

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
3 facility without a warrant for an offense must be presented without unnecessary delay
4 before a magistrate for the determination of probable cause and whether the suspect
5 qualifies for pretrial release under Utah Code § 77-20-1, and if so, what if any conditions
6 of release are warranted.

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

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

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

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

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

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

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

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

29 (a)(2)(E) If probable cause is not articulated for any charge, the magistrate must return
30 the statement to the submitting authority indicating such.

31 (a)(3) A statement that is verbally communicated by telephone must be reduced to a
32 sworn written statement prior to presentment to the magistrate. The statement must be
33 retained by the submitting authority and as soon as practicable, a copy shall be delivered
34 to the magistrate who made the determination.

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

36 (b) Magistrate availability.

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

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

44 (c) Time for review.

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

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

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

54 (c)(4)(A) If no information has been filed by ~~5:00pm~~ 3:00pm on the fourth calendar day
55 after the defendant was booked, the release conditions set under subsection (a)(2)(B)
56 shall revert to recognizance release.

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

59 (c)(4)(C) If the time periods in this subsection (c)(4) expire on a weekend or legal
60 holiday, the period expires at ~~5:00pm~~ 3:00pm on the next business day.

61 (d) Other processes. Nothing in this rule is intended to preclude the accomplishment of
62 other procedural processes at the time of the determination referred to in subsection
63 (a)(2).

64 Effective November 18, 2019