

Approved

## MINUTES

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

Administrative Office of the Courts  
450 South State Street  
Salt Lake City, Utah 84114

February 17, 2015

#### ATTENDEES

Patrick Corum- Chair  
Judge Brendan McCullagh  
Professor Jensie Anderson  
Jeffrey Gray  
Vincent Meister  
Cara Tangaro  
Douglas Thompson

#### EXCUSED

Judge Michele Christiansen  
Judge Vernice Trease  
Tessa Hansen  
Steven Major

#### STAFF

Brent Johnson

### I. WELCOME / APPROVAL OF MINUTES

Patrick Corum welcomed the committee members to the meeting. Mr. Corum explained that this was a special meeting to address rules that have been published for comment and, more importantly, to discuss legislation that might affect rules of criminal procedure. The minutes from the previous meeting were not reviewed, but will instead be reviewed at the next regular meeting.

### II. RULES PUBLISHED FOR PUBLIC COMMENT

Mr. Corum noted that the committee had received two comments on the proposal to require the courts to prepare the judgment, sentence, and commitment. Judge Brendan McCullagh stated that implementation of the change will primarily be an education issue, because the judgments can be generated electronically and should be easy for the courts to prepare. Patrick Corum agreed that there was no need to have the parties prepare these documents and it is beneficial to the defendants to have them prepared and signed as soon as possible. Professor Jensie Anderson moved to approve the rule. Judge McCullagh seconded the motion. The motion carried unanimously.

Judge McCullagh moved to approve the amendments to rule 4. Cara Tangaro seconded the motion. The motion carried unanimously.

The committee then discussed the proposed changes to rule 29. Judge McCullagh stated that the purpose behind the changes is to make clear that in justice courts, there is an important difference between venue and jurisdiction and justice courts cannot transfer cases to another court. A new judge is assigned to the case, but it remains a case of that justice court. Judge McCullagh then moved to approve the changes to rule 29. Vincent Meister seconded the motion. The motion carried unanimously.

The committee also approved the changes to the other rules, which were simply changes to have the criminal procedure timeframes consistent with the timeframes in the Rules of Civil Procedure.

### **III. HB308**

The committee discussed HB308, which has provisions creating a process for items obtained pursuant to a search warrant to be returned to owners under certain circumstances. Vincent Meister stated that the proposal has a lot of problems. Mr. Meister stated that there is a problem with law enforcement officers making these decisions. Judge McCullagh noted that there is also a problem with having the court make decisions on return of property before the court has jurisdiction over the case. Mr. Corum noted that there are already provisions in rule 40 on inventory and the committee could expand on those provisions. The committee therefore unanimously voted to propose to the sponsor of the legislation that the sponsor defer to the committee to enact procedural provisions. The committee agreed that these provisions are better suited for the rules of criminal procedure.

### **IV. SB82**

The committee members reviewed the provisions of SB82, which create new criteria for no-knock warrants. The committee agreed that most of the changes were substantive and therefore belonged in the statute and the committee did not otherwise believe it should become involved in the subjects covered by the statute. The committee therefore voted unanimously that SB82 does not contain issues for the committee to address.

### **V. OTHER BUSINESS/ADJOURN**

Vincent Meister informed the committee members that Craig Ludwig had passed away the previous week. Mr. Meister expressed appreciation for Craig as a member of the advisory committee and for all the work he had done for the court system. The committee members agreed with Mr. Meister. Craig's presence will be sorely missed.

The committee scheduled its next meeting for April 21. The meeting adjourned at 1:00 p.m.