

IN THE SUPREME COURT, STATE OF WYOMING

October Term, A.D. 2019

In the Matter of Amendments to)
Rules 3, 4, 32, 46.4 and 48 of the)
Wyoming Rules of Criminal Procedure)

**ORDER AMENDING RULES 3, 4, 32, 46.4, AND 48 OF THE
WYOMING RULES OF CRIMINAL PROCEDURE**

The Permanent Rules Advisory Committee, Criminal Division, has recommended the Court amend Rules 3, 4, 32, 46.4, and 48 of the Wyoming Rules of Criminal Procedure. This Court finds the proposed amendments should be adopted. It is, therefore,

ORDERED that the amendments to Rules 3, 4, 32, 46.4, and 48 of the Wyoming Rules of Criminal Procedure, attached hereto, be and hereby are adopted by the Court to be effective July 1, 2020; and it is further

ORDERED that this order and the attached amendments shall be published in the advance sheets of the Pacific Reporter; the attached amendments shall be published in the Wyoming Court Rules Volume; and that this order and the attached amendments shall be published online at the Wyoming Judicial Branch's website, <http://www.courts.state.wy.us>. The amendments shall also be recorded in the journal of this Court.

DATED this 24th day of March, 2020.

BY THE COURT:

/s/

MICHAEL K. DAVIS
Chief Justice

Wyoming Rules of Criminal Procedure

Rule 3. Indictment, information or citation.

(b) *Nature and contents.*

(1) Indictment. Prosecution by indictment shall be carried on in the name and by the authority of the State of Wyoming, and shall conclude “against the peace and dignity of the State of Wyoming”. It shall be signed by the attorney for the state. The indictment shall be a plain, concise and definite written statement of the essential facts constituting the offense charged ~~and it shall be signed by the attorney for the state.~~ When multiple counts are involved, the facts must be stated with sufficient particularity so as to allow the defendant and court to distinguish between the various counts. Allegations made in one count may be incorporated by reference in another count. It may be alleged in a single count that the means by which the defendant committed the offense are unknown, or that the defendant committed it by one or more specified means. The indictment shall state for each count the official or customary citation of the statute, rule, regulation or other provision of law which the defendant is alleged therein to have violated.

(2) Information. The information shall be a plain, concise and definite written statement of the essential facts constituting the offense charged. When multiple counts are involved, the facts must be stated with sufficient particularity so as to allow the defendant and court to distinguish between the various counts. It shall be signed by the attorney for the state. It need not contain a formal commencement, a formal conclusion or any other matter not necessary to such statement. Allegations made in one count may be incorporated by reference in another count. It may be alleged in a single count that the means by which the defendant committed the offense are unknown or that the defendant committed it by one or more specified means. The information shall state: *****

Rule 4. Warrant or summons upon information.

(a) *Issuance.* If it appears from a verified information, or from an affidavit or affidavits filed with the information, that there is probable cause to believe that an offense has been committed and that the defendant has committed it, a summons shall issue requiring the defendant to appear and answer to the information. Upon the request of the attorney for the state the court shall issue a warrant, rather than a summons, for any information containing at least one felony offense, and may for good cause shown by the state, issue a warrant for a misdemeanor offense. More than one warrant or summons may issue on the same information. The warrant or summons shall be delivered to the sheriff or other person authorized by law to execute or serve it. If a defendant fails to appear in response to the summons, a warrant shall issue.

Rule 32. Judgment and sentence.

(a) *Presentence Investigation.*

(1) When Made. In every felony case the Department of Probation and Parole shall conduct a presentence investigation and submit a report to the court. The court may order an investigation and report in misdemeanor cases. In felony cases the investigation and report may not be waived but, with the parties' consent, the court may permit the report to be filed after sentencing. Otherwise, it shall be considered by the court before the imposition of sentence or the granting of probation. Except with the written consent of the defendant, the report shall not be submitted to the court or its contents disclosed to anyone unless the defendant has pleaded guilty or nolo contendere or has been found guilty. Notwithstanding the above, the district court may, in its discretion, dispense with the investigation and preparation of a report of the investigation or may limit the scope of the investigation and report to circumstances and conditions the court deems relevant to its sentencing determination.

(2) Report. When a report of the presentence investigation is required by the court and its scope is not otherwise limited, ~~The report of the presentence investigation shall contain:~~

(C) ~~Unless the court orders otherwise,~~ Information concerning the nature and extent of non-prison programs and resources available for the defendant; and

(D) Such other information as may be required by the court.

(3) Disclosure.

(A) At least 10 days before imposing sentence, unless this minimum period is waived by the defendant, the court shall provide the defendant and the defendant's counsel with a copy of the report of the presentence investigation, if completed, including the information required by subdivision (a)(2). The court shall afford the defendant and the defendant's counsel an opportunity to comment on the report and, in the discretion of the court, to introduce testimony or other information relating to any alleged factual inaccuracy contained in it.

(B) Any material which may be disclosed to the defendant and the defendant's counsel shall be disclosed to the attorney for the state.

(C) If the comments of the defendant and the defendant's counsel or testimony or other information introduced by them allege any factual inaccuracy in the presentence investigation report or the summary of the report or part thereof, if completed, the court shall, as to each matter controverted, make: *****

(c) *Sentence.*

(1) Imposition. Sentence shall be imposed without unnecessary delay, but the court may, when there is a factor important to the sentencing determination that is not then capable of being resolved, postpone the imposition of sentence for a reasonable time until the factor is capable of being resolved. Prior to the sentencing hearing, the court shall provide the counsel for the defendant and the attorney for the state with a copy of the probation officer's report, if completed. Pending sentence, the court may continue or alter the defendant's bail or may confine the defendant. At the sentencing hearing, the court shall afford the counsel for the defendant and the attorney for the state an opportunity to comment upon the probation officer's report, if completed, and on other matters relating to the appropriate sentence. Before imposing sentence, the court shall also:

(A) If a presentence investigation report was completed, ~~d~~ Determine that the defendant and defendant's counsel have had the opportunity to read and discuss the ~~presentence investigation~~ report made available pursuant to subdivision (a)(3)(A);

Rule 46.4. Sanctions for failure to appear or for violation of release order.

(b) *Declaration of forfeiture.* If a person fails to appear before a court as required, or fails to comply with any condition set by the court pursuant to Rule 46.1(c) and the person executed an appearance bond, the judicial officer may, regardless of whether the person has been charged with an offense under this rule, declare any property designated pursuant to Rule 46.1 to be forfeited to the county in which the defendant was admitted to bail ~~State of Wyoming~~. Such property shall be paid into the county treasury to the credit of the county's public school fund in accordance with Wyo.Stat. Ann. § 7-10-105.

Rule 48. Dismissal; speedy trial.

(a) *By attorney for the state.* —

(1) The attorney for the state may, by leave of court, file a dismissal of an indictment, information or citation, and the prosecution shall thereupon terminate. Such a dismissal may not be filed during the trial without the consent of the defendant.

(2) If the attorney for the state refiles the same or similar indictment, information or citation, the time between arraignment and dismissal (minus appropriate exclusions) shall count against the 180-day period of subsection (b), absent a demonstration that the state has been prosecuting the matter diligently and that it dismissed and refiled charges for proper reasons and not to evade the speedy trial deadline set forth in this rule. Before arraignment in a felony case and no later than arraignment in a misdemeanor case, the attorney for the state shall notify the court and the defendant in writing if the state contends the time between prior arraignment and dismissal (minus appropriate exclusions) should not count against the 180 days. The court shall then conduct appropriate proceedings and enter an order determining the issue and establishing a deadline for the 180-day period.

(b) *Speedy trial.*

(4) Continuances exceeding 180 days from the date of arraignment may be granted by the trial court as follows:

(A) On motion of defendant supported by affidavit; *****
