

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

2 (a)(1) **Probable cause determination.**

3 (a)(1) A person arrested and delivered to a correctional facility without a warrant for an  
4 offense must be presented without unnecessary delay before a magistrate for the  
5 determination of probable cause and ~~whether the suspect qualifies eligibility~~ for pretrial  
6 release under pursuant to Utah Code § 77-20-1, ~~and if so, what if any conditions of~~  
7 ~~release are warranted.~~

8 (a)(2)(A) The arresting officer, custodial authority, or prosecutor with authority over the  
9 most serious offense for which defendant was arrested must, as soon as reasonably  
10 feasible but in no event longer than 24 hours after the arrest, present to a magistrate a  
11 sworn statement that contains the facts known to support probable cause to believe the  
12 defendant has committed a crime. The statement must contain any facts known to the  
13 affiant that are relevant to determining the appropriateness of precharge release and the  
14 conditions thereof.

15 (a)(32)(B) If available, the magistrate should also be presented the results of a validated  
16 pretrial risk assessment tool.

17 (a)(42)(C) The magistrate must review the information provided and determine if  
18 probable cause exists to believe the defendant committed the offense or offenses  
19 described. If the magistrate finds there is probable cause, the magistrate must determine  
20 if the person is eligible for pretrial release pursuant to Utah Code § 77-20-1. The  
21 magistrate will impose the least restrictive reasonably available conditions of release  
22 reasonably necessary to:  
23 ~~, and what if any conditions on that release are reasonably necessary to:~~

24 (a)(42)(A)(i) ensure the individual's appearance ~~of the accused~~ at future court  
25 proceedings;

26 (a)(42)(B)(ii) ensure ~~the integrity of the judicial process~~ that the individual will  
27 not obstruct or attempt to obstruct the criminal justice process;

28 (a)(42)(C)(iii) ~~prevent direct or indirect contact with witnesses or victims by the~~  
29 ~~accused, if appropriate~~ ensure the safety of any witnesses or victims of the offense  
30 allegedly committed by the individual; and

31 (a)(42)(D)(iv) ensure the safety and welfare of the public and the community.

32 (a)(52)(D) If the magistrate finds the statement does not support probable cause to  
33 support the charges filed, the magistrate may determine what if any charges are  
34 supported, and proceed under subsection-paragraph (a)(42)(C).

35 | (a)(~~62~~)(~~E~~) If probable cause is not articulated for any charge, the magistrate must return  
36 | the statement to the submitting authority indicating such.

37 | (a)(~~73~~) A statement that is verbally communicated by telephone must be reduced to a  
38 | sworn written statement prior to presentment to the magistrate. The statement must be  
39 | retained by the submitting authority and as soon as practicable, a copy shall be delivered  
40 | to the magistrate who made the determination.

41 | (a)(~~84~~) The arrestee need not be present at the probable cause determination.

42 | **(b) Magistrate availability.**

43 | (b)(1) The information required in subsection-paragraph (a)(~~2~~) may be presented to any  
44 | magistrate, although if the judicial district has adopted a magistrate rotation, the  
45 | presentment should be in accord with that schedule or rotation. If the arrestee is charged  
46 | with a capital offense, the magistrate may not be a justice court judge.

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

50 | **(c) Time for review.**

51 | (c)(1) Unless the time is extended at 24 hours after booking, if no probable cause  
52 | determination and pretrial status order ~~setting bail~~ have been received by the custodial  
53 | authority, the defendant must be released on the arrested charges on recognizance.

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

58 | (c)(3) If after 24 hours, the suspect remains in custody, an information must be filed  
59 | without delay charging the suspect with offenses from the incident leading to the arrest.

60 | (c)(4)(A) If no information has been filed by 3:00pm on the fourth calendar day after the  
61 | defendant was booked, the release conditions set under subsection (a)(~~42~~)(~~B~~) shall revert  
62 | to recognizance release.

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

65 | (c)(4)(C) If the time periods in this subsection (c)(4)(A) and (c)(4)(B) expire on a  
66 | weekend or legal holiday, the period expires at 3:00pm on the next business day.

67 (d) **Other processes.** Nothing in this rule is intended to preclude the accomplishment of other  
68 | procedural processes at the time of the probable cause determination ~~referred to in subsection~~  
69 | ~~(a)(2)~~.

70 | Effective ~~November 18, 2019~~October 1, 2020