

**VERMONT SUPREME COURT  
ADVISORY COMMITTEE ON RULES OF CRIMINAL PROCEDURE  
2023-2024 Annual Report  
March 19, 2025**

**2023-2024 Annual Report**

The Advisory Committee on the Rules of Criminal Procedure submits this report to the Vermont Supreme Court pursuant to Administrative Order No. 20, § 2. This report covers the committee's activities during the following period: calendar years 2023/2024. During this period, the committee met on January 19, 2024, April 12, 2024, November 1, 2024, and February 7, 2025 to consider amendments and other matters pertaining to the Vermont Rules of Criminal Procedure and relevant provisions of the Vermont Rules of Civil, Family and Appellate Procedure.

During 2024, the committee had significant changes in membership. After fourteen years of esteemed service, Judge Walter Morris, Jr. stepped down from his position as Committee Reporter on June 30, 2024. The committee is grateful for Judge Morris' years of dedicated service. Professor Shannon Heery commenced as the Committee Reporter in July.

Committee members Judge Alison Arms and Devin McLaughlin, Esq. termed out of their service to the Committee on June 30, 2024. Judge Heather Gray replaced Judge Alison Arms, and Andrew Schmidt, Esq. replaced Devin McLaughlin, Esq. Committee member and Victim Advocate Kelly Woodward also completed service with the committee on June 30, 2024. She was replaced by Victim Advocate Meghan Place. Judge Mary Kay Lanthier served as the VBA Representative committee member until July 29, 2024. Jordana Levine, Esq. became the new VBA Representative committee member. Superior Court Clerk committee member Gaye Paquette was also replaced by Mary Mossey.

Members continuing in terms of service during this period are: Judge John Treadwell, Chair; Judge Mary Morrissey; attorneys Jessica Burke, Rebecca Turner, Mimi Brill, Ian Sullivan, Frank Twarog, and Domenica Padula. Justice Karen Carroll serves as the Committee's Supreme Court Liaison.

This report summarizes the status of proposed rule amendments and the committee's activities under the following headings: I. Amendments Promulgated by the Court; II. Pending Proposed Amendments; and III. Matters Remaining on the Committee's Agenda.

**I. Amendments Promulgated by the Court**

During calendar years 2023/2024, the court promulgated the following amendments to the criminal rules:

- 1. Amendment to V.R.Cr.P. 41.1(b) and (c)** to make the rule consistent with V.R.Cr.P. 41(d)(4), enabling applications for nontestimonial identification orders to be made by reliable electronic means, as well as in person, with supporting affidavits sworn to either

in person, or by telephone if the application is by reliable electronic means. This rule was promulgated on May 5, 2024 and effective on January, 1 2025.

## **II. Pending Proposed Amendments**

There are no pending proposed Criminal Rules amendments before the Court at this time.

## **III. Matters Remaining on the Committee's Agenda**

The following matters remain on the Committee's agenda for further consideration:

- 1. Further review of provisions of V.R.C.P. 43.1 to Comport with Criminal Division Practice and Imperatives.** As directed in the Court's July 10<sup>th</sup> promulgation order amending A.O. 38, ¶ 3, Participation/Testimony by Video, Hybrid, or Audio Conference., the Committee continues to undergo a review of the provisions of these amendments, (promulgated on July 10, 2023, effective September 2, 2023), as they exist and may be amended. The Committee is considering whether any provisions of the former rule related to remote or hybrid participation in criminal proceedings should be adopted in the criminal rules, providing any recommendations no later than June 30, 2025.
- 2. V.R.Cr.P. 53 and V.R.C.P. 79.2 (Recording Court Proceedings); And V.R.Cr.P. 53.1 (Use of Video Recording Equipment Where the Official Record is Made by Video Recording); Issues Associated with Defense Request to Video Record Jury Trial.** Following a subcommittee report to the Committee, the Committee continues consideration of short, clarifying amendments to authorize recording of proceedings, in the discretion of the Court.
- 3. Joint Committee with Family Rules for consideration of V.R.Cr.P. 41.1(m)&(n): Non-Testimonial Identification Orders; "Minors"; "Offense"; Application in Delinquency and YO Cases; Revision for Currency of Terms and Consistency with Current Practices and Statutory Expansion of Jurisdiction.** Committee members are collaborating with members of the Family Rules Committee to form a Joint Committee to consider. From Family Rules, the members include Chair, Judge McDonald-Cady, Marshall Pahl, Emily Zukauskas, and Judge Amy Davenport. From the Committee, Judge Heather Gray, Jordana Levine, and Domenica Padula have agreed to represent Criminal Rules. The joint committee will consider a revised draft of further amendments to the rule, as well as other jurisdictional approaches to the issue, for recommendation by Criminal Rules Committee.
- 4. Consideration of Amendments to V.R.Cr.P. 3(k); Court May Add Required Contents for Affidavits/Sworn Statements Submitted per V.R.Cr.P. 5(b) for After-Hours Bail Calls, to Determine Hold without Bail/Bail/Conditions of Release.** *The Committee is considering an amendment that would authorize a required statement of intended charges and requested bail conditions from the states attorneys.*

5. **Joint committee with Committee on Rules for Public Access to Court Records to address access status of inquests, subpoenas duces tecum, and nontestimonial orders.** The Joint Committee includes J. Dooley, Laura LaRosa, and Tracy Shriver from the Public Access committee and Judge Morrissey from the Criminal Rules committee.

The Committee wishes to thank all the members of the Vermont bench and bar, the members of the Joint Legislative Committee on Judicial Rules, Court Administrator Therese Corsones, Deb Laferriere, Emily Wetherell, Esq., Larry Abbott, and others who have participated in the rule-making process through their thoughtful suggestions, comments, and assistance and to especially thank Judge Alison Arms, Judge Mary Kay Lanthier, Devin McLaughlin, Esq., Kelly Woodward, and Gaye Paquette, for their valued service and guidance as members. The committee also wishes to thank Hon. Karen Carroll for her service as the Supreme Court liaison Justice. Finally, the Committee especially thanks the former Reporter - the Hon. Walter M. Morris, Jr. – for his extensive and invaluable contributions to the work of the Committee over the last 14 years.

Respectfully submitted,

John R. Treadwell, Chair of the Committee  
Hon. Heather Gray  
Hon. Mary Morrissey  
Mimi Brill  
Jessica Burke  
Andrew Schmidt  
Ian Sullivan  
Frank Twarog  
Domenica Padula  
Rebecca Turner  
Jordana Levine, VBA Representative  
Mary Mossey, Superior Court Clerk  
Meghan Place, Victim Advocate  
Hon. Justice Karen Carroll, Court Liaison Justice  
Shannon Heery, Committee Reporter