

48 Hour / Riverside Detention Rule

INSTRUCTIONS FOR APPLICATION FOR and JUDICIAL DETERMINATION OF PROBABLE CAUSE TO DETAIN Mn. Rules of Crim Proced 4.03

1. After an arrest has been made, the arresting officer shall determine whether 48 hours will pass before the arrestee will make an appearance before the court. If so, the officer shall prepare:
 - a. The Application for Judicial Determination of Probable Cause to Detain
 - b. Exhibit A to the Application for Judicial Determination of Probable Cause to Detain
 - c. The proposed Judicial Determination of Probable Cause to Detain
2. Exhibit A will usually be the arresting officer's incident report. It should be marked "Exhibit A" on the front page of the report at the top of the page. The report should include facts that provide probable cause to believe a crime was committed and that it was committed by the arrestee. The court may require that the report be signed and that the signature be notarized.
3. The arresting officer shall contact the prosecuting attorney to get approval of the application. before making contact with a judge. The best practice is for the prosecutor to "sign off" on the application to evidence approval. If this can't be done, the prosecutor may direct you to note the approval on the form on his/her behalf.
4. The arresting officer or a designee may present the documents to the judge in person or by telephone.
5. "In Person" Appearance before the Judge
 - a. The officer will take the original documents to the judge
 - b. The judge will acknowledge the officer's signature.
 - c. The judge will either sign the order for detention or order that the arrestee be released.
 - d. Within two (2) business days of the appearance, the officer shall file the original forms with the Court Administrator and provide copies to the prosecutor.
 - e. The forms are not public until they are filed and should not be released to the media until then.
6. Telephone Appearance before the Judge
 - a. The application must be signed and notarized before the call is made to the judge.
 - b. The best practice is to call the judge to advise of the officer's desire to obtain a judicial determination to detain and to ask the court if the forms can be faxed to the judge for review.
 - c. The judge may be willing to act on the basis of the officer's presentation over the telephone without any documents.
 - d. If the forms are being faxed to the judge, the officer should wait after the faxing to give the judge enough time to review them and then call the judge back to discuss the application.
 - e. The Judge will either sign the order for detention or order that the arrestee be released.
 - f. The original and fully signed forms must be filed with the Court Administrator and copies provided to the prosecutor within two (2) business days after this contact with the judge. This will require the officer within that time to meet the judge in person to obtain the judge's signature. During the telephone appearance, the officer should ask the judge when and where it would be convenient to obtain the judge's signature on the Judicial Determination.
 - g. The forms are not public until they are filed and should not be released to the media until then.