

Rory Thibault
Washington County State's Attorney



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STATE OF VERMONT
OFFICE OF THE WASHINGTON COUNTY STATE'S ATTORNEY

August 29, 2018

VIA E-MAIL

Washington County Law Enforcement Personnel

In re: Afterhours Bail & Conditions of Release Calls

Dear Troopers, Officers, and Deputies,

Recent changes to V.R.Cr.P. 3 have resulted in differing interpretations of what actions are necessary to lodge an individual or set conditions afterhours for a new criminal offense. A copy of the court's revised guidance is enclosed. The process is summarized as follows:

1. A law enforcement officer (LEO) effectuates an arrest under V.R.Cr.P. 3 and determines that lodging or setting of conditions is appropriate;
2. LEO completes Washington County State's Attorney Afterhours Checklist.
3. LEO contacts on-call State's Attorney or Deputy State's Attorney for approval of bail request and conditions;
4. LEO contacts judicial officer and seeks conditions of release and/or bail;
5. When an individual is lodged, within 48 hours a judge must make a probable cause determination. (see court guidance for detailed instructions). If a LWO must call a judge during the weekend to meet this requirement, the call must be between 10:00am and 5:00pm and the officer will be required to read their prepared affidavit to the judge.

This policy is substantially similar to existing practice, with exception of the requirement that a judge find probable cause within 48 hours. Consultation with the on-call State's Attorney or Deputy State's Attorney remains critical and will help ensure compliance with these rules. Use of the Afterhours Checklist is mandatory and will meet the court's information requirements.

Please take a moment to re-review page 2 of the checklist, which contains the criteria for lodging an offender under V.R.Cr.P. 3, especially the exceptions that allow lodging in circumstances of a nonwitnessed misdemeanor. You should consider all factors listed, including ties to the community, criminal history, and risk of flight when making a recommendation for bail or conditions.

Please let me know if you have any questions or concerns. Thank you.

Very respectfully,

A handwritten signature in blue ink, appearing to read 'Rory Thibault', with a long horizontal flourish extending to the right.

Rory Thibault
State's Attorney