

**UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF UTAH**



**LOCAL RULES OF CRIMINAL PRACTICE**

**DECEMBER 2020**

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF UTAH

**LOCAL CRIMINAL RULES**

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## **DUCrimR 1-1 SCOPE AND AVAILABILITY; AMENDMENTS; PRIOR RULES**

These rules apply in all criminal proceedings conducted in the District of Utah. These rules are made available as specified in DUCivR 1-1(a). Notice of amendments to these rules and opportunity to comment is governed by DUCivR 1-1(b). The relationship of these rules to rules previously promulgated by this court and the application of these rules to criminal proceedings pending at the time they take effect are governed by DUCivR 81-1(b).

## **DUCrimR 1-2 SANCTIONS FOR CRIMINAL RULE VIOLATIONS**

The court, on its own initiative, may impose sanctions for violation of these criminal rules. Sanctions may include, but are not limited to, the assessment of costs, attorneys' fees, fines, or any combination of these, against an attorney or a party.

## **DUCrimR 5-1 INITIAL APPEARANCE OF PERSONS UNDER ARREST**

When the marshal receives custody of any person under arrest, whether charged in this district or elsewhere, the marshal must promptly inform the magistrate judge and the United States Attorney's Office. The magistrate judge will promptly schedule an appearance of the arrested person.

## **DUCrimR 5-2 PRETRIAL SERVICES REPORT**

### **(a) Requesting a Report.**

When the United States requests the detention of a defendant, the magistrate judge will request a pretrial services report on the defendant under 18 U.S.C. § 3154.

**(b) Contents of Pretrial Services Report.**

The court directs that a Pretrial Services Report must address rebuttable presumptions and potential penalties.

**(c) Filing and Distribution of Pretrial Services Reports.**

Before the defendant's first court appearance, the United States Probation Office (USPO) must, when possible, file under seal a written pretrial services report in the court's CM/ECF system. USPO must also email the report simultaneously to the prosecutor and defense counsel who will appear at the hearing in which the report will be considered. Before the hearing, defense counsel may discuss and review the report with the defendant.

**(d) Confidentiality and Disposal of Pretrial Services Reports.**

Pretrial services reports are confidential, subject to the limitations and exceptions of 18 U.S.C. § 3153(c). Within 7 days after the initial detention hearing, the prosecutor and defense counsel must destroy their copies of the report, except that they may retain the criminal history portion of the report and permit staff and the defendant to review that portion for purposes of guideline calculations. They must not, however, disclose the report to any other person without a court order.

**DUCrimR 6-1 RETURNS OF GRAND JURY INDICTMENTS**

In accordance with Fed. R. Crim. P. 6(f), all grand jury indictments must be returned to a United States district or magistrate judge in open court. The indictments will be filed immediately with the Clerk of Court, and the defendants will be scheduled to appear before the magistrate judge for arraignment.



































































- (3) upon motion of the United States Attorney, dismiss complaints in criminal proceedings before indictment or the filing of an information;
- (4) conduct detention hearings;
- (5) 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;
- (6) order the forfeiture or exoneration of bonds;
- (7) issue warrants of removal;
- (8) conduct hearings under Fed. R. Crim. P. 5, 5.1 and 20;
- (9) set bail and appoint counsel, if appropriate, for material witnesses;
- (10) issue the following investigative orders:
  - (A) authorizing the installation of devices (for example, a trap and trace device or a pen register);
  - (B) 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 a trap and trace device or a pen register; and
  - (C) directing a communication common carrier not to disclose the existence of a summons or subpoena in a criminal or preliminary matter;
- (11) issue pre-indictment protective orders; and
- (12) receive grand jury returns and conduct naturalization ceremonies.

**(b) Authority in Pretrial Matters.**

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 and initial appearances;
- (2) accept pleas of not guilty;

- (3) order presentence reports;
- (4) hear and rule on motions to modify bail and motions to modify conditions of release;
- (5) hear pretrial release and supervision violation petitions, authorize the issuance of arrest warrants or summonses, and conduct pretrial release revocation hearings;
- (6) conduct scheduling hearings under Fed. R. Crim. P. 17.1; and
- (7) accept a plea of guilty after receiving:
  - (A) an order of reference from the assigned district judge; and
  - (B) written consent of the parties.

**(c) Authority Under Orders of Reference.**

- (1) After a district judge enters 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.
- (2) After a district judge enters an order of reference under 28 U.S.C. § 636(b)(1)(B), magistrate judges are authorized to:
  - (A) hear motions to dismiss or quash an indictment and motions to suppress evidence; and
  - (B) file a Report and Recommendation.

**(d) Authority in Misdemeanor Criminal Trials.**

Magistrate judges may preside over the trial of persons accused of committing misdemeanors within this district under 18 U.S.C. § 3401 and as otherwise provided by statute. Magistrate judges may sentence persons convicted of misdemeanors.

**(e) Authority in Extradition Proceedings.**

Unless a district judge orders otherwise, magistrate judges are authorized to issue warrants and conduct extradition proceedings in accordance with 18 U.S.C. § 3184.

**(f) Authority in Specialized Courts.**

After a district judge enters an order of reference, or consistent with a sentencing order, a magistrate judge may preside over specialized court proceedings. In specialized courts, magistrate judges may address issues confronting offenders as they return to their communities, including overseeing services that provide diagnostic and risk assessments, education and job training, substance abuse treatment, mental health treatment, and mentoring.

**DUCrimR 57-16 REVIEW OF MAGISTRATE JUDGE ORDERS**

**(a) Preliminary Criminal Matters.**

(1) Release and Detention Orders. Any party is entitled to seek review of a magistrate judge's order releasing or detaining a defendant under 18 U.S.C. § 3142 et seq. The motion will be a timely scheduled de novo review by the assigned district judge. Where no judge has been assigned, the clerk will assign the motion under DUCrimR 57-2.

(2) Other Orders and Rulings. Reviews of magistrate judge rulings on criminal motions will be conducted in the same manner as reviews of magistrate judge rulings on civil motions.

**(b) Stays of Magistrate Judge Orders.**

Pending review of objections, motions for stay of magistrate judge orders initially must be addressed to the magistrate judge.

**(c) Final Judgments.**

The appeal of final judgments issued by magistrate judges in misdemeanors and petty offenses is governed by DUCrimR 58-1.

**DUCrimR 58-1 APPEALS FROM MAGISTRATE JUDGE DECISIONS IN MISDEMEANORS AND PETTY OFFENSE CASES**

**(a) Time Frames, Filing, and Service Requirements.**

- (1) Notices of appeal on decisions of the magistrate judge must be filed with the Clerk of Court within 14 days after judgment and/or decision. An interlocutory appeal may be taken under Fed. R. Crim. P. 58(g)(2)(A).
- (2) The appellant's brief is due within 14 days after the filing of the notice of appeal. The original must be filed with the Clerk of Court and a copy served on opposing counsel.
- (3) The appellee's brief is due within 14 days after service of appellant's brief. The original must be filed with the Clerk of Court and a copy served on opposing counsel.
- (4) The appellant may file a reply brief within 7 days after service of appellee's brief.

**(b) Page Limitations.**

Briefs on appeal must not exceed 20 pages except with permission of the court. Appellant reply briefs must not exceed 10 pages except with permission of the court.

**(c) Action by the Court.**

All appeals from magistrate judge decisions will be decided by the court without a hearing, unless otherwise ordered by the court on its own motion or, at its discretion, upon written request of appellant.

**DUCrimR 59-1 EFFECTIVE DATE**

These rules are effective December 1, 2020.