

Rule 9. Arrest Warrant or Summons on an Indictment or Information

(a) **ISSUANCE.** A judge must issue a warrant—or at the government's request, a summons—for each defendant named in an indictment or named in an information if one or more affidavits accompanying the information establish probable cause to believe that an offense has been committed and that the defendant committed it. The judge may issue more than one warrant or summons for the same defendant. The judge must issue the arrest warrant to an officer authorized to execute it or the summons to a person authorized to serve it. If a defendant fails to appear in response to a summons, the court must issue a warrant.

(b) **FORM.**

(1) *Warrant.* The warrant must conform to Rule 4(c)(1) except that it must be signed by the clerk and must describe the offense charged in the indictment or information. The terms of release or detention may be fixed by the judge and endorsed on the warrant.

(2) *Summons.* The summons must be in the same form as a warrant except that it must require the defendant to appear before the court at a stated time and place.

(c) **EXECUTION OR SERVICE; RETURN; INITIAL APPEARANCE.**

(1) *Execution or Service.*

(A) The warrant must be executed or the summons served as provided in Rule 4(d).

(B) The officer executing the warrant must proceed in accordance with Rule 5(a)(1).

(2) *Return.* A warrant or summons must be returned in accordance with Rule 4(d)(5).

(3) *Initial Appearance.* When an arrested or summoned defendant first appears before the court, the judge or magistrate judge must proceed under Rule 5.

(d) **WARRANT BY TELEPHONE OR OTHER MEANS.** In accordance with Rule 4.1, a judge may issue an arrest warrant or summons based on information communicated by telephone or other reliable electronic means.

COMMENT TO 2017 AMENDMENTS

This rule has been amended consistent with the 2011 amendments to the federal rule. New section (d) refers to new Rule 4.1 (Complaint, Warrant, or Summons by Telephone or Other Reliable Electronic Means), permitting warrants and summonses to be sought and approved by reliable electronic means.

COMMENT TO 2016 AMENDMENTS

This rule has been redrafted to conform to the general restyling of the federal rules in 2002. It differs from the federal rule in several respects.

In paragraph (a), the phrase “a judge” has been substituted for “the court.” The latter phrase is now defined to include both judges and magistrate judges. A magistrate judge is not authorized to issue an arrest warrant. The last sentence of paragraph (a) takes into account D.C. Code § 23-561 (a)(2) (2012 Repl.), which requires that a warrant issue when a person fails to appear in response to a summons. Because a judge or a magistrate judge may issue such a warrant, that sentence uses the phrase “the court.”

In addition, paragraph (a) differs from the former Superior Court rule by eliminating as unnecessary language specifying that some warrants be issued to the Chief of Police

and that others be issued to the Chief or to the United States Marshal, and by substituting the requirement that process be issued to and served by authorized persons. The latter are specified in D.C. Code § 16-703 (c) and (d) (2012 Repl.). A similar change has been made to paragraph (c).

In order to conform to local practice, subparagraph (b)(1) retains a provision permitting the court to specify release conditions on a warrant. See D.C. Code §§ 16-704, 23-1110 (2012 Repl.).

Subparagraph (c)(3) differs from the federal rule because a person arrested on a warrant may first appear before an associate judge or a magistrate judge in Superior Court.