

MINUTES
of
THE ADVISORY COMMITTEE
on
FEDERAL RULES OF CRIMINAL PROCEDURE

April 4 & 5, 2005
Charleston, South Carolina

The Advisory Committee on the Federal Rules of Criminal Procedure met at Charleston, South Carolina on April 4 and 5, 2005. These minutes reflect the discussion and actions taken at that meeting.

I. CALL TO ORDER & ANNOUNCEMENTS

Judge Bucklew, Chair of the Committee, called the meeting to order at 8:30 a.m. on Monday, April 4, 2005. The following persons were present for all or a part of the Committee's meeting:

Hon. Susan C. Bucklew, Chair
Hon. Paul L. Friedman
Hon. David G. Trager
Hon. Harvey Bartle, III
Hon. James P. Jones
Hon. Anthony J. Battaglia
Hon. Robert H. Edmunds, Jr.
Prof. Nancy J. King
Mr. Robert B. Fiske, Jr.
Mr. Donald J. Goldberg
Mr. Lucien B. Campbell
Ms. Deborah J. Rhodes, designate of the Asst. Attorney General for the Criminal
Division, Department of Justice
Prof. David A. Schlueter, Reporter

Also present at the meeting were: Hon. David Levi, chair of the Standing Committee, Hon. Mark R. Kravitz, member of the Standing Committee and liaison to the Criminal Rules Committee; Professor Daniel Coquillette, Reporter to the Standing Committee, Mr. Christopher Wray, Assistant Attorney General of the Department of Justice; Mr. Peter McCabe and Mr. James Ishida of the Administrative Office of the United States Courts; Mr. John Rabiej, Chief of the Rules Committee Support Office of the Administrative Office of the United States Courts; Professor Sara Sun Beale, Duke University School of Law, Consultant to the Committee and Reporter Designate; Mr. Bob McCallum, Department of Justice; and Ms. Laurel Hooper, Federal Judicial Center. Professor Dan Capra, Reporter to the Evidence Rules Committee, participated for a portion of the meeting by telephone.

Judge Bucklew welcomed a new member, Judge Edmunds, an Associate Justice of the Supreme Court of North Carolina, who replaced Judge Reta Struhbar. Judge Bucklew also noted that this would be the last official meeting for Judge Friedman, Mr. Campbell, who had completed six years of valuable service to the Committee. She also announced that the Reporter, Dave Schlueter, was completing 17 years of service and that his replacement would be Professor Sara Sun Beale.

II. APPROVAL OF MINUTES

Judge Trager moved that the minutes of the Committee's meeting in Santa Fe, New Mexico in October 2005, be approved. The motion was seconded by Judge Battaglia and, following corrections to the Minutes, carried by a unanimous vote.

III. STATUS OF PROPOSED AMENDMENTS TO RULES PENDING BEFORE THE SUPREME COURT

A. Report on Rules Amendments from Chief, Rules Committee Support Office.

Mr. Rabiej informed the Committee that as part of the on-going consideration of proposed rules to the various rules of procedure, there was a growing concern from the practicing bar about possible inconsistencies between those rules, concerning various timing provisions. To that end, Judge Levi had appointed a committee, chaired by Judge Kravitz, to consider amending the rules to simplify timing requirements and make them as consistent as possible. He noted that Mr. Robert Fiske, a member of the Criminal Rules Committee, had been asked to be a member of Judge Kravitz's committee.

He also reported that the Appellate, Bankruptcy, and Civil Rules Committee were reviewing the comments from the bench and the bar on the proposed amendments to those rules that would permit courts to require electronic filings. He stated that several commentators had recommended including exceptions for pro se filings. He expected those committees to make their report to the Standing Committee at its June 2005 meeting. The Criminal Rules Committee had decided at its Fall 2004 meeting not to propose any amendments to the Criminal Rules, and instead rely upon the incorporation provision in Criminal Rule 49(d).

B. Rule Amendments Effective December 1, 2004.

The Reporter informed the Committee that the package of amendments approved by the Supreme Court in May 2004, (Rules Governing § 2254 Proceedings, Rules Governing § 2255 Proceedings, and the Official Forms Accompanying those Rules, and Rule 35), had become effective on December 1, 2004, without any changes by Congress.

C. Proposed Amendments Pending Before the Supreme Court.

The Reporter also mentioned that the following rules were currently pending before the Supreme Court:

1. Rule 12.2. Notice of Insanity Defense; Mental Examination. Proposed Amendment Regarding Sanction for Defense Failure To Disclose Information.
2. Rules 29, 33 and 34; Proposed Amendments Re Rulings By Court On Motions to Extend Time for Filing Motions Under Those Rules.
3. Rule 32, Sentencing; Proposed Amendment Re Allocution Rights of Victims of Non-Violent and Non-Sexual Abuse Felonies.
4. Rule 32.1. Revoking or Modifying Probation or Supervised Release. Proposed Amendments to Rule Concerning Defendant's Right of Allocution.
5. Rule 59; Proposed New Rule Concerning Rulings By Magistrate Judges.

D. Proposed Amendments to Rules Which Have Been Published for Public Comment.

Judge Bucklew and Professor Beale informed the Committee that the following rules had been published for comment, that the comment period had ended on February 15, 2005, and that a few comments had been received on the proposed changes.

1. Rule 5. Initial Appearance. Proposed amendment permits transmission of documents by reliable electronic means.
2. Rule 32.1. Revoking or Modifying Probation or Supervised Release. Proposed amendment permits transmission of documents by reliable electronic means.
3. Rule 40. Arrest for Failing to Appear in Another District. Proposed Amendment to provide authority to set conditions for release where the person was arrested for violating conditions set in another district.

4. Rule 41. Search and Seizure. Proposed amendment permits transmission of search warrant documents by reliable electronic means.
5. Rule 58. Petty Offenses and Other Misdemeanors. Amendment to make it clear that Rule 5.1 governs when a defendant is entitled to a preliminary hearing.

The Committee briefly discussed a comment received from Mr. Frank Dunham, a Federal Public Defender, concerning the fact that the proposed amendment to Rule 5 would permit a magistrate judge to accept a non-certified electronic copy of a warrant. In his view, the rule should state that such copies are not “reliable electronic means.” The Committee decided to make no further changes to Rule 5.

Following additional brief discussion on several style changes proposed by the Standing Committee’s Style Subcommittee, Judge Jones moved that all of the published rules be forwarded to the Standing Committee with a recommendation that they be forwarded to the Judicial Conference. Judge Bartle seconded the motion, which carried with a unanimous vote.

IV. REPORTS OF SUBCOMMITTEES¹

A. Rules 11, 32, and 35; *Booker-FanFan* Package of Rules.

Judge Bucklew reported that following the Supreme Court’s decision in *United States v. Booker*, 125 S.Ct. 738 (2005) (holding that Sentencing Guidelines are advisory and not mandatory), she had asked Judge Friedman to chair a subcommittee to study the question of whether that case required any amendments to the Criminal Rules. Also serving on that Subcommittee were Judge Trager, Mr. Campbell, Professor King, and Ms. Rhodes.

Judge Friedman stated that Professors Beale and King had reviewed all of the Criminal Rules and had compiled a list of rules that they believed should probably be amended. The Subcommittee, in a series of telephone conference calls had reviewed the list and based upon those discussions, Professor Beale had drafted proposed amending language to Rules 11, 32, and 35, along with proposed language for accompanying Committee Notes. The Subcommittee, he added, believed that strong arguments existed for amending those three rules at this time.

¹ Although several items on the agenda were discussed in an order different from that indicated in the published agenda—in order to accommodate the scheduled of several of the participants—they are reported here in the order in which they appeared on that agenda.

1. Rule 11(b)(1)(M) (advice to defendant regarding application of sentencing guidelines).

Professor Beale explained the purpose of the proposed amendment to Rule 11, which included a provision recognizing that the court is to “calculate” the sentence under the Sentencing Guidelines and also specifically referenced 18 USC § 3553(a). In the discussion on the amendment, several members questioned whether the word “calculate” was appropriate, noting that some judges may not believe that they are required to calculate any sentences following the Court’s decision in *Booker*. Other members stated that for now, the rules should recognize two separate steps in determining a sentence. There was also a brief discussion on whether it was necessary to specifically include a reference to § 3553. Following additional brief discussion, Judge Bartle moved that the amendment be approved, as drafted. Judge Friedman seconded the motion which carried by a unanimous vote. Following the vote, Judge Friedman informed the committee that he and Professor Beale would consider using terms other than “calculate.”

2. Rule 32(d)(2)F). Additional Information in Presentence Report.

Judge Friedman explained that the Subcommittee had recommended a change to Rule 32(h) to provide that the presentence report must also contain anything relevant to the factors listed in § 3553(a). During the brief discussion on this proposed amendment, Mr. Campbell expressed the concern that probation officers might be reluctant to include any additional information in the presentence report if the court does not explicitly require its inclusion. Judge Friedman moved that the amendment be approved and that it be published for comment. Judge Trager seconded the motion, which carried by a vote of 9 to 1.

3. Rule 32(h). Notice of Possible Departure from Sentencing Guidelines.

Judge Friedman explained that the Subcommittee had discussed whether it might be advisable to delete Rule 32(h) in its entirety but had ultimately decided to leave it in, at least for now. He added that the *Booker* decision should not really make any difference in the notice requirement. Judge Friedman explained that the Subcommittee had proposed two alternatives: The first version would make a distinction between “variances” and “departures.” The second version would make no distinction. Professor Beale observed that some courts had used the term “variance” but that the Criminal Law Committee had rejected that term. During the following discussion, the Committee decided to use the first alternative, with some minor changes, which included using the term “non-guideline sentence” instead of the term “variance.”

Judge Friedman moved that the amendment be approved with a recommendation that it be published for comment. Professor King seconded the motion, which carried by an 8 to 2 vote.

4. Rule 32(k). Judgment.

Judge Friedman explained that the Subcommittee believed it was appropriate to amend Rule 32(k) to provide that when entering a judgment, the court should use whatever forms had been approved by the Judicial Conference. The purpose of the amendment is to standardize the collection of data on federal sentences. Following a brief discussion, Judge Friedman moved that the amendment be approved and published for comment. Professor King seconded the motion, which carried by a unanimous vote.

5. Rule 35(b). Reducing a Sentence for Substantial Assistance.

Judge Friedman and Professor Beale explained that the proposed amendment to Rule 35, which would delete (b)(1)(A) and (B) because those provisions assume that the sentencing guidelines are mandatory — a principle rejected by the Supreme Court in *Booker*. Judge Friedman moved that the amendment be approved and published for comment. Judge Trager seconded the motion, which carried by a vote of 10 to 1.

B. Rules 11 and 16; Proposed Amendment Regarding Disclosure of Brady Information;

Mr. Goldberg, chair of the Rule 16 Subcommittee, reported that the Subcommittee had continued its study of the proposal from the American College of Trial Lawyers, to the effect that Rule 16 should be amended to require the government to disclose to the defense evidence that could be favorable to the defendant. The issue had been initially discussed at the Committee's May 2004 meeting and then again at the Committee's October 2004 meeting. As a result of those discussions, the Subcommittee had continued its study of the proposal and had considered a study conducted by the Federal Judicial Center and a report from the Rules Committee Support Staff, which detailed the various local rules that already addressed the issue. He reported that following additional discussion, the Subcommittee had decided to delete the "materiality" requirement from any proposed rule. He added that Ms. Rhodes had provided a memo detailing the Department of Justice's opposition to an amendment to Rule 16.

He emphasized that the amendment would not codify *Brady* and that the proposed amendment would not address the issue in *Ruiz*, regarding disclosure of information before entering a guilty plea.

A majority of the Subcommittee, he said, supported some sort of amendment to Rule 16. He noted that the Subcommittee had decided not to propose a 14-day requirement in the amendment.

Professor Beale commented that the Committee was faced with a policy decision — whether more evidence should be disclosed pre-trial. Mr. Fiske stated that because

prior inconsistent statements and other impeachment evidence could be important, it was critical to have that information soon enough in the process to use it effectively.

Judge Edmunds noted that people have been taken off of death row because prosecutors failed to disclose evidence and that the issue before the Committee was an important one.

Ms. Rhodes expressed two key concerns about the proposal; timing and materiality. She pointed out that on multiple occasions the Committee had considered amendments to Rule 16, and that each time the Committee had considered reciprocal discovery provisions. She also stated that the Committee had considered the so-called Brady proposal on several previous occasions and had decided, for a variety of reasons, not to tackle the problem through a rule amendment. She pointed out that it is often difficult to distinguish between inculpatory and exculpatory evidence and that Rule 16 already provides adequate discovery in several significant respects, for example, with regard to documents and test results. She also raised concerns about the potential impact of the proposed amendment on the Jencks Act requirements.

Mr. Fiske agreed that if there is a conflict between disclosure of favorable information and the Jencks Act that the latter controls.

Ms. Rhodes explained that currently the Department has not reached any decision about whether to address this problem in the U.S. Attorneys' Manual and that any amendment to Rule 16 should contain a materiality requirement.

Professor Schlueter pointed out that the Committee had consider the topic in the past, but that it had never really studied the issue to the extent it had been studied in this instance. He also observed that although there were instances of reciprocal discovery in Rule 16, that was not part of a long-range plan and that it had occurred on a case by case basis. In some instances, he noted, the Department had agreed to a change in Rule 16 if the defense was also required to disclose information.

There was also some discussion about whether an amendment to Rule 16 would require the government to shoulder the burden of proof on appeal if the defendant alleged a violation of the discovery requirement. Judge Friedman observed that the Subcommittee had apparently addressed the three main issues — Jencks, timing, and materiality.

Following additional brief discussion about the particular language of an amendment to Rule 16, Mr. Goldberg moved that the Committee proceed with the amendment to Rule 16. Mr. Fiske seconded the motion, which carried by a vote of 8 to 3.

C. Proposed New Criminal Rule 49.1 to Implement E-Government Act.

Judge Bucklew reported that the Rule 49.1 Subcommittee, chaired by Judge Bartle, had reviewed the proposed template for what would be new Rule 49.1 and had considered a number of issues raised during the Committee's discussion of that rule at the Fall 2004 meeting. Judge Bartle stated that the Subcommittee had considered the proposed changes to the template and generally approved of those changes.

Professor Capra (participating by telephone) pointed out that the provision in Rule 49.1(a)(5) concerning redaction of the city and state of the home addresses would be unique to the criminal version of the rule. Professor King questioned whether the redaction requirement should also extend to specific street addresses as well, at least in some cases. Ms. Rhodes responded that it would be difficult to limit such disclosure in some cases and not others.

There was also some discussion on the need in Rule 49.1(b)(1) regarding an exception to the redaction requirement, in criminal or civil forfeiture proceedings, for information about the address for real property.

Members of the Committee also focused on Rule 49.1(b)(6) concerning information relating to § 2254 and § 2255 proceedings and the provision in Rule 49.1(b)(7) regarding § 2241 proceedings not relating to immigration cases. The Committee decided to amend the Committee Note to expressly state that disclosure in immigration cases would be covered in the civil rules version of the rule.

As a result of additional discussion, the Committee decided to delete any reference in the rule to "criminal case cover sheets."

Judge Bartle moved that the revised Rule 49.1 be approved and published for public comment. Mr. Campbell seconded the motion, which carried by a unanimous vote.

V. OTHER PROPOSED AMENDMENTS TO THE CRIMINAL RULES.

A. Rules 4 Arrest Warrant or Summons on a Complaint; Proposal to Amend Rules.

Judge Bucklew stated that the Committee had received materials from Professor Malone at William and Mary University School of Law. She had proposed that the Committee amend Rules 4 and 5 to implement the requirements of the Vienna Convention on Consular Relations, which requires that foreign citizens are to be advised of their right to contact their country's consulate when they are served with an arrest warrant or are arraigned. Professor Beale noted that the issue is currently before the Supreme Court. Following brief discussion, Professor King moved that the proposal be

tabled until the Committee's next meeting. Judge Battaglia seconded the motion, which carried by a unanimous vote.

B. Rule 6. Grand Jury; Technical Amendments

Judge Bucklew informed the Committee that as a result of congressional action on Rule 6, the question had been raised whether those amendments should be restyled to conform to the Committee's earlier proposed amendments to the same rule. Mr. Rabiej explained that the proposed amendments were strictly technical and conforming in nature that it would normally not be necessary to publish the proposed changes for public comment. Following brief discussion, Judge Battaglia moved that the amendments be made and forwarded to the Standing Committee with a recommendation that they be sent to the Judicial Conference, without being published for comment. Professor King seconded the motion, which carried by a unanimous vote.

C. Rule 10. Arraignment; Proposal to Amend Rule to Permit Defendant to Waive Arraignment.

Judge Bucklew informed the Committee that Judge James McClure had written to the Committee, recommending an amendment to Rule 10 that would permit the defendant to waive the arraignment. Several members noted that during the recent restyling project the Committee had considered a similar proposal but had decided not to permit a waiver of the arraignment itself, because several rules make the arraignment a triggering event. Following a brief discussion, Professor King moved that the proposal be tabled until the next meeting. Judge Battaglia seconded the motion, which carried by a unanimous vote.

D. Rule 16. Discovery and Inspection and Rule 32. Sentencing; Proposal to Amend.

Judge Bucklew informed the Committee that Mr. James Felman had proposed that Rules 16 and 32 be amended. Specifically, he recommended that Rule 32 be amended to require that a party providing information to the court regarding sentencing, should be required to provide the opposing party with the same information. With regard to Rule 16, he recommended that the rule require the government and defendant to produce all documents, tangible materials, etc. that it intends to use at sentencing. During the ensuing discussion, there was a consensus that no amendments should be made to Rule 16 and that there are already adequate discovery mechanisms and requirements in Rule 32. The Committee decided not to pursue the proposals any further.

E. Rule 29. Motion for Judgment of Acquittal; Proposal to Amend Rule to Require Deferment of Ruling.

Judge Bucklew provided an overview of the status of a proposal from the Department of Justice to amend Rule 29, to require that in all cases, that court would be required to defer a ruling on a motion for a judgment of acquittal until after verdict. She

explained that the Committee at its meeting in Fall 2003 had approved the amendment in concept, but at the Spring 2004 meeting had decided not to pursue the amendment; at that time the information available to the Committee seemed to indicate that there was no compelling need for an amendment. As a result, the Committee had not had an opportunity at that meeting to consider a possible compromise amendment that would have permitted the court to defer those rulings, if the defendant first waived his or her double jeopardy protections.

At the Standing Committee's January 2005 meeting, the Department renewed its concerns about the need for an amendment to Rule 29, and presented additional information to that Committee. Following discussion, the Standing Committee asked the Criminal Rules Committee to again consider any appropriate amendments to Rule 29 and to present those amendments to the Standing Committee with a recommendation to publish, or not publish, the amendments.

She noted that Professor Schlueter had prepared a rough draft of proposed amendments to Rule 29, which would incorporate the waiver concept first proposed by Judge Levi, chair of the Standing Committee, in Spring 2004. Professor Schlueter stated that he included a requirement for an in-court colloquy between the court and the defendant concerning the possible implications of the Double Jeopardy Clause; he added that the draft Committee Note drew heavily from a detailed memo prepared by Ms. Brooke Coleman, a judicial clerk for Judge Levi.

Mr. Christopher Wray thanked the Committee for its consideration of the rule and expressed how important the rule was to the Department, and in particular to the United States Attorneys who had initially proposed the rule change. He pointed out the additional new information available to the Committee, which he believed, further demonstrated the need for an amendment. In his view, the amendment would be a modest remedy for a major problem. He cited several cases where the judge had clearly made an erroneous ruling in granting the defense motion for acquittal, without leaving any possibility for a government appeal. He pointed out that in 1994, the Committee had amended Rule 29 to encourage judges to defer ruling on such motions, until after verdict and that this amendment would simply require what that amendment had encouraged.

Mr. Wray cited a number of statistics to support the argument that it would be safely assumed that in many of the cases in which a court had granted the motion pre-verdict, that had there been an appeal, the appellate courts would have reversed the decision in a significant number of cases. He noted that the Department was open to suggestions for addressing those problems.

Mr. Goldberg stated that he was concerned that an amendment might unnecessarily burden defendants who should be entitled to a judgment of acquittal. And Judge Bucklew noted that originally the Committee had been concerned about any amendment which would jeopardize the ability to manage the case. Judge Jones raised a jurisdictional question in the context of a case where the defendant agrees to a pre-verdict

ruling on some counts, the courts grants the motions on those counts but the case proceeds on the remaining counts. He questioned whether an appellate court have jurisdiction to consider a government appeal on the counts on which the trial court had ruled. Judge Friedman responded that the Committee Note could reflect the view that the trial could continue with regard to the remaining counts. Mr. Wray noted that most criminal trials only last a matter of days so that it would not be likely that Judge Jones' scenario would be a common one.

Mr. Campbell stated that he was still opposed to any amendment and expressed doubt about the statistical information relied upon by the Department, regarding the projected reversal rate in un-appealable Rule 29 cases. He added that there are other non-appealable, dispositive motions, that a court may grant, in which the government is also not entitled to appeal. He also noted that if the rule contained a waiver provision, the defendant would still be exposed to the possibility of a second trial.

Judge Bucklew questioned whether any amendment could adequately address the issue of a hung jury. Judge Trager generally agreed and raised the issue of what would be the best practice concerning hung jury situations. In his view, if the jury cannot reach a verdict, the judge should dismiss the indictment.

Following additional discussion, Judge Friedman suggested that perhaps the best approach would be to require that the judge defer ruling in all cases in which a substantial number of counts or defendants would be affected. Judge Jones agreed with that approach, but Mr. Wray stated that that proposal would raise a number of different problems. Professor Schlueter questioned how the rule might address the definition of "substantial."

Judge Bucklew stated that it might be helpful to conduct a straw poll on where the Committee stood on the proposals. Eight members favored some change to Rule 29, while three members opposed any change.

Concerning the proposal to include a waiver provision in the amendment, nine members favored that approach and two members opposed that approach.

During the following discussion about the draft proposal, it was generally decided that the defendant's waiver of his Double Jeopardy rights would not need to be in writing. Additional suggested changes in the language were proposed. Professors Schlueter and Beale stated that based upon those suggestions, another draft would be prepared.

Judge Kravitz stated that he did not believe that the Standing Committee was necessarily expecting a final draft at the June 2005 meeting, if the Criminal Rules Committee believed it would be important to have additional time to consider the amendments to the draft.

Judge Bucklew responded that if more time was in fact needed to refine the amendment and the Committee Note, the Criminal Rules Committee could nonetheless present a draft amendment as an information item for the Standing Committee's June meeting.

F. Rule 41. Search and Seizure; Status of Amendments Concerning Tracking Device Warrants.

Judge Bucklew provided brief background information on the amendment to Rule 41, which would provide procedures for tracking-device warrants: The rule had been recommended, published for public comment in 2002, reviewed by the Criminal Rules Committee at its Spring 2003 meeting and also approved by the Standing Committee at its June 2003 meeting. Following that meeting, however, the Department of Justice had asked for, and received, additional time to review the proposal. Since then, however, no further action or report had been submitted by the Department.

Ms. Rhodes stated that the Department had completed its review of the amendment and that it had no further recommended changes to the rule. She noted that the originally the Department had been concerned that the amendment would require warrants in all cases, but that upon further review of the amendment and the accompanying note, was satisfied that the rule did not so require.

Judge Bucklew responded that she would include that information in her report to the Standing Committee along with a recommendation to forward the Rule 41 amendment to the Judicial Conference.

G. Rule 45. Computing and Extending Time; Amendment to Provide for Extending Time for Filing.

Judge Bucklew explained that Judge Carnes, former chair of the Committee, had recommended that the Committee consider amending Rule 45 to parallel a recent amendment to Civil Rule 6, to make it clear that the three-day extension provided in the rule, is to be added after the prescribed period for filing stated in the rules. Professor Beale stated that the proposed amendment to Rule 45 closely tracked the civil rule. She added that a similar provision had been included in the Appellate Rules as well. Following brief discussion, Professor King moved that the amendment be approved with a recommendation that it be published for public comment. Judge Battaglia seconded the motion, which carried with a unanimous vote.

H. Rules Affected by Victims' Rights Act.

Judge Bucklew informed the Committee that Judge Cassell (Dist. Utah) had provided extensive materials on proposed amendments to a number of criminal rules, which he believe were required by the recent Victims' Rights Act. She reminded the Committee that it had approved an amendment to Rule 32 extending victim allocution

rights, but that it had been withdrawn once the Act was passed. During the discussion which followed, she stated that she would appoint a subcommittee to consider the effect of the Act on the criminal rules.

VI. DESIGNATION OF TIME AND PLACE OF NEXT MEETING

Judge Bucklew stated that the Committee would be meeting in the San Francisco area on October 24 and 25, 2005.

The meeting adjourned at 10:30 a.m. on Tuesday, April 5, 2005

Respectfully submitted

David A. Schlueter
Professor of Law
Reporter, Criminal Rules Committee