

45.4 First Appearance

a. Prompt First Appearance

Except where the defendant is released on citation or by some other lawful manner, it is recommended that every arrested person be taken before a judicial officer without unnecessary delay.

b. Pre-First Appearance Inquiry

(1) In all cases in which the defendant is in custody and the maximum penalty exceeds one year, an inquiry into the facts relevant to pre-trial release should be conducted by the prosecutor of an agency acting under the authority of the court contemporaneous with the defendant's first appearance.

(2) In appropriate cases, the inquiry may be conducted in open court.

(3) The inquiry should be exploratory and may include such factors concerning the defendant as:

(a) Employment status and history and financial condition;

(b) The nature and extent of family relationships;

(c) Past and present residences;

(d) Character and reputation;

(e) Names of persons who agree to assist in attending court at the proper time;

(f) The nature of the current charge and any mitigating or aggravating factors that may bear on the likelihood of conviction and the possible penalty;

(g) Past criminal record, if any, and if previously released pending trial, whether he appeared as required;

(h) Any fact indicating the possibility of violations of law if released without restrictions; and

(i) Any other facts tending to indicate ties to the community and likelihood to flee the jurisdiction.

(4) Where appropriate, the inquiring agency should make recommendations to the judicial officer concerning the conditions, if any, which should be imposed on the defendant's release. The results of the inquiry and the recommendations should be made known to all parties at the first appearance in court.