

COLORADO SUPREME COURT
ADVISORY COMMITTEE ON THE RULES OF CRIMINAL PROCEDURE
Minutes of Meeting
Friday, April 16, 2021

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. via videoconferencing software WebEx. Members present at or excused from the meeting were:

Name	Present	Excused
Judge John Dailey, Chair	X	
Sheryl Berry	X	
Jacob Edson	X	
Judge Kandace Gerdes	X	
Judge Shelley Gilman	X	
Judge Deborah Grohs	X	
Matt Holman	X	
Abe Hutt	X	
Judge Chelsea Malone	X	
Kevin McGreevy	X	
Judge Dana Nichols	X	
Robert Russel	X	
Karen Taylor	X	
Sheryl Uhlmann		X
Non-Voting Participant		
Karen Yacuzzo	X	

I. Attachments & Handouts

- A. April 16, 2021 agenda
- B. January 15, 2021 minutes
- C. Crim. P. 43 Proposal
- D. Crim. P. 24 Majority and Minority Reports
- E. General Thoughts and Questions Regarding Crim. P. 24 Proposal from the Supreme Court

II. Approval of Minutes

- A. The January 15, 2021 minutes were approved as submitted by acclamation with the following change: in III A of the minutes “be” was added between “would” and “Judge Hoffman’s.”

III. Announcements from the Chair

- A. Chair Judge Dailey welcomed Judge Gerdes to the committee. Judge Dailey also mentioned that if his internet goes out, Justice Samour will take over as chair.

IV. Old Business

A. SB 20-100—Death Penalty Repealed

The subcommittee recommended that no changes be made to the rules. The committee approved that recommendation.

B. Sealing or Expunging Records

The subcommittee thought that this is not something the criminal rules committee should handle. The committee agreed.

C. Combatting Racial Discrimination in Peremptory Challenges

Justice Samour stated that the court very much appreciates the work this committee has done on this topic. Rather than speculate what led to some of the provisions in the proposal, the court decided to ask the committee certain questions for clarification and queried whether the committee could come to more of a consensus.

Mr. McGreevy led the committee through a discussion of all the supreme court's questions. Following this, the committee considered several compromise positions offered by Mr. Russel. A motion was made and seconded to adopt the compromises proposed by Mr. Russel. By a vote of 4 - 7, the committee rejected the motion. The original proposal stands before the supreme court.

V. New Business

A. Crim. P. 43

Judge Dailey shared that Judge Boyd from the 9th Judicial District had submitted a proposal to amend Rule 43. The proposal, Judge Dailey said, was directed at making regular use of procedures for obtaining defendants' presence that were developed and used during the pandemic. While some committee members thought that the procedures had, in many instances, been beneficial, especially in rural districts, others thought that the suggested procedures detracted from the decorum of court proceedings and resulted in an incredible lack of respect for which people are handling their cases.

A subcommittee – comprised of Ms. Uhlmann, Mr. Edson, Judge Grohs, and Judge Nichols – was formed to consider and report back on the proposal.

B. Crim. P. 35(c)

Mr. Russel raised an item of new business. He suggested that it might be time to reconsider the provisions of Crim. P. 35(c). He volunteered to be on a subcommittee and requested Judge Gilman and Ms. Taylor join him. They agreed to do so. Mr. Russel will chair the subcommittee.

VI. Future Meetings

July 16, 2021

October 15, 2021

The committee adjourned at 3:03 PM.

DRAFT