

1 **Rule 1102. Reliable Hearsay in Criminal Preliminary Examinations.**

2 (a) Statement of the Rule. Reliable hearsay is admissible at criminal preliminary  
3 examinations.

4 (b) Definition of Reliable Hearsay. For purposes of criminal preliminary examinations  
5 only, reliable hearsay includes:

6 (1) hearsay evidence admissible at trial under the Utah Rules of Evidence;

7 (2) hearsay evidence admissible at trial under Rule 804 of the Utah Rules of Evidence,  
8 regardless of the availability of the declarant at the preliminary examination;

9 (3) evidence establishing the foundation for or the authenticity of any exhibit;

10 (4) scientific, laboratory, or forensic reports and records;

11 (5) medical and autopsy reports and records;

12 (6) a statement of a non-testifying peace officer to a testifying peace officer;

13 (7) a statement made by a child victim of physical abuse or a sexual offense which is  
14 recorded in accordance with Rule 15.5 of the Utah Rules of Criminal Procedure;

15 (8) a statement of a declarant that is written, recorded, or transcribed verbatim which  
16 is:

17 (A) under oath or affirmation; or

18 (B) pursuant to a notification to the declarant that a false statement made therein  
19 is punishable; and

20 (9) other hearsay evidence with similar indicia of reliability, regardless of  
21 admissibility at trial under Rules 803 and 804 of the Utah Rules of Evidence.

22 (c) Continuance for Production of Additional Evidence. If hearsay evidence is proffered  
23 or admitted in the preliminary examination, a continuance of the hearing may be granted  
24 for the purpose of furnishing additional evidence if:

25 (1) The magistrate finds that the hearsay evidence proffered or admitted is not  
26 sufficient and additional evidence is necessary for a bindover; or

27 (2) The defense establishes that it would be so substantially and unfairly  
28 disadvantaged by the use of the hearsay evidence as to outweigh the interests of the  
29 declarant and the efficient administration of justice.

30 (d)(1) Except as provided in paragraph (d)(2), a prosecutor, or any staff for the office of  
31 the prosecutor, may transcribe a declarant's statement verbatim or assist a declarant in  
32 drafting a statement.

33 (2) A prosecutor, or any staff for the office of the prosecutor, may not draft a statement  
34 for a declarant, or tamper with a witness in violation of Utah Code section 76-8-508.

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36 *Effective May 3, 2023*