

**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

August 24, 2005

**ATTENDEES**

Laura Dupaix  
Julie George  
Rob Heineman  
Craig Ludwig  
Professor Erik Luna  
Steven Major  
Judge Sheila McCleve  
Judge Brendan McCullagh  
Vincent Meister  
John O'Connell  
Mike Wims

**EXCUSED**

Judge Bruce Lubeck

**STAFF**

Matty Branch  
Brent Johnson

**I. WELCOME AND APPROVAL OF MINUTES**

Michael Wims welcomed the Committee members to the meeting. The minutes from the previous meeting were approved. Mr. Wims provided an update on Committee membership, noting those Committee members whose terms had been renewed and those members who had chosen to step down from the Committee. Mr. Wims welcomed Judge Brendan McCullagh as a new member, representing the justice courts.

**II. CRAWFORD REPORTS**

Laura Dupaix and Rob Heineman had distributed reports setting forth their positions on Crawford v. Washington, and Rule 15.5 of the Utah Rules of Criminal Procedure. Mr. Wims thanked Ms. Dupaix and Mr. Heineman for their efforts. Mr. Wims then posed the question to the Committee about whether this issue should be discussed by a larger group. Mr. Wims stated that this involves principles of evidence and criminal procedure. Mr. Wims proposed putting together a group with members from this Committee, members of the Evidence Committee, and other interested groups and individuals such as the Office of Guardian ad Litem, the Children's Justice Center and legislative representatives. After brief discussion, Judge Sheila McCleve

moved to have the Committee form a subcommittee to review this issue. Professor Luna seconded the motion. The motion carried unanimously. The names of the following individuals were suggested for membership: Laura Dupaix, Rob Heineman, Judge Brendan McCullagh, Kristin Brewer, Paul Boyden, Clark Donaldson, Craig Barlow, and members of the Evidence Advisory Committee. Mr. Wims will contact Ellen Maycock, the chair of the Evidence Committee, to solicit members. The group will also identify legislative representatives.

### **III. RULE 14**

Greg Skordas had submitted a proposal that would require notice be given to victims when confidential information is subpoenaed. The victim would have a right to challenge the subpoena. Ms. Dupaix stated that the idea has merit, but she expressed some concern over the language that was proposed. Ms. Dupaix stated that she is not certain what is meant by "unreasonable or oppressive." The Committee decided to form a subcommittee to propose language. The subcommittee will be Laura Dupaix, Julie George (chair) and Judge Sheila McCleve. Professor Luna suggested that the subcommittee may want to review an article by Judge Paul Cassell. Professor Luna also stated that there are most likely other jurisdictions that have created rules on this matter and they may want to look to those jurisdictions.

### **IV. RULE 27**

Judge Brendan McCullagh provided a report on the Rule 27 Subcommittee. Judge McCullagh stated that he is preparing a draft to be distributed to the subcommittee members. Judge McCullagh stated that the draft will not only address justice court appeals but will clarify the entire process for obtaining a stay pending appeal. The subcommittee will provide another report at the next meeting.

### **V. SEARCH WARRANT RULES SUBCOMMITTEE**

Vince Meister noted that Paul Boyden is currently working on a draft proposal and the subcommittee will report at its next meeting.

### **VI. OTHER BUSINESS/ADJOURN**

The Committee scheduled its next meeting for Wednesday October 26, 2005. There being no other business, the Committee adjourned at 6:10 p.m.