

Rule 41. Search and Seizure

(a) Authority to issue warrant. A search warrant authorized by this Rule may be issued by a judge of the Superior Court.

(b) Property or persons which may be seized with a warrant. A warrant may be issued under this Rule to search for and seize any (1) property that is stolen or embezzled; or (2) contraband, the fruits of a crime, or things otherwise illegally possessed; or (3) property which has been used or is possessed for the purpose of being used, or is designed or intended to be used to commit or conceal the commission of a delinquent act; or (4) property that constitutes evidence of or tends to demonstrate the commission of a delinquent act or the identity of a person participating in the commission of a delinquent act; or (5) person for whose arrest there is probable cause, or who is unlawfully restrained.

(c) Application for search warrants. Each application for a search warrant shall be made in writing upon oath to a judge of the Superior Court. Each application shall include the name and title of the applicant; a statement that there is probable cause to believe that property or persons described in paragraph (b) as subject to seizure are likely to be found in a designated premise, in a designated vehicle or object, or upon designated persons; allegations of fact supporting such statement; and a request that the judge issue a search warrant directing a search for and seizure of the property or person in question. The applicant may also submit depositions or affidavits of other persons containing allegations of fact supporting or tending to support those contained in the application.

The application may also contain a request that the search warrant be made executable at any hour of the day or night, upon the ground that (1) there is probable cause to believe that it cannot be executed during the hours of daylight, (2) the property sought is likely to be removed or destroyed if not seized forthwith, or (3) the property or person sought is not likely to be found except at certain times or in certain circumstances. Any request that a search warrant be executable at any time of the day or night must be accompanied and supported by allegations of fact supporting such request.

(d) Issuance and contents. Upon application of a law enforcement officer or the Office of the Attorney General, a judge of the Superior Court may issue a search warrant if the judge is satisfied that grounds for its issuance exist or that there is probable cause to believe that they exist. A finding of probable cause may be based upon hearsay evidence in whole or in part. A search warrant shall contain --

(1) The name of the Superior Court and the Division thereof, the name and signature of the issuing judge, and the date of issuance;

(2) The name of the officer, if the warrant is addressed to a specific law enforcement officer, or otherwise, the classifications of officers or agents to whom the warrant is addressed;

(3) A designation of the premises, vehicles, objects, or persons to be searched, sufficient for certainty of identification;

(4) A description of the property whose seizure is the object of the warrant;

(5) A direction that the warrant be executed during the hours of daylight or, where the judge has found cause therefor under paragraph (c) of this Rule, an authorization for execution at any time of the day or night;

(6) A direction that the warrant and an inventory of any property or person seized pursuant thereto be returned to the Family Court on the next court day after its execution.

(e) Execution; return with inventory.

(1) Time of execution. A search warrant shall not be executed more than 10 days after the date of issuance. A search warrant may be executed on any day of the week and, in the absence of express authorization in the warrant, shall be executed only during hours of daylight.

(2) Place of execution. A search warrant may be executed anywhere in the District of Columbia.

(3) Manner of execution. An officer or agent executing a warrant directing a search of a dwelling house, other building, or vehicle break and enter any of these premises pursuant to *18 U.S.C. § 3109*. An officer or agent executing a warrant directing a search of a person shall give, or make reasonable effort to give, notice of the officer's or agent's identity and purpose to the person.

(4) Inventory and return. An officer or agent executing a search warrant shall write and subscribe an inventory setting forth the time of the execution of the search warrant and the property seized under it. If the search is of a person, a copy of the warrant and of the return shall be given to that person. If the search is of a place, vehicle, or object a copy of the warrant and of the return shall be given to the owner if the owner is present, or if the owner is not, to an occupant, custodian, or other person present, or if no person is present, the officer or agent shall post a copy of the warrant and of the return on the place, vehicle, or object searched.

(f) Filing of papers; disposition of seized property. A copy of the warrant shall be filed with the Family Court on the next court day after its execution, together with a copy of the return. Property seized in the execution of the warrant shall be safely kept for use as evidence. No property seized shall be released or destroyed except in accordance with law and upon order of a court or of the United States attorney or Office of the Attorney General for the District of Columbia or one of their assistants.

(g) Motion for return of property and to suppress evidence. A person aggrieved by an unlawful search and seizure or by the deprivation of property may move the Family Court for the return of the property and to suppress for use as evidence anything so obtained on the ground that such person is entitled to lawful possession of the property. The Family Court shall receive evidence on any issue of fact necessary to the decision of the motion. If the motion is granted and has become final the property shall be returned to the movant, although reasonable conditions may be imposed to protect access and use of the property in subsequent proceedings.

(h) Scope and definition. This Rule does not modify any act, inconsistent with it, regulating search, seizure and the issuance and execution of search warrants in proceedings regarding juvenile delinquency or persons in need of supervision. The term "property" is used in this Rule to include documents, books, papers, and any other tangible objects.