

1 **Rule 9. Proceedings for persons arrested without a warrant on suspicion of a crime.**

2 (a)(1) **Probable cause determination.** A person arrested and delivered to a correctional facility
3 without a warrant for an offense must be presented without unnecessary delay before a
4 magistrate for the determination of probable cause and whether the suspect qualifies for pretrial
5 release under Utah Code § 77-20-1, and if so, what if any conditions of release are warranted.
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7 (a)(2)(A) The arresting officer, custodial authority, or prosecutor with authority over the most
8 serious offense for which defendant was arrested must, as soon as reasonably feasible but in no
9 event longer than 24 hours after the arrest, present to a magistrate a sworn statement that
10 contains the facts known to support probable cause to believe the defendant has committed a
11 crime. The statement must contain any facts known to the affiant that are relevant to determining
12 the appropriateness of precharge release and the conditions thereof.

13 (a)(2)(B) If available, the magistrate should also be presented the results of a validated pretrial
14 risk assessment tool.

15 (a)(2)(C) The magistrate must review the information provided and determine if probable cause
16 exists to believe the defendant committed the offense or offenses described. If the magistrate
17 finds there is probable cause, the magistrate must determine if the person is eligible for pretrial
18 release pursuant to Utah Code § 77-20-1, and what if any conditions on that release are
19 reasonably necessary to:

20 (a)(2)(C)(i) ensure the appearance of the accused at future court proceedings;

21 (a)(2)(C)(ii) ensure the integrity of the judicial process;

22 (a)(2)(C)(iii) prevent direct or indirect contact with witnesses or victims by the accused, if
23 appropriate; and

24 (a)(2)(C)(iv) ensure the safety of the public and the community.

25 (a)(2)(D) If the magistrate finds the statement does not support probable cause to support the
26 charges filed, the magistrate may determine what if any charges are supported, and proceed
27 under subsection (a)(2)(C).

28 (a)(2)(E) If probable cause is not articulated for any charge, the magistrate must return the
29 statement to the submitting authority indicating such.
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31 (a)(3) A statement that is verbally communicated by telephone must be reduced to a sworn
32 written statement prior to presentment to the magistrate. The statement must be retained by the
33 submitting authority and as soon as practicable, a copy shall be delivered to the magistrate who
34 made the determination.

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36 (a)(4) The arrestee need not be present at the probable cause determination.

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38 **(b) Magistrate availability.**

39 (b)(1) The information required in subsection (a)(2) may be presented to any magistrate,
40 although if the judicial district has adopted a magistrate rotation, the presentment should be in
41 accord with that schedule or rotation. If the arrestee is charged with a capital offense, the
42 magistrate may not be a justice court judge.

43 (b)(2) If a person is arrested in a county other than where the offense was alleged to have been
44 committed, the arresting authority may present the person to a magistrate in the location arrested,
45 or in the county where the crime was committed.

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47 **(c) Time for review.**

48 (c)(1) Unless the time is extended at 24 hours after booking, if no probable cause determination
49 and order setting bail have been received by the custodial authority, the defendant must be
50 released on the arrested charges on recognizance.

51 (c)(2) During the 24 hours after arrest, for good cause shown an arresting officer, custodial
52 authority, or prosecutor with authority over the most serious offense for which defendant was
53 arrested may request an additional 24 hours to hold a defendant and prepare the probable cause
54 statement or request for release conditions.

55 (c)(3) If after 24 hours, the suspect remains in custody, an information charging the suspect with
56 offenses from the incident leading to the arrest must be filed without delay, and no later than the
57 fourth calendar day after the defendant was arrested ~~charging the suspect with offenses from the~~
58 ~~incident leading to the arrest.~~

59 ~~(e)(4)(A) If no information has been filed by 5:00pm on the fourth calendar day after the~~
60 ~~defendant was booked, the release conditions set under subsection (a)(2)(B) shall revert to~~
61 ~~recognizance release.~~

62 (c)(4)(~~B~~A) The four day period in this subsection may be extended upon application of the
63 prosecutor for a period of three more days, for good cause shown.

64 (c)(4)(~~C~~B) If the time periods in this subsection (c)(4) or subsection (d) expire on a weekend or
65 legal holiday, the period expires at 5:00pm on the next business day.

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67 (d) **Time for Initial Appearance or Arraignment**

68 (d) When a person has been arrested and has not been released pursuant to subsections (a) or (c)
69 or when the person cannot provide any condition or security required by the magistrate, the
70 person shall appear before the court that issued the warrant within five calendar days after the
71 person was arrested. If an information has been filed, the court shall conduct an initial
72 appearance. If an information has not been filed, the court shall order the person released from
73 custody unless the prosecutor has requested an extension pursuant to subsection (c)(4)(b). If an
74 extension is granted pursuant to subsection (c)(4)(b), the court shall conduct an initial appearance
75 on the next calendar day after the extension period.

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77 (e) **Other processes.** Nothing in this rule is intended to preclude the accomplishment of other
78 procedural processes at the time of the determination referred to in subsection (a)(2).