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New Hampshire Supreme Court  
1 Charles Doe Drive  
Concord, NH 03301

Via email: [rulescomment@courst.state.nh.us](mailto:rulescomment@courst.state.nh.us)

*Re: R-2021-0004  
New Hampshire Rule of Criminal Procedure 12 – Discovery of  
Defendant's Criminal Record*

Honorable Justices of the New Hampshire Supreme Court and Advisory Committee  
on Rules,

Thank you for the opportunity to express our opposition to the proposed amendment to New Hampshire Rule of Criminal Procedure 12. The amendment, as written, runs contrary to our mission to keep victims and the public safe.

Our office routinely handles multiple arraignments within hours of a defendant's arrest, both in Superior and in District Court. When we are requesting preventive detention, it is most often because we believe the defendant presents a credible threat to the safety of another human being. The Court, in determining the most appropriate bail conditions, should be in possession of information which allows it to assess the threat.

Creating a procedural hurdle which prevents the Court from considering an individual's past violent conduct does nothing to protect the community or a victim. The Court is statutorily required to consider the safety of the public. This proposed amendment eliminates an important consideration from the Court's analysis by placing a procedural hurdle in front of the safety of the victim and the public in general.

If an individual is unrepresented and incarcerated, the logistics of ensuring that he/she receives a copy of the criminal record in a manner that complies with the law and the proposed rule is untenable. We are a small, rural county. Not all defense attorneys here have access to a fax machine and criminal records cannot be disseminated via email. Our office is located in a different building from the Court, with our jail located in a building which is separate from ours and from the Court. Our resources are scant and our caseloads are high. Adding additional impediments to the process in the tight timelines we are given does not serve the purpose of justice.

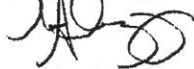
Our Court always allows an unrepresented party or defense counsel to respond to the State's arguments on bail. If there is an argument about a representation made by the State, the Court hears it.

Furthermore, Rule 43 of the NHRCrP allows for reconsideration. Bail hearings are often had multiple times in a criminal case. RSA 597:6-e allows for review and appeal of bail conditions. Thus, the amendment is a solution to a problem which doesn't exist. The Court is always free to review detention decisions. At the time of arraignment, the State and the defendant have very limited information. That is precisely why we allow for bail review. Frequently, facts come to light after the initial arraignment and during the discovery phase, which makes it necessary to review those early decisions.

Often, the Court's decision is the only thing standing between the defendant and the safety of a victim. The detriment to a victim may be a matter of life or death. The Court should have all relevant information before it when it makes decisions which have such weighty consequences.

We thank you, most humbly, for your time and your consideration.

Respectfully,



Michaela D. Andruzzi  
Carroll County Attorney