

Rule 31. Findings by the Family Court

(a) In general. After a factfinding hearing the judge shall make a general finding and shall in addition on request find the facts specially, except that findings of fact with respect to the need for care or rehabilitation shall be made at the dispositional hearing. If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact appear therein.

(b) Several respondents. If there are 2 or more respondents, the Family Court shall make separate finding with respect to each respondent.

(c) Conviction of a lesser included offense. The respondent may be found guilty of an offense necessarily included in the offense charged or, in a delinquency case, of an attempt to commit either the offense charged or an offense necessarily included therein if the attempt is an offense.

(d) [Excluded].

COMMENT

This Rule implements *D.C. Code § 16-2317(b)*. Section (a) of the Rule is taken from *FRCrP 23(c)* "Trial Without a Jury". The phrase "except that findings of fact ... dispositional hearing" is new and makes clear that findings as to the need for care or rehabilitation are to be made at the dispositional hearing rather than at the factfinding hearing. The time for this finding seemed ambiguous under *D.C. Code § 16-2305(d)*, since it requires the petition to contain an allegation of apparent need for care or rehabilitation, and since findings as to the truth of the allegations of the petition are usually made at the factfinding hearing. *D.C. Code § 16-2301(17)*, however, states that the finding shall be made at the dispositional hearing.

Section (b) of the Rule is substantially similar to *FRCrP 31(b)*, except that references pertaining to jury trials have been deleted. The *FRCrP 31(b)* idea of separate findings has been retained. Section (c) is substantially similar to *FRCrP 31(c)* except that "in a delinquency case" has been added, since the concept of attempted offenses is not applicable to need of supervision cases.

In order not to be too burdensome on judges and staff, the findings required here and elsewhere in the Rules will ordinarily be made through the use of forms.

FRCrP 31(a) "Return" and section (d) "Poll of Jury" have been excluded as unnecessary with no jury.