

OFFICE OF THE GRAFTON COUNTY ATTORNEY

DEPUTY COUNTY ATTORNEY  
Paul V. Fitzgerald  
Tara J. Heater

OFFICE ADMINISTRATOR  
Alison Z. Evans

VICTIM/WITNESS PROGRAM  
Carin E. Sillars  
Sabra K. Stephens  
Ashley L. Belyea  
Stacey D. Cass



Martha Ann Hornick  
COUNTY ATTORNEY

3785 Dartmouth College Highway, Box 7  
North Haverhill, NH 03774  
603-787-6968 • Fax 603-787-2026  
email: countyattorney@gcao.us

Victim/Witness Program • 603-787-2040 • victimwitness@gcao.us

LEAD ASSISTANT COUNTY ATTORNEYS  
Antonia J. Barry  
Amanda K. Jacobson

ASSISTANT COUNTY ATTORNEYS  
Mariana C. Pastore  
Garrett S. Bartlett  
Margaret M. Seymour  
James E. Simpson  
Michael H. Schauer  
Elizabeth Alden  
Taylor A. Moulton

October 23, 2023

N.H. Supreme Court  
Advisory Committee on Rules  
1 Charles Doe Drive  
Concord, NH 03301

Ref: 2023-012 New Hampshire Rules of Criminal Procedure 1-19

Committee members:

Thank you for the opportunity to comment on the proposed rules. I previously submitted comments for the committee to review before your last meeting; those comments were a compendium of comments and suggestions from law enforcement and prosecutors with experience in both the Circuit and Superior Courts from across the state. In this letter, I am highlighting particularly two rules that as currently written you might consider addressing or amending before the rules are set:

1. Rule 4. Initial Proceedings in Circuit Court-District Division
  - (a) Filing of Complaint.
  - (2) If the defendant [Defendant] is detained pending arraignment, the complaint [Complaint] shall be filed prior to commencement of [no later than one (1) hour prior to] the arraignment.

A one hour time frame seems exceptionally short. Due to all of the other requirements and/or responsibilities law enforcement agencies have- particularly those staffed by one or two officers only- one hour just isn't enough time. I suggest the committee consider something along the lines of allowing a 4 hour window prior to arraignment.

2. Rule 19. Transfer of Cases.
  - (3) Unless otherwise allowed by statute or rule, a case shall not be transferred from circuit court [Circuit Court] to superior court [Superior Court] or from superior court [Superior Court] to circuit court [Circuit Court]. If the parties agree to resolve a case pending in circuit court [Circuit Court] or superior court

[Superior Court] in the other trial court, the State must initiate a new case in that court by filing a complaint [Complaint (Circuit Court) or Information (Superior Court)] and [by nolle prosequing or] filing a notice of nolle prosequi for the original case [charges].

Where the proposed rules change allows for a bind over from the Circuit Court - District Division to Superior Court, there should also be built in a sort “remand” process, a bridge of sorts to transfer a case back from Superior Court to Circuit Court. That type of mechanism would save time and resources: having to nolle prosequi the charges in Superior Court, requesting a law enforcement agency to arrest the defendant anew and starting the process all over again in Circuit Court seems an unnecessary waste of everyone’s time as well as a potentially needless burden on a defendant or victim. Consider as well the possibility of transferring a misdemeanor to Circuit Court from Superior Court to speed up the process of getting a defendant into a Mental Health Court or some sort of alternative sentencing court that only exists in the Circuit Court.

I am grateful for the opportunity to comment and am happy to respond to any questions the Committee might have.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marcie Hornick', with a stylized flourish at the end.

Marcie Hornick,  
Grafton County Attorney