

1 **RULE 9. Proceedings for persons arrested on suspicion of a crime (without warrant).**

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

6 (a)(2)(A) Upon arresting a person without a warrant, the arresting officer, custodial authority, or
7 prosecutor with authority over the most serious offense for which defendant was arrested shall,
8 as soon as reasonably feasible but in no event longer than 24 hours after the arrest present to a
9 magistrate a sworn statement that contains:

10 (a)(2)(A)(i) the facts known to support probable cause to believe the defendant has committed a
11 crime.

12 (a)(2)(A)(ii) The statement shall also contain any facts known to the affiant that are relevant to
13 determining the appropriateness of precharge release and the conditions thereof.

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

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

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

22 (a)(2)(B)(ii) ensure the integrity of the judicial process, including preventing direct or indirect

23 (a)(2)(B)(iii) contact with witnesses or victims by the accused, if appropriate; and

24 (a)(2)(B)(iv) ensuring the safety of the public and the community.

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

28 (a)(2)(D) If no probable cause is articulated for any charge, the magistrate shall return the
29 statement to the submitting authority indicating such.

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

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

35 (b) The information required in subsections (a)(2) may be presented to any magistrate, although
36 if the judicial district has adopted a magistrate rotation pursuant to rule 7D, the presentment
37 should be in accord with that schedule or rotation. If the arrestee is charged with a capital
38 offense, the magistrate may not be a justice court judge.

39 (c) Unless the time is extended under subsection (d), at 24 hours after booking, if no probable
40 cause determination and order setting bail have been received by the custodial authority, the
41 defendant shall be released on the arrested charges on recognizance.

42 (d) During the 24 hours after arrest, for good cause shown an arresting officer, custodial
43 authority, or prosecutor with authority over the most serious offense for which defendant was
44 arrested may request an additional 24 hours to hold a defendant to prepare the probable cause
45 statement or request for release conditions.

46 (e) Nothing in this rule is intended to preclude the accomplishment of other procedural processes
47 at the time of the determination referred to in subsection (a)(2).

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

51 (g)(1) If after 24 hours, the suspect remains in custody, an information shall be filed without
52 delay charging the suspect with offenses from the incident leading to the arrest.

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

56 (g)(2)(A) The four day period in this subsection (g)(2) may be extended upon application of the
57 prosecutor for a period of three more days, for good cause shown.

58 (g)(2)(B) If the time periods in this subsection (g) expire on a weekend or legal holiday, the
59 period shall expire at 5:00pm on the next business day.