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August 23, 2018

Justice Carlos Samour
Colorado Supreme Court
Ralph L. Carr Judicial Center
2 E. 14th Ave.,
Denver, CO 80203

Re: Rules of Criminal Procedure 5 and 7

Dear Justice Samour:

It is my privilege to submit the attached rules change proposals to Crim. P. 5 and Crim.P. 7 on behalf of the Criminal Rules Committee. Specifically, the Committee proposes changes to Crim.P. 5(a)(4) and 7(h)(1). The proposed amendments serve to bring the Colorado rules of criminal procedure into harmony with C.R.S. § 16-5-301 regarding felony offenses deemed by the legislature to be eligible for preliminary hearing.

In 2013, the Colorado legislature created a series of new criminal offenses related to drugs. In relation to the new offenses, the legislature also modified C.R.S. § 16-5-301 to clarify which of the new drug offenses would be eligible for a preliminary hearing. The proposed changes to the Criminal Rules are the result of the Committee's realization that after 2013 when the legislature created new drug-felony offenses and accordingly changed C.R.S. § 16-5-301, Criminal Rules 5 and 7 which also address preliminary hearing eligibility had not been updated.

The Committee voted that rules 5 and 7 should be modified to include drug-felony offenses to make the rules and the statute consistent. Modeling the changes to the criminal rules after the 2013 changes to C.R.S. § 16-5-301 resulted in the attached proposal. The changes were approved by unanimous vote.

With the addition of the drug-felony language to the already-existing lengthy first sentence of Crim.P. 7(h)(1), the committee felt that the first sentence became cumbersome and awkward. Thus, the committee voted to change the format of the first sentence of Crim.P. (7)(h)(1) to include numbered clauses and to create a separate sentence regarding the defendant or the prosecutor requesting the preliminary hearing. Otherwise, in both rules 5(a)(4) and 7(h)(1), the Committee attempted to modify the rules as little as possible to accomplish consistency with C.R.S. § 16-5-301.

For the Court's convenience, I have attached both a "clean" and a "red-line" copy of the proposed rule changes. Please do not hesitate to contact Judge John Daniel Daily, our Committee Chair, or me with any questions or concerns.

Respectfully submitted,



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