

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

**Minutes of Meeting
August 1, 2014**

The meeting was called to order at 9:15 a.m. in the Environmental Division court room, Berlin, Vermont, by Hon. Thomas Zonay, chair. Present were Committee members Priscilla Dube, Martin Frank, Jeffery Loewer, Sarah London, Tanya Marshall, Gaye Paquette, Renny Perry, and Hon. Timothy Tomasi. Also present were Hon. John Dooley, Supreme Court liaison, and Professor L. Kinvin Wroth, Reporter.

The minutes of the meeting of May 30, 2014, were approved as previously circulated.

The Committee proceeded to consider the agenda items highlighted in Professor Wroth's summary of July 30, 2014,

1. Draft amendment to implement Act 195. The Committee considered Professor Wroth's draft of a proposed amendment to implement 13 V.S.A. § 7554c(e), added by Act 195 of 2013 (Adj. Sess.), § 2. Section (e) provides that information obtained during pre-trial risk assessment and needs screening under the Act is exempt from public inspection and copying and, in paragraph (3), requires the Supreme Court to promulgate rules consistent with that provision.

After discussion, on motion duly made and seconded, it was voted unanimously to recommend that the following addition to V.R.P.A.C.R. 6(b), be sent out for comment and that present V.R.P.A.C.R. 6(b)(35) be renumbered as (36).

(35) Records containing information obtained from a person during his or her risk assessment or needs screening pursuant to 13 V.S.A. § 7554c.

Professor Wroth agreed that the Reporter's Notes would explain the relationship between the proposed provision and the statute. Committee members noted that the statutory amendments did not take effect until January 1, 2015, so that there was time for a comment period that would allow the Committee to take account of any changes made necessary by administrative implementation of the risk assessment and needs screening procedures. Professor Wroth will send the draft to the Committee for review in time to submit the proposed rule to the Supreme Court at its August 19 administrative meeting.

2. Act 192. The Committee agreed with the conclusion of Ms. London and Professor Wroth that Act 192 of 2013 (Adj. Sess.), enacted by S.287 of 2014, amending various provisions of title 18 V.S.A. concerning involuntary treatment and medication,

did not require an amendment to V.R.P.A.C.R. 6(b), other than the May 27, 2014, proposed amendment to V.R.P.A.C.R. 6(b)(5), to be considered at a subsequent meeting.

3. Revision of the May 27, 2014 proposed amendment to V.R.P.A.C.R. 6(b)(4) to incorporate the appropriate statutory references. On motion duly made and seconded, there being no discussion, it was voted unanimously to approve the following italicized correction of the statutory references in the May 27, 2014, proposed amendment to V.R.P.A.C.R. 6(b)(4), to be considered at a subsequent meeting:

(4) Records of the family court in juvenile proceedings governed by Chapters ~~55~~ *51-53* of Title 33, except as provided in 33 V.S.A. §§ ~~5536~~ 5117-5118, 5317-5318

4. Proposals for addressing inquest records in V.R.P.A.C.R. 6(b). The Committee considered Professor Wroth’s proposed drafts of an addition to V.R.P.A.C.R. 6(b) addressing inquest records in light of issues raised by Justice Dooley’s dissent in *Rutland Herald v. Vermont State Police*, 2012 VT 24. Mr. Perry noted that V.R.P.A.C.R. 6(b)(31), on which the proposed drafts were based, should be modernized to read “...audio or ~~videotape~~ video recording... .” In discussion, the distinction drawn by Justice Dooley between rarely used “testimonial” inquests and those that sought only the issuance of subpoenas was noted. Members also pointed out that the existing statutory scheme providing for inquests, 13 V.S.A. §§ 5131-5137, was dated in many respects and noted the modern example of direct power to examine witnesses granted to prosecutors in consumer protection cases by 9 V.S.A. § 2460. Questions to be considered at a subsequent meeting include the relationship of the inquest procedure to search warrant and grand jury procedure and whether an exemption of inquest records from public access should apply to both testimonial and nontestimonial use of the procedure.

5. Recent Supreme Court decisions raising issues of the interplay of statutory provisions with the Rules for Public Access. This item was deferred to a subsequent meeting in view of the hour.

6. Next meeting. It was agreed that the next meeting would be held in early November at a date and location to be determined after Professor Wroth determines the availability of Committee members.

There being no further business, the meeting was adjourned at 11:05 a.m.

Respectfully submitted,

L. Kinvin Wroth
Reporter