

COLORADO SUPREME COURT EVIDENCE COMMITTEE

Agenda

Friday, October 4, 2013, at 1:30 p.m.
Room 4244, Fourth Floor
Ralph Carr Judicial Building
East 14th Avenue
Denver, Colorado

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1. Approval of minutes of the prior meeting, attached as pages 1-10.
 2. Chairperson's Report. Results of last meeting. Update membership list.
 3. Should this Committee recommend that CRE 803(10) be amended to add a "notice-and-demand" procedure to prove the absence of a public record in a criminal case?

Materials attached:

- CRE 801-807, attached as pages 11-16.
- FRE 801-803, attached as pages 17-24.
- Federal report on amendment to FRE 803(10) to take effect 12/1/13, attached as pages 25-35.
- Cropper v. People, 251 P.3d 434 (Colo. 2011), discussing Melendez-Diaz v. Massachusetts, 557 U.S. 305 (2009), which the Federal Committee cited as the reason to amend FRE 803(10), attached as pages 36-44.
- C.R.S. §16-3-309 (the statute discussed in Cropper v. People), attached as pages 45-46.

Also see, Marshall v. People, 2013 CO 51 (announced 7/1/13) (admission of lab report based on supervisor's testimony did not violate Confrontation Clause, Bullcoming v. New Mexico, ___ U.S. ___, 131 S.Ct. 2705 (2011), or §16-3-309).

4. Should this Committee recommend that CRE 801(d)(1)(B) be amended to allow prior consistent statements as substantive evidence?

Materials attached:

- 9/16/13 Memo by Professor Hyatt, attached as pages 47-62.
- 5/13/12 Federal Committee Report, attached as pages 63-75.
- 5/7/13 Federal Committee Report, attached as pages 76-79.

5. Should this Committee recommend that CRE 803(6) – (8) be amended to provide that the burden of showing a lack of trustworthiness of such evidence is on the opponent of the evidence?

Materials attached:

- See Federal Committee Reports referred to in 4 above.