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October 20, 2023

New Hampshire Supreme Court
Advisory Committee on Rules
1 Charles Doe Drive
Concord, NH 03301

Via e-mail only

Re: Comments on the proposals to amend Rules 1 – 19 of the New Hampshire Rules of Criminal Procedure

Advisory Committee:

As with many smaller New Hampshire police departments, we rely on a police prosecutor to manage our court process. For a department such as ours, having a Deputy Chief acting in a dual role has many times shown itself to be incredibly challenging when it comes time to for court related paperwork to be submitted in a timely manner. It has been brought to my attention that several of the proposed changes before the committee will adversely affect our department prosecutors' ability to do their job within the time boundaries you are currently contemplating. After reviewing the proposed amendments to the New Hampshire Rules of Criminal Procedure, I would appreciate your consideration of the following issues:

Rule 3(a): Requiring a Complaint to be Signed Under Oath: Complaints charging a class A misdemeanor or felony will be entitled to a probable cause hearing. Therefore, it seems unnecessary to require the complaints to be signed under oath. As officers of the court, prosecuting attorneys are bound by the Rules of Professional Conduct to only file complaints which they believe have sufficient evidence to support a probable cause standard. Given these safeguards, this rule seems like a superfluous requirement.

Rule 4(a)(1): Timeframe for filing Complaint: Under the proposed rule, police departments will have to hand file complaints for incarcerated defendants held on misdemeanor and felony-level crimes, within a very tight timeframe. It is already challenging enough regarding communication from the patrol level to the prosecutor level when providing enough time for the

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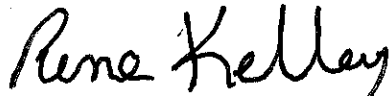


prosecutor to arrive at work and transmit the appropriate documents to the court. The one-hour timeframe for filing complaints prior to the arraignment presents a logistical challenge which could result in the dismissal of serious cases, potentially posing a danger to the public.

If an arrest is made during the evening hours, it may not get conveyed to the Prosecutor/Deputy Chief until they arrive at work. The paperwork must still be reviewed and sworn to and only then conveyed to the courthouse. That is a best-case scenario if there is no "police emergency" that necessitates the involvement of the Deputy Chief in their law enforcement role. It is already challenging enough to get the appropriate paperwork conveyed to the Strafford County Attorney's Office in a timely manner when there is an arraignment the next day. Smaller departments than ours that are not within the same distance of the courthouse may experience challenges far greater.

Thank you for your consideration regarding the issues.

Respectfully submitted,

A handwritten signature in black ink that reads "Rene Kelley". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Rene Kelley
Chief of Police