

**VERMONT SUPREME COURT
ADVISORY COMMITTEE ON RULES OF CRIMINAL PROCEDURE**

**MINUTES OF MEETING
November 7, 2025 Meeting**

The Criminal Rules Committee's November 7, 2025 meeting commenced at approximately 9:32 a.m. via video conference. Present were Committee Chair Judge John Treadwell, Judge Heather Gray, Ian Sullivan, Chris Davis, Rebecca Turner, Jessica Burke, Jordana Levine, Domenica Padula, Mary Mossey, and Rebecca Turner. Interim Supreme Court Liaison Justice Nancy Waples joined the meeting, and Committee Reporter, Shannon Heery, was also present. In addition, the Committee welcomed Brianna Houser who observed the meeting. Unable to be present today were members Frank Twarog, Andrew Schmidt, Meghan Place, and Judge Mary Morrisey.

Meeting Opening; General Announcements (Chair John Treadwell)

Judge Treadwell announced that Associate Justice Nancy Waples would be joining our meeting after being appointed as the Committee's interim Liaison from the Supreme Court.

The Committee also welcomed Attorney Brianna Houser from the Defender General's Office who joined the meeting to observe Committee work.

AGENDA ITEMS:

1. Approval of August 1, 2025 Meeting Minutes

On motion of Jordana Levine, and seconded by Domenica Padula, the Committee's August 1, 2025 meeting minutes were approved.

2. Rules Reports:

There were no recently promulgated rules to discuss.

2025-08: V.R.Cr.P. 3(k); Court Adding 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 turned to discussing recently proposed rule V.R.Cr.P. 3(k). This proposed rule had been unanimously voted out of the Committee during our August 1, 2025 meeting.¹ The proposed amendment addressed the process for after-hours bail calls. Judge Treadwell updated members that the Court published the proposed order for comment in accordance with A.O. 11. The proposal was circulated to members of the bar and court staff via an emailed memorandum to the bar in accordance with A.O. 11, §§ 3, 4. Comments were directed to be sent to Judge

¹ See, Minutes of Committee Meetings, 8/1/25 (at 2-3); See also, Minutes of Committee Meetings, 2/7/25 (at 3-5), 5/2/25 (at 8-9),

Treadwell. The deadline for comments had recently passed on November 5, 2025. Judge Treadwell informed the Committee that no comments were received. The Committee discussed sending a report to the Court that no comments were received and that the rule was recommended for promulgation. All members agreed that no further action was needed to move forward with the rule as drafted. Members discussed that the LCJR meeting would take place on December 12, 2025.

The Committee transitioned into discussing old business that was already under consideration of the Committee.

3. 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.

The Committee did not have updates from the Family Rules Committee at this time. The Committee discussed the possibility of future subcommittee meetings. At this point, members will wait for a discussion with the Family Rules Committee before proceeding.

4. 2025-07: 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.

Judge Treadwell led the Committee members through a discussion of all amendments suggested to the updated draft of V.R.Cr.P. 32.1. Discussion focused upon particular language in 32.1(a)(1)(A)(ii) and the suggestion by a Committee member to insert the phrase “or to reasonably protect the public.” After discussion of the reasons to alter the current draft, the Committee agreed to consider the specific change suggested and then the draft in full. Thus, the Committee put the draft to a two-part vote.

Ian Sullivan made a motion to consider the updated language. Judge Gray seconded the motion. The Committee first considered whether there was support for amending the language as proposed during his discussion. After a brief initial vote, then further discussion regarding the reason for the newly proposed amended language, all members agreed to alter the current draft to add “to reasonably protect the public” in 32.1(a)(1)(A)(ii).

The Committee then proceeded to consider whether to forward the proposal with the additional language to the Court. The Committee members were unanimous in deciding to forward the proposed amendments to 32.1 to the Court.

5. 2025-05: Update for the Committee on Civil Rules Committee consideration of new rule, VRCP 80.12, regarding post-conviction proceedings.

Judge Treadwell reminded the Committee members of the brief discussion regarding V.R.C.P. 80.12 that addresses post-conviction proceedings. One Committee member indicated they reached out regarding the rule to a Civil Rules Committee member and provided input. Committee members discussed that the purpose of 80.12 was to allow resentencing in the civil

division to resolve post-conviction proceedings. Members noted that the Civil Rules Committee had already done significant work redrafting the Rule and indicated the draft is moving forward in their Committee.

The Committee agreed to provide support to Civil Rules as needed and continue to follow the progress of the Rule.

Next, the Committee turned to considering new business.

6. 2025-11: V.R.Cr.P. 17; Committee Review of Language and Contents of V.R.Cr.P. 17, Governing the Use of Subpoenas, in Light of Proposed Amendments to Fed.R.Crim.P. 17

Judge Treadwell informed the Committee that there was a proposal to amend Federal Rule of Criminal Procedure 17, which governs subpoenas. The Committee was asked to review the proposed Federal Rule and consider whether the Vermont Rule should be updated. A number of members expressed interest in doing so. Members quickly offered to take part in a subcommittee that would consider whether any suggestions to the Vermont Rule were necessary. The Committee decided to leave this task on the agenda without a formal motion, review it, and consider it for future meetings.

Having no additional business at this time, Judge Treadwell reminded all members of the next committee meeting date scheduled for February 6, 2026. On motion of Jordana Levine and seconded by Chris Davis, the Committee adjourned at 10:14 a.m.

Respectfully submitted,

Shannon Heery
Committee Reporter

[SH; 2/3/26]