

DUCrimR 57-15 MAGISTRATE JUDGE AUTHORITY IN CRIMINAL CASES

Reporter's Note. This rule is amended to reflect current practice.

Approved by the Committee on July 10, 2012.

(a) General Authority.

Unless otherwise ordered by the court, magistrate judges are authorized to:

- (1) accept criminal complaints, determine whether probable cause exists, and issue arrest warrants, summons, and search warrants, including those based on oral or telephonic testimony;
- (2) administer oaths and affirmations; take acknowledgments, affidavits, and depositions;
- (3) conduct initial appearance proceedings, inform defendants of their rights, set bail, **enter orders of detention** and impose conditions of release;
- (4) dismiss complaints in criminal proceedings prior to indictment or information upon motion of the United States attorney;
- (5) appoint counsel for indigent defendants,
- (6) conduct detention **and pretrial release revocation** hearings;
- (7) issue subpoenas, writs of habeas corpus ad testificandum or habeas corpus ad prosequendum, and other orders necessary to secure the presence of parties, witnesses or evidence for court proceedings;
- (8) order the forfeiture or exoneration of bonds;
- (9) issue warrants of removal;
- (10) conduct hearings under Fed. R. Crim. P. 20;
- (11) conduct full preliminary examinations;
- (12) set bail and appoint counsel if appropriate, for material witnesses;
- (13) issue orders (i) authorizing the installation of devices such as traps/traces and pen registers, and (ii) directing a communication common carrier, as defined in 47 U.S.C. § 153(h) including a telephone company, to provide assistance to a named federal investigative agency in accomplishing the installation of traps, traces and pen registers;
- (14) receive grand jury returns **and pretrial release violation petitions** and authorize the issuance of arrest warrants or summons thereupon; and
- (15) take a plea of guilty on (i) appropriate reference from the district judge assigned to the case, and (ii) the consent of the parties.

(b) Criminal Pretrial Authority.

After an indictment or felony information has been filed and assigned to a district judge under [DUCrimR 57-2](#), magistrate judges are authorized to:

- (1) conduct arraignments;
- (2) accept or enter not guilty pleas;
- (3) order presentence reports;
- (4) hear and rule on motions to modify bail and/or conditions of release; and,
- (5) conduct scheduling hearings pursuant to Fed. R. Crim. P. 17.1.

(c) Authority to Conduct Hearings, Prepare Report and Recommendations, and Determine Preliminary Matters.

Upon entry by a district judge of an order of reference under 28 U.S.C. § 636(b)(1)(A), magistrate judges are authorized to determine nondispositive pretrial matters, manage the discovery process, and rule on motions by attorneys appointed under the Criminal Justice Act for services under that act including appointment of experts and investigators. Upon entry by a district judge of an order of reference under 28 U.S.C. § 636(b)(1)(B), magistrate judges are authorized to (i) hear motions to dismiss or quash an indictment and motions to suppress evidence, and (ii) submit to the assigned district judge a report with proposed findings of fact and recommendations.

(d) Criminal Trial Authority.

Magistrate judges are authorized (i) to try persons accused of and (ii) to sentence persons convicted of misdemeanors committed within this district in accordance with 18 U.S.C. § 3401 and as otherwise provided by statute.

(e) Extradition Proceedings.

Unless otherwise ordered by a judge of this court, when a foreign government requests the arrest of a fugitive pursuant to a treaty or convention for extradition between the United States and the requesting country and on the basis of a complaint under oath, a magistrate judge of this court is authorized to issue warrants and conduct extradition proceedings in accordance with the provisions set forth in 18 U.S.C. § 3184.

(f) Specialized Courts.

Upon entry by a district court of an order of reference or consistent with a sentencing order, a magistrate judge is authorized to preside over matters in a specialized court. Specialized courts may address issues confronting offenders as they return to their communities including overseeing services providing diagnostic and risk assessment, education and job training, substance abuse and mental health treatment and mentoring.