

VERMONT SUPREME COURT
Advisory Committee on the Rules for Public Access to Court Records

2015 Annual Report
May 31, 2016

The Committee submits this report to the Supreme Court pursuant to Administrative Order No. 40, §4. The report covers the Committee's activities since its last annual report dated October 4, 2014. Since that date the Committee has met five times, on November 7, 2014, and February 26, May 1, November 2, and December 16, 2015.

During the year, Theresa Scott, Chief of Trial Court Operations, was appointed as Court Administrator's designee to replace Reynold Perry, who had resigned in the prior year.

The Committee's proposed amendments to V.R.P.A.C.R. 6(b) to implement 13 V.S.A. § 7554c enacted by Act 195 of 2013 (Adj. Sess.), §2, sent out for comment with the comment period extended until November 7, 2014, were recommended for promulgation as circulated, were promulgated on November 23, 2014, effective January 1, 2015, and were reviewed without comment by the Legislative Committee on Judicial Rules on December 2, 2014.

The Committee's proposed amendment of V.R.D.E.C.R. 3(c)(1)(B) to eliminate drivers' licenses from list of required redactions sent out for comment with comments due on August 7, 2015, recommended for promulgation as circulated, was promulgated on October 20, effective December 21, 2015, and was reviewed without objection by the Legislative Committee on Judicial Rules on December 17, 2015.

The remainder of this report summarizes the Committee's activities under two headings: I. Proposed amendments not to be considered at this time. II. Matters remaining on the Committee's agenda.

I. PROPOSED AMENDMENTS NOT TO BE CONSIDERED AT THIS TIME

1. The Committee agreed that a new exception to V.R.P.A.C.R. 6(b) for inquest records is not needed. The transcriber of a testimonial inquest is bound to secrecy by 13 V.S.A. § 5134, which also states that the transcript becomes the property of the state to be held by the prosecuting attorney. Subpoenas issued pursuant to an inquest are also executive branch records subject to protection under 1 V.S.A. § 317(c)(5). The catchall provision of V.R.P.A.C.R. 6(b)(36) would protect any such documents in the court's hands.

2. The Committee accepted the view of the Oversight Committee chairs that there is no problem at this time requiring a rule exempting from public access all documents sent to the Court's Oversight Committees.

3. The Committee agreed that an amendment to the Public Access Rules concerning Judicial Branch employee records was not necessary at this time. Provisions of the state public access law, 1 V.S.A. § 317(c)(7) (nonpublic contact information) and (25) (security information), were incorporated in V.R.P.A.C.R. 5. These provisions gave adequate protection to Judicial Branch employee records.

II. MATTERS REMAINING ON THE COMMITTEE'S AGENDA

The Committee will continue to consider the following matters:

1. Amendment of existing exceptions in V.R.P.A.C.R. 6(b), or addition of new exceptions, required as a result of Supreme Court decisions or specific exceptions adopted by the legislature.
2. Amendment of Rule 4(c) of the Rules Governing Qualification, List, Selection and Summoning of All Jurors concerning confidentiality of juror information.
3. Development of a specialized exception provision for Family Division records.
4. Disclosure of court records subject to V.R.P.A.C.R 6(b) exceptions.

In closing, the Committee and the Reporter wish to thank Hon. John A. Dooley of the Supreme Court for his guidance as judicial liaison and Court Administrator Patricia Gabel, Supreme Court staff attorney Emily Wetherell, and Larry Abbott and Debra Laferriere of the Court staff for their continued and essential administrative support.

Respectfully submitted,

Hon. Thomas A. Zonay, Chair

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