

## Timothy Gudas

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**From:** Evelyn King <EKing@hooksettpolice.org>  
**Sent:** Monday, October 23, 2023 5:00 PM  
**To:** RulesComment  
**Subject:** Comments on NH Rules of Criminal Procedure 1-19

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To Whom It May Concern:

As the District Court Prosecutor for the Hooksett Police Dept. at the 6<sup>th</sup> Circuit-District Court Division, I would like to make the following comments to the Proposed Amendments to the NH Rules of Criminal Procedure 1-19.

-Rule 3. Complaint, Arrest Warrant, Arrest, Summons & Release Prior to Arraignment

Rule 3(a) ...."A Circuit Court-District Division complaint charging a class A misdemeanor or felony shall be signed under oath, provided that a complaint filed by a **[add the following phrases - Prosecutor and/or]** police officer ..."

-Rule 4. Initial Proceedings in Circuit Court-District Division

Rule 4 (a)(1) & Rule 4(a)(2). I fully agree with Merrimack County Attorney Paul Halvorsen's comments on this particular section of the proposed rule change and completely adopt his recommendations, discussions and especially his specific suggestions as they pertain to this section of the rule change. Additionally, in my experience of over 20 years in district court prosecution, the reality of district court practice in smaller police departments, such as Hooksett Police Department, it is virtually impossible to be able to file the criminal complaints of detained defendants with the clerk's office of the particular district court no later than one (1) hour prior to the scheduled arraignment, especially if it is a morning arraignment.

Rule 4(g)(1). I fully agree with Merrimack County Attorney Paul Halvorsen's comments on this particular section of the proposed rule change and completely adopt his recommendations, discussions and especially his specific suggestions as they pertain to this section of the rule change.

-Rule 6. Probable Cause Hearing

Rule 6 (a) – Finding of No Probable Cause. I have questions with the proposed rule as it pertains to when no PC on the felony complaint(s) is found by the District Court. Where does the corresponding misdemeanor(s) and/or violation(s), if any, go? The finding of no PC is only lodged against the associated felony(ies). Unclear from the rule but would expect that the finding of no PC by the District Court on the associated felony would mean that the misdemeanor(s) and/or violation(s) would remain in District Court to be scheduled for trial. Perhaps this section of Rule 6 could address this issue more directly, as to what the District Court is expected to do with the additional misdemeanor/violation charges after a finding of no PC.

-Rule 12. Discovery

Rule 12 (a) Circuit Court-District Division

Rule 12(a)(1) – Could the Rule be more specific as to exactly what is meant by "the Defendant's first appearance before the court"? What is the Rules Committee's definition of "first appearance" in this section? When is the discovery from the State expected to be provided to the Defendant or his/her

attorney within what timeframe? I would suggest that the Rule provide that the State is required to provide discovery to the Defendant or his/her attorney within 14 days from receiving their written request for discovery in the pending matter as it relates to misdemeanors and/or violations. I fully agree with Merrimack County Assistant Attorney Steven Endres's comments on this section of the proposed rule change and completely adopt his recommendations, discussions and especially his specific suggestions as they pertain to this section of the rule change for Rule 12(a)(1).

-Rule 14. Notices

Rule 14 (c) (2) – the issue with this particular rule change regarding providing defense counsel with the drug analysis reports from the State Lab “at least 25 days before the proceeding begins” is difficult to calculate or to project, given the State Labs do not test drugs (for fentanyl, heroine, cocaine, crack, meth, etc) in misdemeanor cases until a trial date is actually scheduled in the District Court. Oftentimes there will not be a 25-day window before the drugs are tested & results are forwarded to the arresting agency & then forwarded to the appropriate opposing counsel.

Thank you for entertaining the comments, suggestions, and recommendations that I have proposed above before adopting the final version to the NH Rules of Criminal Procedure 1-19.

Evey King

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