

VERMONT SUPREME COURT
ADVISORY COMMITTEE ON RULES FOR PUBLIC
ACCESS TO COURT RECORDS

Minutes of Meeting, May 2, 2025

The meeting of the Advisory Committee on the Rules for Public Access to Court Records commenced at approximately 9:00 a.m. via videoconference. Present were Committee Chair Judge Timothy Tomasi and members Bob Paolini, Laura LaRosa, Marcia Schels, Amanda Stites, Judge Benjamin Battles, Mike Tarrant, Teri Corsones, Justice John Dooley, and Petra Halsema.

1. Chair Tomasi: Meeting Opening

2. Approval of Minutes from the January 31, 2025 meeting.

Upon motion by Mike Tarrant, seconded by Marcia Schels, the minutes of the January 31, 2025 meeting were unanimously approved.

3. Possible Amendments to Rules 7(a)(3) and 7(a)(4)(B)

Following the Courthouse News case, civil filings are made public without court review. These rules address post hoc efforts to correct/redact records that should not have been made publicly accessible. Rule 7(a)(3) seems to require Court Administrator action and the other rule seems to cabin judicial action to limited circumstances and limited relief. The Courthouse News case was appealed to the Second Circuit and the Committee decided at the July 2022 meeting to wait until the appeal was decided before making changes.

Teri Corsones informed the Committee that the Second Circuit issued its decision in March 2025. It found the district court's injunction to be overbroad and remanded the case for the court to reconsider the injunction. At the time of the original trial, there were delays of up to four days to process filings, and the district court ruled that this delay was too long. However, the Circuit Court acknowledged that Vermont had an interest in preventing confidential information from being released inadvertently, such that some delay is probably justified. The judiciary now has a new system for reviewing civil complaints. A central review team reviews all complaints and turnaround time is now within 1 business day and often within 2 hours, depending on when the complaint is filed. Teri is working with new counsel at the AG's office on next steps. Technically, the injunction has been terminated, but counsel recommends not changing any rules until the case is finally resolved.

The Committee discussed a proposed amendment to 12 V.S.A. § 5, which was passed by the Vermont Senate and House. It would allow Vermont-licensed attorneys to remotely access files in nonconfidential criminal, family, and probate cases. Private attorneys felt they were at disadvantage compared to government attorneys because they didn't have access to those cases even if they were related to a public case. There was no opposition in testimony before the Legislature.

4. Public-Access Status of Inquests, Subpoenas Duces Tecum, and Nontestimonial Orders

Inquests, subpoenas duces tecum, and nontestimonial orders (NTOs) are three categories of criminal filings that do not have clear public access rules. A subcommittee of J. Tomasi, Laura LaRosa, J. Dooley, DSA Watts, along with J. Morrissey from the Criminal Rules Committee, met and got input from criminal rules members and other folks about how to treat these filings. They propose adding two new subsections to Rule 6(b) that would treat inquest materials as confidential and treat NTOs similarly to search warrants. The subcommittee found no basis to treat general subpoenas filed under Criminal Rule 17 as confidential, although a party could request that they be sealed. The Committee discussed the proposed rule.

J. Dooley noted that the current form of inquests is different from that envisioned by the statute. The State asks the court to order an inquest but the purpose is usually to get information from target. A hearing almost never takes place. There is currently no rule, but court practice has been to treat these materials as confidential. The subcommittee recommends that the court keep treating these as confidential, pending Legislative action.

J. Tomasi noted that subpoenas duces tecum are infrequently used. The Committee did not express any concerns about keeping those public. The Reporter's Notes discussing new rules on inquests could clarify that these remain public absent request to seal.

J. Dooley felt case was weak for making NTOs nonpublic because the person who is the target will be aware of the case as soon as they are served with order. J. Tomasi stated that a majority of the subcommittee were in favor of keeping these nonpublic to avoid jeopardizing ongoing criminal investigations.

Laura LaRosa moved to approve proposed rules and J. Battles seconded. Petra Halsema will work on a draft amendment and Reporter's Notes and circulate to the Committee.

5. New Sharepoint Site for Committee Documents

Petra Halsema reported that the Judiciary's technology team has created a Sharepoint site for this Committee and several others. The purpose of the site is to have a central place to store files and to collaborate on documents.

6. New Business; Set Next Meeting (In Person or Remote).

The next meeting will be held remotely at 1:30 p.m. on September 12, 2025.