

Rule 1102. Reliable Hearsay in Criminal Preliminary Examinations

(a) **Statement of the Rule.** Reliable hearsay is admissible at criminal preliminary examinations.

(b) **Definition of Reliable Hearsay.** For purposes of criminal preliminary examinations only, reliable hearsay includes:

- (1) hearsay evidence admissible at trial under the Utah Rules of Evidence;
- (2) hearsay evidence admissible at trial under Rule 804 of the Utah Rules of Evidence, regardless of the availability of the declarant at the preliminary examination;
- (3) evidence establishing the foundation for or the authenticity of any exhibit;
- (4) scientific, laboratory, or forensic reports and records;
- (5) medical and autopsy reports and records;
- (6) a statement of a non-testifying peace officer to a testifying peace officer;
- (7) a statement made by a child victim of physical abuse or a sexual offense which is promptly reported by the child victim and recorded in accordance with Rule 15.5 of the Utah Rules of Criminal Procedure;
- (8) a statement of a declarant that is written, recorded, or transcribed verbatim which is:
 - (A) under oath or affirmation; or
 - (B) pursuant to a notification to the declarant that a false statement made therein is punishable; and
- (9) other hearsay evidence with similar indicia of reliability, regardless of admissibility at trial under Rules 803 and 804 of the Utah Rules of Evidence.

(c) **Continuance for Production of Additional Evidence.** If hearsay evidence is proffered or admitted in the preliminary examination, a continuance of the hearing may be granted for the purpose of furnishing additional evidence if:

- (1) The magistrate finds that the hearsay evidence proffered or admitted is not sufficient and additional evidence is necessary for a bindover; or
- (2) The defense establishes that it would be so substantially and unfairly disadvantaged by the use of the hearsay evidence as to outweigh the interests of the declarant and the efficient administration of justice.

Effective December 1, 2017

2017 Advisory Committee Note. – The prompt reporting language in (b)(7) was removed.