

STATE OF MAINE
SUPREME JUDICIAL COURT
DRAFT AMENDMENTS TO
MAINE RULES OF UNIFIED CRIMINAL PROCEDURE

1. Rule 4(b) of the Maine Rules of Unified Criminal Procedure is amended to read as follows:

(b) Grounds for Issuance of Arrest Warrant or Summons.

(1) *Indictment.* An indictment is grounds for issuance of an arrest warrant or summons for the defendant named in the indictment. A warrant issued on indictment is accessible by the public unless impounded by the court for cause shown.

(2) *Probable Cause.* Probable cause to believe that a crime has been committed and that the defendant committed it is grounds for an arrest warrant or summons for the defendant. Probable cause shall appear from the information or complaint or from an affidavit or affidavits sworn to before the court or other officer empowered to issue process against persons charged with crimes against the State and filed with the information or complaint. A probable cause warrant and supporting material, including the warrant application and affidavit, are not accessible by the public until executed unless otherwise ordered by the court for cause shown. If a warrant is recalled by the court before execution, the recalled warrant and supporting material are not accessible by the public at any time unless otherwise ordered by the court for cause shown.

(3) *Bench Warrant.* A bench warrant may issue for a failure to appear or for contempt or as provided by statute.

Advisory Note - ____ 2019

The amendment adds language to Rule 4(b) to limit public access to warrants issued on indictment and probable cause warrants and supporting materials.

2. Rule 24 of the Maine Rules of Unified Criminal Procedure is amended to read as follows:

RULE 24. TRIAL JURORS

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(g) Juror information Confidentiality. Juror qualification questionnaires, the records, lists, and information used in connection with the selection and service of jurors, the names drawn, and juror seating charts are confidential and nonpublic, and may not be disclosed to any person unless authorized by Title 14, part 3, chapter 305 of the Maine Revised Statutes and ordered by the court.

Absent specific authorization by the court, a person to whom juror information is disclosed or disseminated under this rule shall not use the juror information to directly or indirectly contact, or cause to be directly or indirectly contacted, any juror or prospective juror by any means, including by electronic or social media.

(1) *Limited Disclosure While Jurors and Prospective Jurors Are Serving.* While jurors and prospective jurors are serving as members of a jury pool, the names and juror qualification questionnaires of the members of that jury pool are confidential and may not be disclosed, except to the attorneys and their agents and investigators, and all unrepresented parties for use in the conduct of *voir dire* examination. A person to whom disclosure is authorized

(A) may receive a copy of the list of juror names from the clerk's office but shall return the list to the clerk's office at the conclusion of the trial or the earlier disposition of any case or cases for which the list was obtained, and

(B) may inspect and review all juror qualification questionnaires at the clerk's office, though no copies shall be made.

(2) *Request for Disclosure after Juror Service.* When the period of juror service for all jurors in that jury pool has expired, a person may file a written request for disclosure of the names of any of those jurors, with an affidavit stating the basis for the request. A judge may approve post-service juror

contact information disclosure only as authorized by 14 M.R.S. §§ 1254-A and 1254-B, and subject to the limitations provided by those statutes and by the court's order.

(3) Contempt and Sanctions. A court may, to the extent authorized by law, find a person in contempt or impose sanctions on a party or a party's attorneys or agents for a violation this rule.

Advisory Note - ____ 2019

Rule 24 is amended to add subdivision (g) governing juror information confidentiality.

3. Rule 32(c)(3) of the Maine Rules of Unified Criminal Procedure is amended to read as follows:

(3) Access to Written Presentence Report and Right to Comment.

(A) In any case in which the court has ordered a written presentence report, in order to ensure that the defendant or, if the defendant is represented by counsel, both the defendant and the defendant's counsel are accorded an opportunity to examine the content of the report, sentence shall not be imposed until at least 48 hours after the report is filed with the clerk of the Unified Criminal Docket, unless this time period is waived by the defendant. Consent of the defendant, if given, shall be made a part of the record. The clerk shall mail a date-stamped copy of the written presentence report to the defendant or, if represented by counsel, to counsel and note the mailing in the Unified Criminal Docket. The clerk shall inform the receiving party that this report shall not be further copied or distributed. Before imposing sentence, the court shall afford the defendant, counsel for the defendant, or both an opportunity to comment upon the presentence report as well as upon any information from confidential sources withheld from the written presentence report and presented at the time of sentencing.

(B) *Access to Written Presentence Report by the State.* At the time the clerk mails a date-stamped copy of the written presentence report pursuant to (A) above, the clerk shall mail a date-stamped copy of that report to the attorney for the State and note the mailing in the Unified Criminal Docket. The clerk shall

inform the attorney for the State that this report shall not be further copied or distributed.

(C) Further Copying or Distribution Prohibited. A party who receives a copy of the presentence report is prohibited from further copying, electronically transmitting or storing, or otherwise replicating or distributing the presentence report or any part thereof.

(D) Return of Presentence Report to the Court. At the completion of the sentencing proceeding, unless otherwise ordered by the court for cause shown, all copies of the presentence report shall be immediately returned to the court.

(E) Confidentiality of Contents of the Presentence Report. The presentence report shall not be accessible by the public.

Advisory Note- ____ 2019

Subdivision (c)(3) is amended to prohibit copying and distribution of a presentence report and establish the confidentiality of the report.

4. Rule 41(f) of the Maine Rules of Unified Criminal Procedure is amended to read as follows:

(f) Issuing a Search Warrant.

(1) *Duty of the Court or Justice of the Peace.* If the court or justice of the peace to whom the search warrant request is made concludes that there is probable cause to believe that the grounds for the search exist, the court or justice of the peace shall issue a search warrant designating, except as otherwise provided in Rule 41B, the person, place, or other property to be searched, and the person or place or other property to be searched for.

(2) Contents of the Search Warrant.

(A) *In General.* The search warrant shall be directed to any officer authorized to enforce or assist in enforcing any law of the State of Maine. It shall state the names of the persons whose affidavits have been taken in support thereof. Except as otherwise provided in Rule 41B it shall command the officer to search the person or place named for the person

or property specified. It shall designate the Unified Criminal Docket to which it shall be returned. A copy of the search warrant shall promptly be filed with the Unified Criminal Docket designated in the warrant by the applicant.

The search warrant and affidavit supporting materials shall be treated as impounded until the return is filed. material, including the warrant application and affidavit, are not accessible by the public until the return is filed unless otherwise ordered by the court for cause shown. If a search warrant is recalled by the court before execution, the warrant and supporting material are not accessible by the public at any time unless otherwise ordered by the court for cause shown.

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Advisory Note - ____ 2019

Rule 41(f) is amended to eliminate public access to search warrants and supporting material until a return is filed unless otherwise ordered by the court on cause shown. The amendment also specifies that search warrants recalled before execution are not accessible to the public unless ordered by the court for cause shown.