

# CRIMINAL RULES ADVISORY COMMITTEE

August 1, 2025 Meeting  
9:30 a.m.  
Vermont Supreme Court (via Zoom)

## AGENDA

Meeting Opening; Chair John Treadwell; General Announcements, new member welcome, transition of Supreme Court Liaison, Justice Carroll

### AGENDA ITEMS:

1. Approve minutes of May 2, 2025 Committee meeting.

2. **REPORTS:**

- Status of Various Rules Amendments: no change

Proposed—

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

### OLD BUSINESS:

3. **2023-10: Promulgated V.R.C.P. 43.1: Further Committee Review and Provision of Comments/Suggested Further Amendments to Comport with Criminal Division Practice and Imperatives** (As directed in Court’s July 10<sup>th</sup> promulgation order amending A.O. 38, ¶ 3).

*(Updates to Committee on communication with the Court following submission of the Committee letter and addendum Report to the Court on the impact of AO 38, and proposed solutions within the rules of Criminal Procedure); (Treadwell, Heery)*

4. **2021-02: 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.** *(Discussion/Approval of Redrafted Proposal of Amendment, for Publication and Comment; Update on discussion with Civil Rules Committee and Oversight Committee) (Subcommittee: Treadwell, Turner, Sullivan); (Treadwell)*

5. **2023-04: 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.** *(Joint Committee of Family Rules Committee Members and Criminal Rules Committee Members to discuss. Family Rules Committee Chair, Judge McDonald-Cady, Marshall Pahl, Emily Zukauskas, and Judge Amy Davenport from Family Rules; Judge Gray, Jordana Levine, and Domenica Padula from Criminal Rules; Consideration of a revised draft of further amendments to the rule for recommendation by Criminal Rules*

*Committee; Other jurisdiction approaches to the issue; update on subcommittee meeting);<sup>1</sup> (Heery, Gray)*

- 6. 2024-02: 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.** *(Continuing discussion and Committee vote on three amendment drafts that would each authorize a mandatory or permissive inclusion of a statement of SA's intended charges and SA's Request as to Bail/Conditions, See, Agenda Item # 2018-05, Emergency Amendment of Rule 3(k), later amended by Legislature to abrogate requirements of prosecuting attorney participation in bail call, and that affidavit/sworn statement indicate "the charges that the prosecuting attorney intends to file" and substituting the phrase the "crimes to be charged" by the arresting officer. Act 40 (H. 512) § 7 (2019 Adj. Sess.);<sup>2</sup> (Treadwell)*
- 7. 2024: Joint subcommittee with Committee on Rules for Public Access to Court Records to address access status of inquests, subpoenas duces tecum, and nontestimonial orders.** *(From the Public Access committee, J. Dooley, Laura LaRosa, and Tracy Shriver expressed interest in joining this committee. From the Criminal Rules committee, Judge Morrissey appointed; update on language considered and status); (Morrissey)*

**NEW BUSINESS:**

- 8. 2024-07: V.R.Cr.P. 32.1; Committee Review and Provision of Comments/Suggested Further Amendments to draft of V.R.Cr.P. 32.1 proposed revisions designed to update procedures and process for probation revocation and modifications;** *(Treadwell)*
- 9. Recent Court Decisions of Note.**
- 10. Current Committee Meetings Annual Calendar/Discussion and Adoption of Revisions.**
- 11. Any Other Business.**
- 12. Next Committee Meeting Date Scheduled for November 7, 2025.**
- 13. Adjourn.**

[SH; 7/30/25]

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<sup>1</sup> See, *Beyond the Davis Dictum: Reforming Nontestimonial Identification Evidence and Rules and Statutes*, 79 U.Colo.L.Rev. 189 (Winter 2008) and Columbia Justice Lab, Emerging Adult Justice Project, *Update on the Implementation of Vermont's "Raise the Age" Law*, Report, January 2024. Note: Since the proposed amendments implicate procedure in delinquency cases, if approved by Criminal Rules Committee they should be sent to Family Rules Committee for comment prior to request for publication.

<sup>2</sup> See, Minutes of Committee Meetings, 9/20/19; 1/25/19; 10/12/18; and 8/3/18, (pp. 1-6--lengthy substantive consideration).