

1 **Rule 4. Prosecution of ~~public offenses~~ by information.**

2 (a) ~~Unless otherwise provided, all offenses shall be prosecuted by indictment or information~~
3 ~~sworn to by a person having reason to believe the offense has been committed. A prosecution~~
4 ~~may be commenced by filing an information. The information shall be filed in a format required~~
5 ~~by rules of the Judicial Council.~~

6 (b) ~~An indictment or information shall charge the offense for which the defendant is being~~
7 ~~prosecuted by using the name given to the offense by common law or by statute or by stating in~~
8 ~~concise terms the definition of the offense sufficient to give the defendant notice of the charge. If~~
9 ~~issued, the information shall include the citation number. Failure to include the number will not~~
10 ~~affect the court's jurisdiction. An information may contain or be accompanied by a statement of~~
11 ~~facts sufficient to make out probable cause to sustain the offense charged where appropriate.~~
12 ~~Such things as time, place, means, intent, manner, value and ownership need not be alleged~~
13 ~~unless necessary to charge the offense. Such things as money, securities, written instruments,~~
14 ~~pictures, statutes and judgments may be described by any name or description by which they are~~
15 ~~generally known or by which they may be identified without setting forth a copy. However,~~
16 ~~details concerning such things may be obtained through a bill of particulars. Neither~~
17 ~~presumptions of law nor matters of judicial notice need be stated. An information shall contain:~~

18 (b)(1) If known, the defendant's name, date of birth, and last known address.

19 (b)(1)(A) If the name of the defendant is not known, the prosecution shall identify the defendant
20 as John or Jane Doe, and shall provide any known identifying information.

21 (b)(1)(B) Other identifying information may be provided in accordance with rules of the Judicial
22 Council, provided the information does not include non-public records.

23 (b)(2) Numbered counts using the name given to the offense by statute or ordinance, or stating in
24 concise terms the definition of the offense sufficient to give the defendant notice of the charge.

25 (b)(2)(i) The prosecution may allege alternate theories of the same offense in a single count or in
26 multiple counts.

27 (b)(3) ~~The names of any adult witnesses on whose evidence the information is based.~~

28 (b)(3)(A) ~~Failure to include the names does not render an information invalid.~~

29 (b)(3)(B) ~~Upon request of the defendant the prosecution shall provide the names of witnesses~~
30 ~~that were not included in the information, unless the court finds good cause for relieving the~~
31 ~~prosecution from the obligation.~~

32 (b)(4) Unless otherwise contained in filings accompanying the Information, a booking number if
33 the defendant was arrested and detained on charges related to the information. Any pretrial
34 release conditions shall be included, such as:

35 (b)(4)(A) monetary bail or other pretrial release conditions set by the magistrate when
36 determining probable cause at arrest;

37 (b)(4)(B) whether the defendant was denied pretrial release;

38 (b)(4)(C) whether the defendant was released to a pretrial supervision agency; and

39 (b)(4)(D) whether the defendant is in custody.

40 (c) If a felony or class A violation is alleged, and in all cases requesting a warrant, an
41 information shall:

42 (c)(1) contain or be accompanied by a statement of facts sufficient to support probable cause for
43 the charged offense or offenses. The information need not include facts such as time, place,
44 means, intent, manner, value, and ownership unless necessary to charge the offense. Supporting
45 physical materials such as money, securities, written instruments, pictures, statutes, and
46 judgments may be identified using names or by describing the documents. Neither presumptions
47 of law nor matters of judicial notice need be stated, and

48 (c)(2) be reviewed for sufficiency by a judge of the court in which it is filed. If the judge
49 determines from the information, or from any supporting statements or affidavits, that there is
50 probable cause to believe the offenses have been committed and that the accused committed
51 them, the judge shall proceed under rule 6. If the judge determines there is not probable cause,
52 the judge shall return the information to the prosecutor and dismiss the case without prejudice if
53 a sufficient information is not filed within 28 days.

54 ~~(e)(d) The court may strike any surplus or improper language from an indictment or information.~~

55 ~~(d)(e)~~ (e) The court may permit an information to be amended at any time before trial has
56 commenced so long as the substantial rights of the defendant are not prejudiced. If an additional
57 or different offense is charged, the defendant has the right to a preliminary hearing on that
58 offense as provided under these rules and any continuance as necessary to meet the amendment.
59 The court may permit an ~~indictment~~ or information to be amended after the trial has commenced
60 but before verdict if no additional or different offense is charged and the substantial rights of the
61 defendant are not prejudiced. After verdict, an ~~indictment~~ or information may be amended so as

62 to state the offense with such particularity as to bar a subsequent prosecution for the same
63 offense upon the same set of facts.

64 ~~(e)~~(f) When facts not set out in an information ~~or indictment~~ are required to inform a defendant
65 of the nature and cause of the offense charged, so as to enable him to prepare his defense, the
66 defendant may file a written motion for a bill of particulars. The motion shall be filed at
67 arraignment ~~initial appearance~~ or within 14 ~~10~~ days thereafter, or at such later time as the court
68 may permit. The court may, on its own motion, direct the filing of a bill of particulars. A bill of
69 particulars may be amended or supplemented at any time subject to such conditions as justice
70 may require. The request for and contents of a bill of particulars shall be limited to a statement of
71 factual information needed to set forth the essential elements of the particular offense charged.

72 ~~(f)~~(g) An indictment or information shall not be held ~~is not~~ invalid because any name contained
73 therein may be incorrectly spelled or stated.; nor because a disjunctive clause is used instead of
74 the conjunctive. It shall not be necessary to negate any exception, excuse or proviso contained in
75 the statute creating or defining the offense.

76 ~~(g)~~ It shall not be necessary to negate any exception, excuse or proviso contained in the statute
77 creating or defining the offense.

78 ~~(h)~~ Words and phrases used are to be construed according to their usual meaning unless they are
79 otherwise defined by law or have acquired a legal meaning.

80 ~~(i)~~ Use of the disjunctive rather than the conjunctive shall not invalidate the indictment or
81 information.

82 ~~(j)~~ The names of witnesses on whose evidence an indictment or information was based shall be
83 endorsed thereon before it is filed. Failure to endorse shall not affect the validity but
84 endorsement shall be ordered by the court on application of the defendant. Upon request the
85 prosecuting attorney shall, except upon a showing of good cause, furnish the names of other
86 witnesses he proposes to call whose names are not so endorsed.

87 ~~(k)~~ If the defendant is a corporation, a summons shall issue directing it to appear before the
88 magistrate. Appearance may be by an officer or counsel. Proceedings against a corporation shall
89 be the same as against a natural person.

Effective May 1, 2017