

IN THE SUPREME COURT OF THE STATE OF UTAH

-----oo0oo-----

In re: Proposed Amendments to
Rules 15 of the Utah
Rules of Criminal Procedure

Case No. 20100164-SC

ORDER

IT IS HEREBY ORDERED that the attached Rule 15(A) of the Utah Rules of Criminal Procedure is adopted and promulgated effective as of the date of this order pursuant to the expedited rulemaking provisions contained in Rule 11-105(5) of the Supreme Court Rules of Professional Practice.

FOR THE COURT:

February 26, 2010
Date

Christine M. Durham
Christine M. Durham,
Chief Justice

Rule 15A. Scientific, Lab, and Analytical Reports - When prosecution required to produce foundation and chain of custody witnesses.

(a) In all prosecutions in which an analysis of a controlled substance or other evidentiary sample is conducted, a sworn copy of the analytical report signed by the director of the laboratory or the analyst, technician, or forensic scientist conducting the analysis, shall be admitted as prima facie evidence of the report's contents and conclusions and of the chain of custody pertaining to any sample tested.

(b) The defendant may, however, require that the prosecution produce the preparer of the report or chain-of-custody witnesses for cross-examination at trial by filing a written demand with the court and the prosecutor no less than 30 days before trial or 15 days after receiving the report, whichever is later. The court shall extend the demand time for good cause shown.

(c) If a written demand is filed, the prosecution shall be entitled to a continuance upon a showing that the prosecution, despite reasonable efforts, is unable to procure the attendance at trial of the preparer of the report or chain-of-custody witnesses. The time within which a trial is required to begin shall be extended by the length of the continuance.

(d) Failure to timely file a written demand waives the defendant's right to challenge the admissibility of the report or the sample's chain of custody on the ground that the prosecution did not call the preparer of the report or chain-of-custody witnesses.