taylor	X	
David Vandenberg	X	
Robin Whitley	X	

I. Attachments & Handouts

- A. Agenda
- B. Minutes of the January 17, 2014 Meeting
- C. Criminal E-Filing
- D. Crim. P. 4.1, and Crim. P. 32(g), Failure to Pay Warrants
- E. Crim. P. 35(c), Actual Innocence
- F. Crim. P. 17(e), Electronic Service of Subpoenas
- G. Colo. Rev. Stat. §16-11-102 (2013), SB 13-229

II. Approval of Minutes

The committee approved the January 17, 2014 meeting minutes with one correction: Diana Coffey’s last name was misspelled as “Coffeey” on page 2 of the minutes; her last name was changed to its correct spelling, “Coffey.”

III. Announcements from the Chair

Judge Dailey introduced and welcomed new member Judge Deborah Grohs to the committee. Judge Grohs is a district court judge in the Fourth Judicial District.

Judge Dailey also announced that he still needs to fill a county court judge position on the committee, preferably with someone from outside the Denver metro area.

At its last meeting, the committee was informed that, although the supreme court had accepted the proposed change to Crim. P. 37(c), the change had not yet been posted on the court's website. Since the last meeting the change has been posted on the court's website.

The proposed rule change to Crim. P. 24(g) was still being considered by the supreme court.

IV. Old Business

A. E-Filing in Criminal Cases

Terri Morrison from the State Court Administrator's Office spoke on behalf of the subcommittee and presented a first draft of a criminal e-filing rule. Jason Bergbower from Information Technology Services was in attendance to answer technical questions related to criminal e-filing. The committee discussed the draft, asked questions about how the proposed rule would work in practice, and identified a number of issues that needed to be considered before the next meeting. Those issues included redaction of certain information from documents, pro se litigant access to e-filed documents, and whether there was a need for the parties to maintain physical copies of e-filed documents.

The subcommittee will consider these issues and report back to the committee at the July meeting.

B. Failure to Pay Warrants

This issue was tabled, pending ultimate action on House Bill 14-1061.

C. Crim. P. 35(c), Actual Innocence

Upon the subcommittee's recommendation, the committee agreed to table this issue indefinitely.

D. Crim. P. 17(e), Electronic Service of Subpoenas

Judge Grohs was appointed to serve on the subcommittee, which will try to have a proposed rule for the committee to consider at the July meeting.

E. Crim. P. 32(a), Colo. Rev. Stat. §16-11-102 (2013), SB 13-229

At the last meeting of the committee, Robin Whitley presented three proposals to amend Crim. P. 32(a)(2). At this (April 18, 2014) meeting, Kevin McGreevy offered a fourth proposal. The committee discussed the proposals, and determined:

1. Upon motion made, seconded, and approved by a vote of 9-0, that the proposed rule should not attempt to list the required contents of a presentence investigation report (PSIR).
2. A motion was made and seconded to adopt the proposed waiver language in the fourth proposal's Crim. P. 32(a)(1)(B). The motion was defeated by a vote of 5-4 (with one member abstaining, Judge Dailey voted to break the 4-4 tie). After further discussion, it was determined that the subcommittee needed to revisit the issue of the waiver language.
3. Upon motion made, seconded, and approved by a vote of 9-0, that the proposed rule should not reference the statutory requirement that an application for probation be made in writing on forms furnished by the court (the requirement did not reflect currently accepted realities regarding applications for probation).
4. Upon motion made, seconded, and approved by a vote of 9-0, that a defendant should have 7-days after the court sets the date for sentencing to request that a PSIR be provided 7-days before sentencing.

The subcommittee was tasked with revising the language of the proposed rule change accordingly.

V. Future Meetings

October 17, 2014
January 16, 2015
April 17, 2015

The committee adjourned at 3:00 pm.

Respectfully submitted,

Jenny A. Moore