



## Utah Supreme Court Rules of Criminal Procedure Committee

### Meeting Minutes July 16, 2024

Committee members	Present	Excused	Guests/Staff Present
Douglas Thompson, Chair	X		Bryson King, Staff
Judge Kelly Schaeffer-Bullock	X		Amber Stargell, Rec. Secretary
Matthew Tokson		X	
William Carlson	X		
David Ferguson		X	
Meredith Mannebach		X	
Judge Denise Porter		X	
Janet Reese	X		
Lori Sepi	X		
Karin Fojtik	X		
Judge Kristine Johnson		X	
Adam Crayk	X		
Matthew Hansen	X		
Lindsey Wheeler	X		

### **Agenda Item 1: Introduction and Approval of Minutes**

Doug welcomes the Committee members and reviews the meeting minutes from May 21, 2024. Karin moves to approve the meeting minutes. Will Carlson seconds Karin's motion. Six members unanimously vote to approve meeting minutes.

### **Agenda Item 2: Rule 9**

Doug opens discussion about Rule 9. Doug asks the members to consider splitting the qualifications portion and colloquy portion. Karin is in favor of splitting the two parts of the rule and sending the amendment for submission. There are no objections.

### **Agenda Item 3: Rule 9A Public Comments**

#### **i. Public Comment #1 – The committee addresses Evan Guymon's comment**

Doug believes that the comment addresses two different functions in subpart (b)(2). Doug also states that the committee has not clarified the meaning of subpart (b)(2). Karin agrees that subpart (b)(2) needs clarification.

#### **ii. Public Comment #2 – The committee addresses Thomas Anthony comment**

Doug believes that this comment is similar to Evan Guymon's comment. Doug agrees that the setting and holding portion of the rule is confusing and the committee needs to discuss how to clarify the two portions of the rule.

#### **iii. Public Comment #3 – The committee addresses Sean Brian's comment**

Doug replies to the comment and states that the role of risk assessments does not apply to the application of this rule. Karin agrees with current writing of the rule and agrees that there is no need to make changes based on the comment.

#### **iv. Public Comment #4 – The committee addresses Jennifer Foresta's comment**

Will believes that the request within Jennifer Foresta's comment is feasible and could be applied to the larger jurisdictions along the Wasatch Front. However, Will adds that the application of Jennifer Foresta's request would be difficult to carry out in other jurisdictions.

Janet Reese states that the request would not be practical given certain factors such as: the availability of the jails, even when court hearings are held via Webex.

Judge Schaeffer-Bullock agrees with Will and Janet. She states that maybe some smaller courts could give bench warrant hearings to another court. Judge Schaeffer-Bullock adds that such a process would create another set of fiscal issues, i.e. costs.

Doug agrees with Judge Schaeffer-Bullock. Adam suggests reducing the time down to even 20 days to encourage cross collaborative efforts with other courts. Judge Schaeffer-Bullock states that there are costs to the courts with cross collaboration. Doug asks: "In a smaller jurisdiction would there be less than two courts? Is there a jurisdiction that does not have court hearing at least once a week?" Judge Schaeffer suggests that it might be beneficial to have a rural judge speak to the committee and answer the committee's questions on this matter.

Matt Hansen suggests adding language such as: "at the earliest convenience of the court" or "No later than". Karin agrees with Matt's suggestion.

Lori agrees with Judge Schaeffer's request to bring in a rural judge to speak with the committee. Lori also agrees with Matt's suggestion to change the language of the rule.

Doug makes edits, line 18, to the following: "hold the hearing at the earliest possible date, no later than...".

The committee discusses whether "earliest possible date" is too strong of language considering the courts' different scheduling across the State of Utah. Doug agrees that "earliest possible date" is too strong of language. Will suggests: "earliest practicable date." Doug agrees with Will's suggestion. Karin suggests "earliest date consistent with court's calendar." Judge Schaeffer-Bullock agrees with Karin's suggestion. Doug opens the floor for suggestions. Judge Schaeffer-Bullock suggests adding "when the court receives notice" she also believes that the 14-day requirement is too short. Doug and Janet discuss whether there should be a rule that requires the jail to provide the court with sooner notice to help courts comply with timeframe of the rules.

Matt suggested using the language from the preliminary hearing rule which allows for "reasonable time" and "good cause." Will proposed the following rewrite with Matt's suggestion:

*"When a peace officer or other person arrests a defendant pursuant to a warrant issued for reasons other than those described in paragraph (a)(1), and the defendant cannot meet the release conditions required by the judge or magistrate issuing the warrant, the court will SCHEDULE a bench warrant hearing within seven days of the arrest date. The hearing should be held within a reasonable time, and not later than 14 days of the arrest date if the defendant was arrested in the county where the warrant was issued, or 30 days of the arrest date if the defendant was arrested outside the county where the warrant was issued, the court will hold the bench warrant hearing within 30 days of the arrest date."*

Doug opens the discussion for the rewrite submitted by Will. The group agrees with the proposed language suggestion. Doug agrees to add in the new language. Doug then suggests that the committee bring in a rural county judge to answer questions asked earlier in the discussion. There are no objections.

#### **Additional Agenda Items: Rule 17 and more.**

Lori discusses Rule 17. Lori states that the committee made progress on Rule 17.

Matt addresses recent rulings on AI generated motions. Matt suggests the committee to consider a rule based on the recent federal rulings on AI generated motions. The committee briefly discusses the potential of the rule.