AGENDA

COLORADO SUPREME COURT ADVISORY COMMITTEE ON RULES OF CRIMINAL PROCEDURE

Friday, July 17, 2026, 12:45 p.m.
Ralph L. Carr Colorado Judicial Center
2 E. 14th Ave., Denver, CO 80203
Fourth Floor, Supreme Court Conference Room

I. Call to Order

II. Approval of Minutes from April 17, 2026, Meeting

III. Announcements from the Chair

IV. Business

A. Rules for Traffic Infractions – (Kevin McGreevy, Christian Champagne, John Lee)

B. Rule 45 – Updating State Holidays (Judge VanGilder)

C. Rule 41 – Requests for Document Production (Judge Harris)

V. Future Meetings: **October 16, 2026**

VI. Adjourn

NOTICE
ANYONE WISHING TO INQUIRE ABOUT AN AGENDA ITEM MAY CONTACT THE CHAIRPERSON OF THE COMMITTEE, JUDGE ELIZABETH L. HARRIS, AT 720-625-5330.

COLORADO SUPREME COURT
ADVISORY COMMITTEE ON THE RULES OF CRIMINAL PROCEDURE
Minutes of Meeting

Friday, April 17, 2026

A quorum being present, the Colorado Supreme Court's Advisory Committee on the Rules of Criminal Procedure was called to order by Judge Elizabeth Harris at 12:45 pm in the Supreme Court Conference Room. Members present at or excused from the meeting were:

Name	Present	Excused
Judge Elizabeth Harris, Chair	X	
Christian Champagne	X	
Johanna Coats	X	
Judge Kandace Gerdes	X	
Judge Chelsea Malone	X	
Kevin McGreevy	X	
Kevin McReynolds	X	
Kristen Nelson	X	
John Lee	X	
Magdalena Rosa	X	
Karen Taylor	X	
Judge Lindsay VanGilder	X	
Judge Vincente Vigil	X	
Karen Yacuzzo (non-voting participant)	X	

I. Attachments & Handouts

A. April 17, 2026, agenda packet

B. January 16, 2026, draft minutes

II. Approval of Minutes

The January 16, 2026, minutes were approved as submitted.

III. Announcements from the Chair

Following the committee's submission of the proposed rule revisions to the Court, the Court directed Judge Harris to circulate the draft rules to the Chief Judges statewide for their review and feedback. The committee agreed with the few suggestions received except the shorter proposed page limits. After discussing the issue, the committee reaffirmed its original recommendation for a 35-page limit.

IV. Business

A. Rule 35(c) – Proposed Changes to Form 4 and Comments vs. Amendments **(Judge Gerdes)**

The subcommittee has spent many hours on this topic. Form 4 received edits from both SCAO and this subcommittee leading up to this meeting. Following several clarifying edits, the subcommittee will continue working on improvements to the form.

Regarding the rule itself, the subcommittee recommended that all instances of *petition* be changed to *motion*. The committee voted unanimously to adopt this recommendation.

Next, the subcommittee queried whether committee comments and citation to case law might be more appropriate than revisions to Rule 35. The subcommittee will continue their work.

B. Colorado Rules for Civil Infractions (Judge Harris and Johanna Coats)
Judge Harris reported that another committee will handle this issue.

C. Colorado Rules Traffic Infractions – Justice Blanco's and Judge Lane's Emails
Kevin McGreevy, John Lee, and Christian Champagne will examine the issues raised in these emails.

D. Rule 16 – Attorney Request to Update Language for Modern Forms of Communication and CDAC Request
At the last meeting, the subcommittee discussed whether the rule should be modified to explicitly include modern forms of communication. A motion and second were taken to not change the rule, and it failed. The committee decided to table the issue until the next meeting. Most members think there should be a rule change. Those members who have suggestions should send those ideas to the committee for consideration well ahead of the next meeting.

The committee adjourned at 3:34 pm.

V. Future Meetings
July 17, October 16

M E M O R A N D U M

TO: Judge Harris and the Criminal Rules of Procedure Committee

FROM: Kevin McGreevy, Christian Champagne, and John T. Lee

RE: Possible Changes to The Colorado Rules For Traffic Infractions

DATE: June 29, 2026

RULE 3

Rule 3 states:

> THE FOLLOWING DEFINITIONS SHALL APPLY IN THESE RULES:
> (A) "CHARGING DOCUMENT" MEANS THE DOCUMENT COMMENCING OR INITIATING THE TRAFFIC INFRACTION MATTER, WHETHER DENOTED AS A COMPLAINT, SUMMONS AND COMPLAINT, CITATION, PENALTY ASSESSMENT NOTICE, OR OTHER DOCUMENT CHARGING THE PERSON WITH THE COMMISSION OF A TRAFFIC INFRACTION OR INFRACTIONS.
> (B) "DEFENDANT" MEANS ANY PERSON CHARGED WITH THE COMMISSION OF A TRAFFIC INFRACTION, INCLUDING BUT NOT LIMITED TO THE FOLLOWING TERMS USED IN THE IMPLEMENTING LEGISLATION: "CITED PERSON," "CITED PARTY," "INDIVIDUAL," "PERSON CHARGED WITH A TRAFFIC VIOLATION," "VIOLATOR," OR "ACCUSED."
> (C) "DOCKET FEE" MEANS A FEE ASSESSED ACCORDING TO THE PROVISIONS OF SECTION 42-4-1710(2), (3), OR (4), C.R.S., OR A FEE IN THE SAME AMOUNT AS PROVIDED IN THESE RULES.
> (D) "JUDGMENT" MEANS THE ADMISSION OF GUILT OR LIABILITY FOR ANY TRAFFIC INFRACTION, THE ENTRY OF JUDGMENT OF GUILT OR LIABILITY, OR THE ENTRY OF DEFAULT JUDGMENT AS USED IN SECTION 42-4-1709(7), C.R.S., AGAINST ANY PERSON FOR THE COMMISSION OF A TRAFFIC INFRACTION.
> (E) "OFFICER" MEANS A LAW ENFORCEMENT AGENT WHO TENDERS OR SERVES A CHARGING DOCUMENT UNDER THESE RULES.

> (F) "PENALTY" MEANS A FINE PURSUANT TO SECTIONS 42-4-1701(4)(A) AND 42-4-1710, C.R.S., IF THE CHARGING DOCUMENT IS A PENALTY ASSESSMENT NOTICE; OR A FINE PURSUANT TO SECTIONS 42-4-1701(3)(A)(I) AND 42-4-1701(5)(C)(II), C.R.S., IF THE CHARGING DOCUMENT IS ANY DOCUMENT OTHER THAN A PENALTY ASSESSMENT NOTICE.
> (G) "REFEREE" MEANS ANY PERSON APPOINTED AS A REFEREE UNDER SECTION 13-6-501, C.R.S., AND ANY JUDGE ACTING AS A REFEREE TO HEAR TRAFFIC INFRACTIONS.

QUESTION 1: Should subsection (D)'s reference to "the entry of default judgment as used in section 42-4-1709(7) be amended?

SHORT ANSWER: Yes. The statutory reference should be deleted.

DISCUSSION:

Rule 3(D)'s reference to section 42-4-1709(7) is incorrect. That statute instead sets forth the situations in which a "person is not allowed or permitted to obtain or renew a permanent driver's, minor driver's, or probationary license if such person has, at the time of making application for obtaining or renewing such driver's license." Nothing in the Rules for Traffic Infractions provides a definition for "default judgment," nor does Title 42. The closest source we could find for "default judgment" is C.R.C.P. 55, which sets forth the procedure for obtaining a default judgment in civil cases. However, it does not provide an express definition for "default judgment."

Default judgment has a common meaning that courts appear to apply without any difficulty. Given that Rule 3(D)'s reference applies to an inapplicable statute, and considering that there is no directly helpful definition to cite to, we recommend amending the rule to delete the reference to section 42-4-1709(7).

QUESTION 2: Should the Committee review the other statutory references in Rule 3, "Docket Fee," "Penalty," and "Referee," to confirm whether those statutory citations are accurate, and if not, try to fix them as well?

SHORT ANSWER: Maybe. The reference to "Penalty" looks correct. The remaining two references less so.

DISCUSSION:

<u>DOCKET FEE.</u> The rule appears to correctly cite sections 42-4-1710(2) and (3), both of which set forth when a court may order a docket fee (following a guilty plea, default judgment, or a finding of guilt). However, although the rule also cites subsection (4), that subsection sets forth the amount of the docket fee. Thus, the use of "or" in that sentence feels a bit off. The rule could be simplified to provide:

> “DOCKET FEE” MEANS A FEE ASSESSED ACCORDING TO THE PROVISIONS OF SECTION 42-4-1710, OR A FEE IN THE SAME AMOUNT AS PROVIDED IN THESE RULES.

PENALTY. That part of the rule appears correct. The statutes it references set forth penalties that apply.

REFEREE. The rule’s reference to a “Referee” in section 13-6-501 appears misplaced. That statute addresses the appointment of “Magistrates” or “County Court Judges.” It might make the most sense to replace “Referee” in Rule 3 with “Judicial Officer.” So:

> “JUDICIAL OFFICER” MEANS ANY PERSON APPOINTED UNDER SECTION 13-6-401, C.R.S., AND ANY JUDGE ACTING AS A JUDICIAL OFFICER TO HEAR TRAFFIC INFRACTIONS.

“Referee” is also used in Rules 6, 7, 11, 12, and 16. If Rule 3’s use of “Referee” is changed, all other references to ‘Referee” should be replaced with “Judicial Officer.”

RULE 7

Rule 7 states:

> **(a)** If the defendant has not previously acknowledged guilt or liability and satisfied the judgment, he shall appear before the referee at the time scheduled for first hearing.
> **(b)** The defendant may appear in person or by counsel, who shall enter appearance in the case, providing, however, if an admission of guilt or liability is entered, the referee may require the presence of the defendant for the assessment of the penalty.
> **(c)** If the defendant appears in person, the referee shall advise him in open court of the following:
> (1) The nature of the infractions alleged in the charging document;
> (2) The penalty and docket fee that may be assessed and the penalty points that may be assessed against the driving privilege;
> (3) The consequences of the failure to appear at any subsequent hearing including entry of judgment against the defendant and reporting the judgment to the state motor vehicle division, which may assess points against the driving privilege and may deny an application for a driver's license;

(4) The right to be represented by an attorney at the defendant's expense;
(5) The right to deny the allegations and to have a hearing before the referee;
(6) The right to remain silent, because any statement made by the defendant may be used against him;
(7) Guilt or liability must be proven beyond a reasonable doubt;
(8) The right to testify, subpoena witnesses, present evidence, and cross-examine any witnesses for the state;
(9) Any answer must be voluntary and not the result of undue influence or coercion on the part of anyone; and
(10) An admission of guilt or liability constitutes a waiver of the foregoing rights and any right to appeal.

(d) The defendant personally or by counsel shall answer the allegations in the charging document either by admitting guilt or liability or by denying the allegations.

(e) If the defendant admits guilt or liability, the referee shall enter judgment and assess the appropriate penalty and the docket fee, after determining that the defendant understood the matters set forth in Rule 7(c) and has made a voluntary, knowing, and intelligent waiver of rights.

(f) If the defendant denies the allegations, the matter shall be set for final hearing, and the defendant and officer shall be notified.

QUESTION: Is there a statutory or constitutional requirement that a Judge provide a rights advisement in "open court," or should the Rule reflect the practice of allowing a clerk to provide a person charged with a traffic infraction with a written rights advisement?

SHORT ANSWER: The language should be amended to say that: "If the defendant appears in person, the judicial officer or designee shall advise him of the following:"

DISCUSSION.

We are unaware of any statutory authority or constitutional provision that requires a Judge to advise a person charged with a traffic offense of their rights in open court. Instead, many traffic citations allow a person to pay online without ever receiving a rights advisement in open court. Additionally, the Committee has received a comment from Judge Lane indicating that it is common for a clerk to provide a written advisement of rights to a person charged with a traffic infraction. Thus, we recommend changing the rule to better reflect common practice. Still, because this change is based on comments from one Judge, we recognize that further outreach to traffic courts on this issue could be beneficial before suggesting an amendment.

Rule 45. Time

(a) Computation. In computing any period of time prescribed or allowed by these rules, the day of the event from which the designated period of time begins to run is not to be included. Thereafter, every day shall be counted including holidays, Saturdays, and Sundays. The last day of the period so computed is to be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. The "next day" is determined by continuing to count forward when the period is measured after an event and backward when measured before an event. As used in these Rules, "legal holiday" includes the first day of January, observed as New Year's Day; the third Monday in January, observed as Martin Luther King Jr. Day; the third Monday in February, observed as ~~Washington-Lincoln~~President's Day; the last Monday in May, observed as Memorial Day; the 19th day of June, observed as Juneteenth; the fourth day of July, observed as Independence Day; the first Monday in September, observed as Labor Day; the ~~second~~ first Monday in October, observed as ~~Columbus Day~~Frances Cabrini Day; the 11th day of November, observed as Veteran's Day; the fourth Thursday in November, observed as Thanksgiving Day; the ~~twenty-fifth~~25th day of December, observed as Christmas Day, and any other day except Saturday or Sunday when the court is closed.

(b) Enlargement. When an act is required or allowed to be performed at or within a specified time, the court for cause shown may at any time in its discretion:

(1) With or without motion or notice, order the period enlarged if application therefor is made before expiration of the period originally prescribed or of that period as extended by a previous order; or,

(2) Upon motion, permit the act to be done after expiration of the specified period if the failure to act on time was the result of excusable neglect.

(c) [Repealed].

(d) [Repealed].

(e) [Repealed].

(f) Inmate Filings. A document filed by an inmate confined in an institution is timely filed with the court if deposited in the institution's internal mailing system on or before the last day for filing. If an institution has a system designed for legal mail, the inmate must use that system to receive the benefit of this rule.

COMMENT

After the particular effective date, time computation in most situations is intended to incorporate the Rule of Seven. Under the Rule of Seven, a day is a day, and because calendars are divided into 7-day week intervals, groupings of days are in 7-day or multiples of 7-day intervals. Groupings of less than 7 days have been left as they were because such small numbers do not interfere with the underlying concept. Details of the Rule of Seven reform are set forth in an article by Richard P. Holme, 41 Colo. Lawyer, Vol. 1, P 33 (January 2012).

Commented [LV1]: ALT OPTION: **the legal holidays listed at coloradojudicial.gov/holidays**

Commented [LV2R1]: OR **the legal holidays listed in C.R.S. 24-11-101**? I think the language in that statute about "any day appointed or recommended by the governor of this state or the president of the United States as a day of fasting or prayer or thanksgiving" could be confusing, though, because that could get into arguments about the administrative holidays listed in 24-11-104 through 118

Commented [LV3]: I was going to suggest removal of this, but I think it accounts potentially for instances when a specific courthouse has a weather or power closure that prevents filing?

Time computation is sometimes “forward,” meaning starting the count at a particular stated event [such as date of filing] and counting forward to the deadline date. Counting “backward” means counting backward from the event to reach the deadline date [such as a stated number of days being allowed before the commencement of trial]. In determining the effective date of the Rule of Seven time computation/time interval amendments having a statutory basis, said amendments take effect on July 1, 2012 and regardless of whether time intervals are counted forward or backward, both the time computation start date and deadline date must be after June 30, 2012. Further, the time computation/time interval amendments do not apply to modify the settings of any dates or time intervals set by an order of a court entered before July 1, 2012.

Search warrants under 16-3-303 and court orders for the production of records under 16-3-301.1 can only be issued if the court receives "an affidavit sworn to or affirmed before the judge…". However, Crim P. 41 allows for a search warrant request to be transmitted to the court electronically:

(c) Application for Search Warrant.

(1) A search warrant shall issue only on affidavit sworn or affirmed to before the judge, except as provided in (c)(3).

…

(3) *Application and Issuance of a Warrant by Facsimile or Electronic Transmission.* A warrant, signed affidavit, and accompanying documents may be transmitted by electronic facsimile transmission (fax) or by electronic transfer with electronic signatures to the judge, who may act upon the transmitted documents as if they were originals. A warrant affidavit may be sworn to or affirmed by administration of the oath over the telephone by the judge. The affidavit with electronic signature received by the judge or magistrate and the warrant approved by the judge or magistrate, signed with electronic signature, shall be deemed originals. The judge or magistrate shall facilitate the filing of the original affidavit and original warrant with the clerk of the court and shall take reasonable steps to prevent the tampering with the affidavit and warrant. The issuing judge or magistrate shall also forward a copy of the warrant and affidavit, with electronic signatures, to the affiant. This subsection (c)(3) does not authorize the court to issue warrants without having in its possession either a faxed copy of the signed affidavit and warrant or an electronic copy of the affidavit and warrant with electronic signatures.

There is no similar provision in statute or rule that allows affidavits related to the production of records to be submitted electronically. This could be due to the fact that the search warrant statute explicitly mentions the possibility of supreme court rules to implement the statute ("Procedures governing application for and issuance of search warrants consistent with this section may be established by rule of the supreme court."), whereas the production of records statute does not have similar language.

What this means practically is that in many jurisdictions, affidavits for search warrants are submitted electronically, but affidavits for orders for the production of records must be submitted in person. I don't understand a good policy reason for treating these differently. A rule change that allows for electronic submission of affidavits for orders for the production of records would save our districts and law enforcement a substantial amount of time.

If you think this is appropriate for the Rules Committee, I can start working with the 19th JD on a proposed rule change and whatever other information would be helpful to the Committee.

* * *

One option might be to interpret "before the judge" in the search warrant statute to include electronically before the judge. But the way the rule is phrased right now, it reads as an exception to what the statute says ("except as provided in (c)(3)"). If the committee were to interpret "before the judge" as including electronic submission for purposes of the search warrant statute, then "before the judge" should have the same meaning in the production of records statute.