

1 **Rule 4. Prosecution by information.**

2

3 (a) **Commencing a prosecution.** A prosecution may be commenced by filing an
4 information. The information shall be filed in a format required by rules of the Judicial Council.

5

6 (b) **Contents of information.** An information ~~shall~~ must contain:

7

8 (b)(1) If known, the defendant's name, date of birth, and last known address.

9

10 (b)(1)(A) If the name of the defendant is not known, the prosecution ~~shall~~ must identify the
11 defendant as John or Jane Doe, and ~~shall~~ must provide any known identifying information.

12

13 (b)(1)(B) Other identifying information may be provided in accordance with rules of the Judicial
14 Council, provided the information does not include non-public records.

15

16 (b)(2) Numbered counts using the name given to the offense by statute or ordinance, or stating in
17 concise terms the definition of the offense sufficient to give the defendant notice of the charge.

18

19 (b)(2)(A) The prosecution may allege alternate theories of the same offense in a single count or
20 in multiple counts.

21

22 (b)(3) Unless otherwise contained in filings accompanying the Information, a booking number if
23 the defendant was arrested and detained on charges related to the information. Any pretrial
24 release conditions ~~shall~~ must be included, such as:

25

26 (b)(3)(A) monetary bail or other pretrial release conditions set by the magistrate when
27 determining probable cause at arrest;

28

29 (b)(3)(B) whether the defendant was denied pretrial release;

30

31 (b)(3)(C) whether the defendant was released to a pretrial supervision agency; and

32

33 (b)(3)(D) whether the defendant is in custody.

34

35 (c) **Felonies and class A misdemeanors.** If a felony or class A violation is alleged, and in all
36 cases requesting a warrant, an information shall must:

37

38 (c)(1) contain or be accompanied by a statement of facts sufficient to support probable cause for
39 the charged offense or offenses. The information need not include facts such as time, place,
40 means, intent, manner, value, and ownership unless necessary to charge the offense. Supporting
41 physical materials such as money, securities, written instruments, pictures, statutes, and
42 judgments may be identified using names or by describing the documents. Neither presumptions
43 of law nor matters of judicial notice need be stated, ~~and~~

44

45 ~~(c)(2) be reviewed for sufficiency by a judge of the court in which it is filed. If the judge~~
46 ~~determines from the information, or from any supporting statements or affidavits, that there is~~
47 ~~probable cause to believe the offenses have been committed and that the accused committed~~
48 ~~them, the judge shall proceed under rule 6. If the judge determines there is not probable cause,~~
49 ~~the judge shall return the information to the prosecutor and dismiss the case without prejudice if~~
50 ~~a sufficient information is not filed within 28 days.~~

51

52 (d) **Amending the information.** The court may permit an information to be amended at any time
53 before trial has commenced so long as the substantial rights of the defendant are not prejudiced.
54 If an additional or different offense is charged, the defendant has the right to a preliminary
55 hearing on that offense as provided under these rules and any continuance as necessary to meet
56 the amendment. The court may permit an information to be amended after the trial has
57 commenced but before verdict if no additional or different offense is charged and the substantial
58 rights of the defendant are not prejudiced. After verdict, an information may be amended so as
59 to state the offense with such particularity as to bar a subsequent prosecution for the same
60 offense upon the same set of facts.

61

62 (e) **Bill of particulars.** When facts not set out in an information are required to inform a
63 defendant of the nature and cause of the offense charged, so as to enable the defendant to prepare
64 a defense, the defendant may file a written motion for a bill of particulars. The motion ~~shall~~ must
65 be filed at arraignment or within 14 days thereafter, or at such later time as the court may permit.
66 The court may, on its own motion, direct the filing of a bill of particulars. A bill of
67 particulars may be amended or supplemented at any time subject to such conditions as justice
68 may require. The request for and contents of a bill of particulars ~~shall~~ must be limited to a
69 statement of factual information needed to set forth the essential elements of the particular
70 offense charged.

71

72 Effective ~~May 1, 2017~~