

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

**Minutes of Meeting  
May 30, 2014**

The meeting was called to order at 9:05 a.m. in the Environment Division court room, Berlin, Vermont, by Hon. Thomas Zonay, chair. Present were Committee members Martin Frank, Jeffery Loewer, Sarah London, Tanya Marshall, Gaye Paquette, Mitchell Pearl, and Renny Perry. Also present were Hon. John Dooley, Supreme Court liaison; Angela Valentinetti, Legal Assistant, Public Advocacy Division of the Public Service Board; and Professor L. Kinvin Wroth, Reporter.

1. The Committee welcomed new members Martin Frank and Jeffery Loewer.
2. Professor Wroth's summary of the meeting of February 28, 2014, at which a quorum was not present, was reviewed and accepted.

**3. Matters pending from March 2011.**

**A. Amendment of V.R.D.E.C.R. 3(c)(1)(B) to eliminate drivers' licenses from list of required redactions.** After discussion of the practical problems with motor vehicle operator's license numbers, a subcommittee consisting of Ms. Marshall, Mr. Perry, and Mr. Loewer was appointed to consider long- and short-range answers to the question whether to change the practice or the rule and to report by August 31.

**B. 2006 proposed amendments to V.R.P.A.C.R. 6(b)(5), (34), (35).** The Committee considered Professor Wroth's May 27 revision of the March 25, 2011, draft. See item 5 below.

**4. Further consideration of specific provisions addressing public access to copies of transcriber-produced transcripts and of court-produced audio and video recordings of court proceedings.** After discussion, it was agreed to support the consensus of those members present at the February 28 meeting that both trial court digital audio recordings of court proceedings and paper and digital copies of transcripts, once they were in the possession of the Supreme Court as part of the record on appeal, were public records available for access and copying under the Public Access Rules, subject to the general exception of Rule 6(b)(31) and other specific exceptions in Rule 6(b). It was further agreed that questions of the cost of providing copies was an administrative matter that did not require further treatment in the Rules. With regard to electronic access to transcripts, it was noted that federal district judge had discretion whether to put transcripts on the federal PACER system, with or without redaction.

**5. Consideration of revisions to V.R.P.A.C.R. 6(b) updating its provisions to address problems involving access to electronic records and for other purposes.** The Committee considered the systematic review of the exceptions in Rule 6(b) prepared by Justice Dooley and Professor Wroth and sent in Professor Wroth's May 29 e-mail. The exceptions were divided into four categories to focus discussion at this and future meetings:

1. Exceptions that do not require an amendment at present: Rule 6(b)(1)-(3), (8), (10)-(12), (18), (20)-(26), (28), (33), (35).
2. Exceptions that will require amendment to implement electronic access: Rule 6(b)(4), (5), (9), (13), (17), (19), (27), (29), (30)-(32), (34).
3. Amendment of existing exceptions or addition of new exceptions that may be required as a result of Supreme Court decisions interpreting the Public Access Rules or raising related issues or to incorporate specific exceptions adopted by the legislature that would otherwise be applicable under the general catch-all language of present Rule 6(b)(35).

In discussion, it was agreed to defer until the next meeting any action on amendments that might be required by Supreme Court decisions or by legislation, including those proposed in Professor Wroth's May 27 draft (item 3.B above). Professor Wroth will review the treatment of inquests in paragraph (3), the statutory reference in paragraph (4), and any other issues. Ms. London will report on the effect of pending S. 287 [subsequently enacted as Act 192 of 2013 (Adj. Sess.)] and pending S.295 [subsequently enacted as Act 195 of 2013 (Adj. Sess.)].

4. Specialized exception provision for Family Division records—discussed without resolution by Family Rules and Public Access Rules committees in 2002-2003.

In discussion, it was noted that the issue would not become critical until full implementation of electronic systems in the Family Division but that there were current operational issues that should be addressed. Subsequent developments to be considered include differing approaches in recent models from other states (*e.g.*, Nebraska and North Dakota examples distributed in Professor Wroth's February 24 e-mail; Iowa and Oklahoma), Vermont legislation prohibiting internet access to Family Division records, and the effects of the social media explosion on privacy standards. It was agreed that the issues to be addressed were (1) What information in Family Division cases should be private? and (2) How should an exception for family case records be implemented now and when records become fully electronic? It was suggested that a subcommittee be formed on each issue, to consist of a judge, family law practitioner, clerk, and appropriate representatives of the press and public. Professor Wroth will obtain the views of the Family Rules Committee on the issues and process at its next meeting.

**6. Next meeting.** It was agreed that the next meeting would be held on Friday, August 1, 2014, at 9:00 a.m. in the Environment Division court room in Berlin.

There being no further business, the meeting was adjourned at 11:30 a.m.

Respectfully submitted,

L. Kinvin Wroth  
Reporter