

1 **Rule 7. Initial Proceedings for Class A misdemeanors and Felonies.**

2 (a) At the defendant's first appearance, the court shall inform the defendant:

3 (a)(1) of the charge in the information or indictment and furnish a copy;

4 (a)(2) of any affidavit or recorded testimony given in support of the information and how to
5 obtain them;

6 (a)(3) of the right to retain counsel or have counsel appointed by the court without expense if
7 unable to obtain counsel;

8 (a)(4) of rights concerning pretrial release, including bail; and

9 (a)(5) that the defendant is not required to make any statement, and that any statements the
10 defendant does make may be used against the defendant in a court of law.

11 (b) If defendant is present at the initial appearance without counsel, the court shall determine if
12 the defendant is capable of retaining the services of an attorney within a reasonable time. If the
13 court determines the defendant has such resources, the court shall allow the defendant a
14 reasonable time and opportunity to retain and consult with counsel. If the court determines
15 defendant is indigent, the court shall appoint counsel pursuant to Rule 8, unless defendant
16 knowingly and intelligently waives such appointment.

17 (c) If counsel are present and prepared, the court shall address whether the defendant is entitled
18 to pretrial release pursuant to Utah Code § 77-20-1, and if so, what if any conditions the court
19 will impose to reasonably ensure the continued appearance of the defendant, integrity of the
20 judicial process, and safety of the community. The court shall utilize the least restrictive
21 conditions needed to meet those goals.

22 (d) If counsel are not prepared, the court shall allow up to a seven day continuance of the hearing
23 to allow for preparation, including notification to any victims. The court may allow more than
24 seven days with the consent of the defendant.

25 (e) The determination of pretrial release eligibility and conditions may be reviewed and modified
26 upon application by either party based on a material change in circumstances, or other good
27 cause.

28 (f) The defendant shall be advised of the right to a preliminary examination and the times for
29 holding such hearing. If the defendant waives the right to a preliminary examination, and the
30 prosecuting attorney consents, the court shall order the defendant bound over for trial.

31 (g) If the defendant does not waive a preliminary examination, the court shall schedule the
32 preliminary examination. The examination shall be held within a reasonable time, but not later
33 than 14 days if the defendant is in custody for the offense charged and not later than 28 days if
34 the defendant is not in custody. These time periods may be extended by the magistrate for good
35 cause shown. Upon consent of the parties, the court may schedule the case for other proceedings
36 before scheduling a preliminary hearing.

37 (h) A preliminary examination may not be held if the defendant is indicted.