

TIMOTHY LUEDERS-
DUMONT, ESQ.
EXECUTIVE DIRECTOR

PHONE: (802) 828-2891



110 State Street
Montpelier, VT
05633-6401

FAX: (802) 828-2881

STATE OF VERMONT
DEPARTMENT OF STATE'S ATTORNEYS & SHERIFFS

To: Hon. John Treadwell, Chair of the Advisory Committee on Rules of Criminal Procedure
Fr: Tim Lueders-Dumont, Executive Director, Dept. of State's Attorneys and Sheriffs
Re: Collection of State's Attorneys comments on the proposed amendment to V.R.Cr.P. Rule3(k)
Date: January 27, 2026

The following comments were submitted by State's Attorneys.

COMMENT FROM SA #1:

When my office saw this proposal they were understandably upset (including myself). Our DSAs, when on call, get between 0-10 calls per day, sometimes more. Many of these calls occur in the middle of the night. If our DSAs are going to be called/paged for every one of the cases law enforcement processes after hours there are likely to be 5-10 additional calls per night when each of us are on call. It is completely unsustainable, and I will absolutely lose good DSAs over it. I was on call a few weeks ago for a weekend and got paged 2-4 times each night for warrants and untimely deaths – one of the calls was a fatal crash and I was up for 3 hours dealing with just that one call – if I had been paged for everyone arrested that weekend it would easily have been 10 pages each night.

I'm not sure I fully understand what problem this is attempting to solve – but I do know that it will adversely impact my County significantly. I also know that whatever decision the on-call DSA makes in the middle of the night after being woken up from their sleep is not binding on this office the next day when the charging attorney is reviewing the same affidavit on a full night's sleep – which makes the entire exercise in the middle of the night completely moot. For example, we have DSAs in our office that practice fully in appellate court or family court, but they are on call as part of our rotation. They don't always have all the background of a particular person or a particular charge and cannot be expected to make a fully informed decision on a case without all of that context. Further, if law enforcement have to have a fully formed affidavit written before paging the on-call DSA, it will take each of them away from other calls for an unreasonable amount of time – significantly impacting public safety and response times by law enforcement. Every agency in our County is struggling to have enough police to respond to calls in a timely manner. This will negatively impact their ability to do that.

Prosecutors in Vermont right now are being overburdened with work, for very little pay, and next to no additional pay for being on call. Most of my attorneys have young children, many have second jobs, and every one of them is doing the best they can to manage caseloads between 300-400 cases at a time. Adding additional responsibilities to their after-work hours unnecessarily for no understandable reason and for zero additional compensation is unnecessary and I beg you not to do it. Having attorneys coming to work each day having had no sleep the night before because they were paged 10+ times throughout the night will only prolong our ability to keep good prosecutors staffed and our ability to efficiently get through the backlog we are currently struggling to get through.

COMMENT FROM SA #2:

I'm acutely aware that of the three types of stakeholders (judges, prosecutors and defense attorneys), this rule change only creates a burden on prosecutors. Perhaps if all three stakeholders were implicated, there would be less appetite for the changes.

COMMENT FROM SA #3:

After reviewing the language, I have significant concerns about the operational impact this change would have on our office and on SAOs statewide.

Requiring prosecutors to determine charges at the moment of arrest often in the middle of the night creates an unmanageable workload. Our prosecutors already handle a high volume of after-hours calls, and the proposed amendment would substantially increase the frequency and complexity of those calls. This expectation is not sustainable, particularly for smaller offices with limited staffing and only one prosecutor on call.

Additionally, making charging decisions at 2:00 or 3:00 a.m., without the ability to thoroughly review reports, evidence, criminal history, or victim input, increase the risk of error and inconsistency. These decisions require careful evaluation, not rushed determinations made under pressured timelines. The proposed rule effectively shifts the burden of immediate charging from arraignment to on-call hours, which is neither practical nor in the interest of justice.

For many of us the on call demands already require waking up multiple times throughout the night, balancing emergencies, and responding to law enforcement while still maintaining a full workload the following day.

This change would intensify that strain and is simply not feasible with our current resources.

Our prosecutors are already managing extraordinarily busy schedules and high caseloads that regularly require us to work long after business hours just to keep up with cases, review discovery, prepare for hearings, and respond to victims and law enforcement.

The on-call responsibilities alone often interrupt sleep and personal time, and many prosecutors start the next day having already worked several hours overnight. Adding an additional requirement to make immediate charging decisions at the moment of arrest--often in the middle of the night--would significantly erode our quality of life and further strain an already unsustainable workload.

COMMENT FROM SA #4:

This proposal does not account for the cumulative toll of constant interruptions, after hours, and the increasing demands placed on SAOs statewide.

My county already struggles to recruit attorneys and increasing duties- especially those that require unpredictable hours or additional burdens – risks accelerating burnout among existing prosecutors. These added expectations may also discourage strong applicants from accepting a position, further impacting our ability to maintain a functional and effective workforce in the department.

For those reasons, I do not support the proposed amendment in its current form. I urge the Committee to reconsider the practical implications for prosecutor workload, office capacity, and the quality of charging decisions being made under significant time and resource constraints.