US Codes (2)

1. [**Federal Rules of Criminal Procedure**](https://www.law.cornell.edu/rules/frcrmp) › [TITLE II. PRELIMINARY PROCEEDINGS](https://www.law.cornell.edu/rules/frcrmp/title_II) › Rule 3. The Complaint

Rule 3. The Complaint

The complaint is a written statement of the essential facts constituting the offense charged. Except as provided in [Rule 4.1](https://www.law.cornell.edu/rules/frcrmp/rule_4-1), it must be made under oath before a magistrate judge or, if none is reasonably available, before a state or local judicial officer.

**Notes**

(As amended Apr. 24, 1972, eff. Oct. 1, 1972; Apr. 22, 1993, eff. Dec. 1, 1993; Apr. 29, 2002, eff. Dec. 1, 2002; Apr. 26, 2011, eff. Dec. 1, 2011.)

**Notes of Advisory Committee on Rules—1944**

The rule generally states existing law and practice, 18 U.S.C. 591 [now 3041] (Arrest and removal for trial); *United States v. Simon* (E.D.Pa.), 248 F. 980; *United States v. Maresca* (S.D.N.Y.), 266 F. 713, 719–721. It eliminates, however, the requirement of conformity to State law as to the form and sufficiency of the complaint. See, also, rule 57(b).

**Notes of Advisory Committee on Rules—1972 Amendment**

The amendment deletes the reference to “commissioner or other officer empowered to commit persons charged with offenses against the United States” and substitute therefor “magistrate.”

The change is editorial in nature to conform the language of the rule to the recently enacted Federal Magistrates Act. The term “magistrate” is defined in rule 54.

**Notes of Advisory Committee on Rules—1993 Amendment**

The Rule is amended to conform to the Judicial Improvements Act of 1990 [P.L. 101–650, Title III, Section 321] which provides that each United States magistrate appointed under section 631 of title 28, United States Code, shall be known as a United States magistrate judge.

**Committee Notes on Rules—2002 Amendment**

The language of [Rule 3](https://www.law.cornell.edu/rules/frcrmp/rule_3) is amended as part of the general restyling of the Criminal Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic and no substantive change is intended, except as described below.

The amendment makes one change in practice. Currently, [Rule 3](https://www.law.cornell.edu/rules/frcrmp/rule_3) requires the complaint to be sworn before a “magistrate judge,” which under current [Rule 54](https://www.law.cornell.edu/rules/frcrmp/rule_54) could include a state or local judicial officer. Revised [Rule 1](https://www.law.cornell.edu/rules/frcrmp/rule_1) no longer includes state and local officers in the definition of magistrate judges for the purposes of these rules. Instead, the definition includes only United States magistrate judges. [Rule 3](https://www.law.cornell.edu/rules/frcrmp/rule_3) requires that the complaint be made before a United States magistrate judge or before a state or local officer. The revised rule does, however, make a change to reflect prevailing practice and the outcome desired by the Committee—that the procedure take place before a *federal* judicial officer if one is reasonably available. As noted in Rule 1(c), where the rules, such as Rule 3, authorize a magistrate judge to act, any other federal judge may act.

**Committee Notes on Rules—2011 Amendment**

Under the amended rule, the complaint and supporting material may be submitted by telephone or reliable electronic means; however, the rule requires that the judicial officer administer the oath or affirmation in person or by telephone. The Committee concluded that the benefits of making it easier to obtain judicial oversight of the arrest decision and the increasing reliability and accessibility to electronic communication warranted amendment of the rule. The amendment makes clear that the submission of a complaint to a judicial officer need not be done in person and may instead be made by telephone or other reliable electronic means. The successful experiences with electronic applications under [Rule 41](https://www.law.cornell.edu/rules/frcrmp/rule_41), which permits electronic applications for search warrants, support a comparable process for arrests. The provisions in [Rule 41](https://www.law.cornell.edu/rules/frcrmp/rule_41) have been transferred to new Rule 4.1, which governs applications by telephone or other electronic means under Rules 3, 4, 9, and 41.

[Jump to navigation](https://www.law.cornell.edu/rules/frcrmp/rule_4#main-menu)

[https://www.law.cornell.edu/sites/all/themes/liizenboot/images/insignia.gif](https://www.cornell.edu/)[Cornell Law School](http://www.lawschool.cornell.edu/)[Search Cornell](https://www.cornell.edu/search/)

[Support Us!](https://www.law.cornell.edu/donate)

Top of Form



Search

Bottom of Form

* [**About LII**](https://www.law.cornell.edu/lii/about/about_lii)
* [**Get the law**](https://www.law.cornell.edu/lii/get_the_law)
* [**Lawyer directory**](https://lawyers.law.cornell.edu/)
* [**Legal encyclopedia**](https://www.law.cornell.edu/wex)
* [**Help out**](https://www.law.cornell.edu/lii/help_out)
* Follow

1. [**Federal Rules of Criminal Procedure**](https://www.law.cornell.edu/rules/frcrmp) › [TITLE II. PRELIMINARY PROCEEDINGS](https://www.law.cornell.edu/rules/frcrmp/title_II) › Rule 4. Arrest Warrant or Summons on a Complaint

Rule 4. Arrest Warrant or Summons on a Complaint

(a) Issuance. If the complaint or one or more affidavits filed with the complaint establish probable cause to believe that an offense has been committed and that the defendant committed it, the judge must issue an arrest warrant to an officer authorized to execute it. At the request of an attorney for the government, the judge must issue a summons, instead of a warrant, to a person authorized to serve it. A judge may issue more than one warrant or summons on the same complaint. If an individual defendant fails to appear in response to a summons, a judge may, and upon request of an attorney for the government must, issue a warrant. If an organizational defendant fails to appear in response to a summons, a judge may take any action authorized by United States law.

(b) Form.

(1) *Warrant.* A warrant must:

(A) contain the defendant's name or, if it is unknown, a name or description by which the defendant can be identified with reasonable certainty;

(B) describe the offense charged in the complaint;

(C) command that the defendant be arrested and brought without unnecessary delay before a magistrate judge or, if none is reasonably available, before a state or local judicial officer; and

(D) be signed by a judge.

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

(c) Execution or Service, and Return.

(1) *By Whom.* Only a marshal or other authorized officer may execute a warrant. Any person authorized to serve a summons in a federal civil action may serve a summons.

(2) *Location.* A warrant may be executed, or a summons served, within the jurisdiction of the United States or anywhere else a federal statute authorizes an arrest. A summons to an organization under [Rule 4(c)(3)(D)](https://www.law.cornell.edu/rules/frcrmp/rule_4#rule_4_c_3_D) may also be served at a place not within a judicial district of the United States.

(3) *Manner.*

(A) A warrant is executed by arresting the defendant. Upon arrest, an officer possessing the original or a duplicate original warrant must show it to the defendant. If the officer does not possess the warrant, the officer must inform the defendant of the warrant's existence and of the offense charged and, at the defendant's request, must show the original or a duplicate original warrant to the defendant as soon as possible.

(B) A summons is served on an individual defendant:

(i) by delivering a copy to the defendant personally; or

(ii) by leaving a copy at the defendant's residence or usual place of abode with a person of suitable age and discretion residing at that location and by mailing a copy to the defendant's last known address.

(C) A summons is served on an organization in a judicial district of the United States by delivering a copy to an officer, to a managing or general agent, or to another agent appointed or legally authorized to receive service of process. If the agent is one authorized by statute and the statute so requires, a copy must also be mailed to the organization.

(D) A summons is served on an organization not within a judicial district of the United States:

(i) by delivering a copy, in a manner authorized by the foreign jurisdiction’s law, to an officer, to a managing or general agent, or to an agent appointed or legally authorized to receive service of process; or

(ii) by any other means that gives notice, including one that is:

(a) stipulated by the parties;

(b) undertaken by a foreign authority in response to a letter rogatory, a letter of request, or a request submitted under an applicable international agreement; or

(c) permitted by an applicable international agreement.

(4) *Return*

(A) After executing a warrant, the officer must return it to the judge before whom the defendant is brought in accordance with [Rule 5](https://www.law.cornell.edu/rules/frcrmp/rule_5). The officer may do so by reliable electronic means. At the request of an attorney for the government, an unexecuted warrant must be brought back to and canceled by a magistrate judge or, if none is reasonably available, by a state or local judicial officer.

(B) The person to whom a summons was delivered for service must return it on or before the return day.

(C) At the request of an attorney for the government, a judge may deliver an unexecuted warrant, an unserved summons, or a copy of the warrant or summons to the marshal or other authorized person for execution or service.

(d) Warrant by Telephone or Other Reliable Electronic Means. In accordance with [Rule 4.1](https://www.law.cornell.edu/rules/frcrmp/rule_4-1), a magistrate judge may issue a warrant or summons based on information communicated by telephone or other reliable electronic means.

**Notes**

(As amended Feb. 28, 1966, eff. July 1, 1966; Apr. 24, 1972, eff. Oct. 1, 1972; Apr. 22, 1974, eff. Dec. 1, 1975; Pub. L. 94–64, §3(1)–(3), July 31, 1975, 89 Stat. 370; Mar. 9, 1987, eff. Aug. 1, 1987; Apr. 22, 1993, eff. Dec. 1, 1993; Apr. 29, 2002, eff. Dec. 1, 2002; Apr. 26, 2011, eff. Dec. 1, 2011; Apr. 28, 2016, eff. Dec 1, 2016.)

**Notes of Advisory Committee on Rules—1944**

*Note to Subdivision* (a). 1. The rule states the existing law relating to warrants issued by commissioner or other magistrate. United States Constitution, Amendment IV; [18 U.S.C. 591](https://www.law.cornell.edu/jureeka/index.php?doc=U.S.C.&title=18&sec=591&sec2=undefined&year=undefined) [now 3041] (Arrest and removal for trial).

2. The provision for summons is new, although a summons has been customarily used against corporate defendants, [28 U.S.C. 377](https://www.law.cornell.edu/jureeka/index.php?doc=U.S.C.&title=28&sec=377&sec2=undefined&year=undefined) [now 1651] (Power to issue writs); *United States v. John Kelso Co*., [86 F. 304](https://www.law.cornell.edu/jureeka/index.php?doc=F1d&vol=86&page=304) (N.D.Cal., 1898). See also, *Albrecht v. United States*, [273 U.S. 1, 8 (1927)](https://www.law.cornell.edu/jureeka/index.php?doc=U.S.&vol=273&page=1&pinpoint=8&year=1927). The use of the summons in criminal cases is sanctioned by many States, among them Indiana, Maryland, Massachusetts, New York, New Jersey, Ohio, and others. See A.L.I. Code of Criminal Procedure (1931), Commentaries to secs. 12, 13, and 14. The use of the summons is permitted in England by 11 & 12 Vict., c. 42, sec. 1 (1848). More general use of a summons in place of a warrant was recommended by the National Commission on Law Observance and Enforcement, *Report on Criminal Procedure* (1931) 47. The Uniform Arrest Act, proposed by the Interstate Commission on Crime, provides for a summons. Warner, 28 Va.L.R. 315. See also, Medalie, 4 Lawyers Guild, R. 1, 6.

3. The provision for the issuance of additional warrants on the same complaint embodies the practice heretofore followed in some districts. It is desirable from a practical standpoint, since when a complaint names several defendants, it may be preferable to issue a separate warrant as to each in order to facilitate service and return, especially if the defendants are apprehended at different times and places. Berge, 42 Mich.L.R. 353, 356.

4. Failure to respond to a summons is not a contempt of court, but is ground for issuing a warrant.

*Note to Subdivision* (b). Compare Rule 9(b) and forms of warrant and summons, Appendix of Forms.

*Note to Subdivision* (c)(2). This rule and Rule 9(c)(1) modify the existing practice under which a warrant may be served only within the district in which it is issued. *Mitchell v. Dexter*, [244 F. 926](https://www.law.cornell.edu/jureeka/index.php?doc=F1d&vol=244&page=926) (C.C.A. 1st, 1917); *Palmer v. Thompson*, 20 App. D.C. 273 (1902); but see *In re Christian*, [82 F. 885](https://www.law.cornell.edu/jureeka/index.php?doc=F1d&vol=82&page=885) (C.C.W.D.Ark., 1897); 2 Op.Atty.Gen. 564. When a defendant is apprehended in a district other than that in which the prosecution has been instituted, this change will eliminate some of the steps that are at present followed: the issuance of a warrant in the district where the prosecution is pending; the return of the warrant *non est inventus*; the filing of a complaint on the basis of the warrant and its return in the district in which the defendant is found; and the issuance of another warrant in the latter district. The warrant originally issued will have efficacy throughout the United States and will constitute authority for arresting the defendant wherever found. Waite, 27 Jour. of Am. Judicature Soc. 101, 103. The change will not modify or affect the rights of the defendant as to removal. See [Rule 40](https://www.law.cornell.edu/rules/frcrmp/rule_40). The authority of the marshal to serve process is not limited to the district for which he is appointed, [28 U.S.C. 503](https://www.law.cornell.edu/jureeka/index.php?doc=U.S.C.&title=28&sec=503&sec2=undefined&year=undefined) [now 569].

*Note to Subdivision* (c)(3). 1. The provision that the arresting officer need not have the warrant in his possession at the time of the arrest is rendered necessary by the fact that a fugitive may be discovered and apprehended by any one of many officers. It is obviously impossible for a warrant to be in the possession of every officer who is searching for a fugitive or who unexpectedly might find himself in a position to apprehend the fugitive. The rule sets forth the customary practice in such matters, which has the sanction of the courts. “It would be a strong proposition in an ordinary felony case to say that a fugitive from justice for whom a capias or warrant was outstanding could not be apprehended until the apprehending officer had physical possession of the capias or the warrant. If such were the law, criminals could circulate freely from one end of the land to the other, because they could always keep ahead of an officer with the warrant.” *In re Kosopud* (N.D. Ohio), [272 F. 330,](https://www.law.cornell.edu/jureeka/index.php?doc=F1d&vol=272&page=330) 336. Waite, 27 Jour. of Am. Judicature Soc. 101, 103. The rule, however, safeguards the defendant's rights in such case.

2. Service of summons under the rule is substantially the same as in civil actions under [Federal Rules of Civil Procedure](https://www.law.cornell.edu/jureeka/index.php?doc=FRCP&rule=undefined), Rule 4(d)(1) [28 U.S.C., Appendix].

*Note to Subdivision* (c)(4). Return of a warrant or summons to the commissioner or other officer is provided by [18 U.S.C. 603](https://www.law.cornell.edu/jureeka/index.php?doc=U.S.C.&title=18&sec=603&sec2=undefined&year=undefined) [now 4084] (Writs; copy as jailer's authority). The return of all “copies of process” by the commissioner to the clerk of the court is provided by [18 U.S.C. 591](https://www.law.cornell.edu/jureeka/index.php?doc=U.S.C.&title=18&sec=591&sec2=undefined&year=undefined) [now 3041]; and see Rule 5(c), *infra.*

**Notes of Advisory Committee on Rules—1966 Amendment**

In *Giordenello v. United States*, [357 U.S. 480 (1958)](https://www.law.cornell.edu/jureeka/index.php?doc=U.S.&vol=357&page=480&pinpoint=undefined&year=1958) it was held that to support the issuance of a warrant the complaint must contain in addition to a statement “of the essential facts constituting the offense” (Rule 3) a statement of the facts relied upon by the complainant to establish probable cause. The amendment permits the complainant to state the facts constituting probable cause in a separate affidavit in lieu of spelling them out in the complaint. See also *Jaben v. United States*, [381 U.S. 214 (1965)](https://www.law.cornell.edu/jureeka/index.php?doc=U.S.&vol=381&page=214&pinpoint=undefined&year=1965).

**Notes of Advisory Committee on Rules—1972 Amendment**

Throughout the rule the term “magistrate” is substituted for the term “commissioner.” Magistrate is defined in rule 54 to include a judge of the United States, a United States magistrate, and those state and local judicial officers specified in [18 U.S.C. §3041](https://www.law.cornell.edu/jureeka/index.php?doc=U.S.C.&title=18&sec=3041&sec2=undefined&year=undefined).

**Notes of Advisory Committee on Rules—1974 Amendment**

The amendments are designed to achieve several objectives: (1) to make explicit the fact that the determination of probable cause may be based upon hearsay evidence; (2) to make clear that probable cause is a prerequisite to the issuance of a summons; and (3) to give priority to the issuance of a summons rather than a warrant.

Subdivision (a) makes clear that the normal situation is to issue a summons.

Subdivision (b) provides for the issuance of an arrest warrant in lieu of or in addition to the issuance of a summons.

Subdivision (b)(1) restates the provision of the old rule mandating the issuance of a warrant when a defendant fails to appear in response to a summons.

Subdivision (b)(2) provides for the issuance of an arrest warrant rather than a summons whenever “a valid reason is shown” for the issuance of a warrant. The reason may be apparent from the face of the complaint or may be provided by the federal law enforcement officer or attorney for the government. See comparable provision in rule 9.

Subdivision (b)(3) deals with the situation in which conditions change after a summons has issued. It affords the government an opportunity to demonstrate the need for an arrest warrant. This may be done in the district in which the defendant is located if this is the convenient place to do so.

Subdivision (c) provides that a warrant or summons may issue on the basis of hearsay evidence. What constitutes probable cause is left to be dealt with on a case-to-case basis, taking account of the unlimited variations in source of information and in the opportunity of the informant to perceive accurately the factual data which he furnishes. See *e.g., Giordenello v. United States*, [357 U.S. 480](https://www.law.cornell.edu/supct-cgi/get-us-cite?357+480), 78 S.Ct. 1245, 2 L.Ed.2d 1503 (1958); *Aguilar v. Texas*, [378 U.S. 108](https://www.law.cornell.edu/supct-cgi/get-us-cite?378+108), 84 S.Ct. 1509, 12 L.Ed.2d 723 (1964); *United States v. Ventresca*, [380 U.S. 102](https://www.law.cornell.edu/supct-cgi/get-us-cite?380+102), 85 S.Ct. 741, 13 L.Ed.2d 684 (1965); *Jaben v. United States*, [381 U.S. 214](https://www.law.cornell.edu/supct-cgi/get-us-cite?381+214), 85 S.Ct. 1365, 14 L.Ed.2d 345 (1965); *McCray v. Illinois*, [386 U.S. 300](https://www.law.cornell.edu/supct-cgi/get-us-cite?386+300), 87 S.Ct. 1056, 18 L.Ed.2d 62 (1967); *Spinelli v. United States*, [393 U.S. 410](https://www.law.cornell.edu/supct-cgi/get-us-cite?393+410), 89 S.Ct. 584, 21 L.Ed.2d 637 (1969); *United States v. Harris*, [403 U.S. 573](https://www.law.cornell.edu/supct-cgi/get-us-cite?403+573), 91 S.Ct. 2075, 29 L.Ed.2d 723 (1971); Note, The Informer's Tip as Probable Cause for Search or Arrest, 54 Cornell L.Rev. 958 (1969); C. Wright, Federal Practice and Procedure: Criminal §52 (1969, Supp. 1971); 8 S.J. Moore, Federal Practice

<https://www.law.cornell.edu/rules/frcrmp/rule_4>

Defining "Legitimate Medical Purpose"

David B. Brushwood

[DISCLOSURES](javascript:showModal('authordisclosures');)

Am J Health Syst Pharm. 2005;62(3):306-308.

* [0Read Comment](javascript:displayComments())

Introduction

Case Law, a regular AJHP section, is intended to provide pharmacists with timely information about recent court decisions that may affect pharmacy practice. Each installment includes pertinent background information, excerpts from the opinion of the court, and brief commentary. The contributing editor for the section is David B.Brushwood, J.D., Professor, Pharmacy Health Care Administration, University of Florida, Box 100496, Health Science Center, Gainesville, FL 32610.

The U.S. Department of Justice (DOJ) does not have the authority to determine which health care activities constitute a "legitimate medical purpose" under federal Drug Enforcement Administration (DEA) regulations. The U.S. Court of Appeals for the Ninth Circuit has held in *Oregon* v. *Ashcroft* that this authority rests with state governments.[[1](javascript:void(0);)]

https://www.medscape.com/viewarticle/498327\_1

(

(Cont.) https://www.medscape.com/viewarticle/498327\_4

Discussion

The ruling in this case is welcome news to those in health CASE LAW care who provide controlled substances to patients. The implications of this case go beyond terminal illness and physician assisted suicide. According to this case, the role of DOJ is to prevent drug abuse, not to decide what health care practices are acceptable or unacceptable. The Attorney General is the chief administrator of DOJ, and DEA is an agency of DOJ.

If a physician or pharmacist is engaging in activities outside the realm of health care, such as selling controlled substances to drug dealers with no therapeutic objective,DOJ is authorized to intervene. But DOJ has no business telling physicians or pharmacists what activities constitute acceptable health care practices. If a drug distribution activity is within the realm of health care, even if it is an alternative or novel practice, DOJ has no authority to intervene.

The authority of DOJ is described in a regulation promulgated by DEA. This regulation describes the lawful purpose for issuance of a controlled substance prescription.

A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.The responsibility for the proper prescribing and dispensing of controlled substances is upon the practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or inlegitimate and authorized research is not a prescription . . . and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law related to controlled substances.[[2](javascript:void(0);)]

The key phrases "legitimate medical purpose" and "in the usual course Legitimate medical purpose of his professional practice" are not defined. This omission invites conjecture about the meaning of the phrases. "Legitimate medical purpose" has no meaning unless "illegitimate medical purpose" has meaning. Yet medicine is inherently legitimate; there is no such thing as "illegitimate medicine." A practice that is not legitimate is not medical. Perhaps conceptual stretching can produce examples of medical practices that might be illegitimate. Using controlled substances to enhance athletic performance or improve academic achievement come to mind. But these uses of controlled substances are not medical, and one should not have to engage in conceptual stretching to find an example to support a core definition. Where this analysis leads is to the conclusion that the words "legitimate" and"medical" are redundant. The phrase "legitimate medical purpose" can be reduced to "medical purpose" without losing any meaning. A practice that is not medical is neither legitimate nor legal under the DEA regulation. A practice that is medical is legitimate and is the DEA regulation. DEA does not regulate within medical practice but simply discerns whether a practice is medical or nonmedical.

The phrase "usual course of his professional practice" is sometimes confused with "scope of practice," but it has a very different meaning. "Course of practice" refers to the activities of a health care professional in providing care. "Scope of practice" refers to the credentials and qualifications of the health care professional and the limits these credentials may place on his or her activities. For example, a dentist may legally treat pain of the jaw but not pain of the abdomen, because abdominal pain is beyond the scope of a dentist's practice. Being within the scope of one's practice does not mean the practice is legal. When prescribing a drug to treat jaw pain, the dentist must engage in activities usually undertaken by those in the dental profession to remain within the usual course of dental practice. At times there is concern that a health care provider maybe practicing outside the usual course of professional practice, because the health care provider has elected a specialty practice that limits its scope.Such concern is misplaced. The DEA regulation has nothing to do with the credentials or qualifications of a health care provider. It has everything to do with the *activities* of the health care provider. If those activities are not professional healthcare activities, then they are illegal under the DEA regulation; if they are professional health care activities, they are legal. DEA has no authority topass judgment on the merits of a professional practice. Its role is limited to determining whether a practice is a professional practice.

DEA recognizes that its responsibility is to prevent drug abuse and not to interfere with professional practice. In an article published in 1983, the agency's Associate Chief Counsel said:

“Acts of prescribing or dispensing of controlled substances which are done within the course of the registrant's professional practice are, for purposes of the Controlled Substances Act, lawful. It matters not that such acts might constitute terrible medicine or malpractice. They may reflect the grossest form of medical misconduct or negligence. They are never the less legal.[[3](javascript:void(0);)]

In 2001, another agency commentator stated:

The DEA investigates practitioners and pharmacists when there is suspicion of criminal activity specifically the 'diversion' or sale of controlled drugs or prescriptions without legitimate need. To proceed with criminal or administrative actions, the DEA must have conclusive evidence of wrongdoing such as providing multiple prescriptions to individuals in fictitious names to avoid detection; trading drugs for sexual favors or money; or providing controlled substance prescriptions to known abusers despite awareness of actual harm or of their arrests for selling the drugs that he had earlier provided.[[4](javascript:void(0);)]

The Attorney General, DOJ, and DEA are not authorized to regulate within the practice of medicine or pharmacy. Activities performed within professional practice are regulated by state governments.Activities performed by a physician or a pharmacist outside of professional practice are subject to DEA regulation, under the auspices of DOJ and the Attorney General. The role of the federal government is to prevent drug abuse.The quality, character, and boundaries of practice within the professions are not its concern.

* [0 Read Comment](javascript:displayComments())

[1](https://www.medscape.com/viewarticle/498327_1) [2](https://www.medscape.com/viewarticle/498327_2) [3](https://www.medscape.com/viewarticle/498327_3) [4](https://www.medscape.com/viewarticle/498327_4)

Am J Health Syst Pharm. 2005;62(3):306-308. © 2005 American Society of Health-System Pharmacists

* [References](javascript:void(0);)

**Recommendations**

The ruling in this case is welcome news to those in health CASE LAW care who provide controlled substances to patients. The implications of this case go beyond terminal illness and physician assisted suicide. According to this case, the role of DOJ is to prevent drug abuse, not to decide what health care practices are acceptable or unacceptable. The Attorney General is the chief administrator of DOJ, and DEA is an agency of DOJ.

If a physician or pharmacist is engaging in activities outside the realm of health care, such as selling controlled substances to drug dealers with no therapeutic objective,DOJ is authorized to intervene. But DOJ has no business telling physicians or pharmacists what activities constitute acceptable health care practices. If a drug distribution activity is within the realm of health care, even if it is an alternative or novel practice, DOJ has no authority to intervene.

The authority of DOJ is described in a regulation promulgated by DEA. This regulation describes the lawful purpose for issuance of a controlled substance prescription.

A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.The responsibility for the proper prescribing and dispensing of controlled substances is upon the practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or inlegitimate and authorized research is not a prescription . . . and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of law related to controlled substances.[[2](javascript:void(0);)]

The key phrases "legitimate medical purpose" and "in the usual course Legitimate medical purpose of his professional practice" are not defined. This omission invites conjecture about the meaning of the phrases. "Legitimate medical purpose" has no meaning unless "illegitimate medical purpose" has meaning. Yet medicine is inherently legitimate; there is no such thing as "illegitimate medicine." A practice that is not legitimate is not medical. Perhaps conceptual stretching can produce examples of medical practices that might be illegitimate. Using controlled substances to enhance athletic performance or improve academic achievement come to mind. But these uses of controlled substances are not medical, and one should not have to engage in conceptual stretching to find an example to support a core definition. Where this analysis leads is to the conclusion that the words "legitimate" and"medical" are redundant. The phrase "legitimate medical purpose" can be reduced to "medical purpose" without losing any meaning. A practice that is not medical is neither legitimate nor legal under the DEA regulation. A practice that is medical is legitimate and is the DEA regulation. DEA does not regulate within medical practice but simply discerns whether a practice is medical or nonmedical.

The phrase "usual course of his professional practice" is sometimes confused with "scope of practice," but it has a very different meaning. "Course of practice" refers to the activities of a health care professional in providing care. "Scope of practice" refers to the credentials and qualifications of the health care professional and the limits these credentials may place on his or her activities. For example, a dentist may legally treat pain of the jaw but not pain of the abdomen, because abdominal pain is beyond the scope of a dentist's practice. Being within the scope of one's practice does not mean the practice is legal. When prescribing a drug to treat jaw pain, the dentist must engage in activities usually undertaken by those in the dental profession to remain within the usual course of dental practice. At times there is concern that a health care provider maybe practicing outside the usual course of professional practice, because the health care provider has elected a specialty practice that limits its scope.Such concern is misplaced. The DEA regulation has nothing to do with the credentials or qualifications of a health care provider. It has everything to do with the *activities* of the health care provider. If those activities are not professional healthcare activities, then they are illegal under the DEA regulation; if they are professional health care activities, they are legal. DEA has no authority topass judgment on the merits of a professional practice. Its role is limited to determining whether a practice is a The role of the federal government is to prevent drug abuse.The quality, character, and boundaries of practice within the professions are not its concern.”

Legal Reasoning

The appellate court took no position on the merits or morality of physician assisted suicide. The sole issue considered by the court was whether Congress has authorized the Attorney General to determine that physician assisted suicide violates the CSA. The court held that the Ashcroft Directive violated the "clear statement" rule, contradicts the plain language of the CSA, and contravenes the express intent of Congress.

The clear statement rule requires that, unless Congress's authorization is "unmistakably clear", the Attorney General may not exercise control over an area of law traditionally reserved for state authority. The court noted the principle that state law makers, not the federal government, are the primary regulators of professional conduct. The court then ruled that the Ashcroft Directive was invalid because Congress has provided no indicationmuch less an "unmistakably clear" indicationthat it intended to authorize the Attorney General to regulate the practice of physician assisted suicide. Because Congress has not authorized such an intrusion into state authority, the Ashcroft Directive violated the clear statement rule.

The court ruled that not only does the Ashcroft Directive lack clear congressional authority, it also violates the plain language of the CSA. The CSA expressly limits federal authority under the act to the "field of drug abuse." The court said: "To the limited extent that the CSA does authorize federal regulation of medical practice, Congress carefully circumscribed the Attorney General's role. The Attorney General may not define the scope of legitimate medical practice."

In addition, according to the court, the legislative history of the CSA confirmed that the Attorney General has exceeded the scope of his authority. Referring to testimony in Congress at the time the CSA was passed, the court noted that the intent of Congress was to limit the CSA to problems associated with drug abuse and addiction. Congress was concerned that the CSA might encroach on a state's traditional authority to regulate medical practice. According to congressional testimony, all decisions of a medical nature, if made by a federal agency at all, are to be made by the Secretary of Health and Human Services (HHS). Law enforcement decisions made by the Attorney General are limited to those related to "the security of stocks of narcotic drugs and the maintenance of records on such drugs."

The court concluded that the CSA was enacted to combat drug abuse. To the extent that the CSA authorizes the federal government to make decisions regarding the practice of medicine, those decisions are delegated to the Secretary of HHS. In summary, the court said:"The Attorney General's unilateral attempt to regulate general medical practices historically entrusted to state lawmakers interferes with the democratic debate about physician assisted suicide and far exceeds the scope of his authority under federal law."

* [0 Read Comment](javascript:displayComments())

[1](https://www.medscape.com/viewarticle/498327_1) [2](https://www.medscape.com/viewarticle/498327_2) [3](https://www.medscape.com/viewarticle/498327_3) [4](https://www.medscape.com/viewarticle/498327_4)

[Next Section](https://www.medscape.com/viewarticle/498327_4)

Am J Health Syst Pharm. 2005;62(3):306-308. © 2005 American Society of Health-System Pharmacists

**LINKS**

<http://www.bendbulletin.com/topics/5342867-151/opioid-crisis-pain-patients-pushed-to-the-brink>

<https://www.practicalpainmanagement.com/resources/news-and-research/new-opioid-program-raises-concerns-chronic-pain-patients>

4.03 (2d ed. Cipes 1970, Supp. 1971).

**Notes of Committee on the Judiciary, House Report No. 94–247; 1975 Amendment**

A. Amendments Proposed by the Supreme Court. [Rule 4](https://www.law.cornell.edu/rules/frcrmp/rule_4) of the [Federal Rules of Criminal Procedure](https://www.law.cornell.edu/jureeka/index.php?doc=FRCrimP&rule=undefined&ruleDec=undefined) deals with arrest procedures when a criminal complaint has been filed. It provides in pertinent part:

If it appears . . . that there is probable cause . . . a warrant for the arrest of the defendant shall issue to any officer authorized by law to execute it. Upon the *request* of the attorney for the government a summons instead of a warrant *shall* issue. [emphasis added]

The Supreme Court's amendments make a basic change in [Rule 4](https://www.law.cornell.edu/rules/frcrmp/rule_4). As proposed to be amended, Rule 4 gives priority to the issuance of a summons instead of an arrest warrant. In order for the magistrate to issue an arrest warrant, the attorney for the government must show a “valid reason.”

B. Committee Action. The Committee agrees with and approves the basic change in Rule 4. The decision to take a citizen into custody is a very important one with far-reaching consequences. That decision ought to be made by a neutral official (a magistrate) rather than by an interested party (the prosecutor).

It has been argued that undesirable consequences will result if this change is adopted—including an increase in the number of fugitives and the introduction of substantial delays in our system of criminal justice. [See testimony of Assistant Attorney General W. Vincent Rakestraw in Hearings on Proposed Amendments to [Federal Rules of Criminal Procedure](https://www.law.cornell.edu/jureeka/index.php?doc=FRCrimP&rule=undefined&ruleDec=undefined) Before the Subcommittee on Criminal Justice of the House Committee on the Judiciary, 93d Cong., 2d Sess., Serial No. 61, at 41–43 (1974) [hereinafter cited as “Hearing I”].] The Committee has carefully considered these arguments and finds them to be wanting. [The Advisory Committee on Criminal Rules has thoroughly analyzed the arguments raised by Mr. Rakestraw and convincingly demonstrated that the undesirable consequences predicted will not necessarily result. See Hearings on Proposed Amendments to Federal Rules on Proposed Amendments to [Federal Rules of Criminal Procedure](https://www.law.cornell.edu/jureeka/index.php?doc=FRCrimP&rule=undefined&ruleDec=undefined) Before the Subcommittee on Criminal Justice of the House Committee on the Judiciary, 94th Congress, 1st Session, Serial No. 6, at 208–09 (1975) [hereinafter cited “Hearings II”].] The present rule permits the use of a summons in lieu of a warrant. The major difference between the present rule and the proposed rule is that the present rule vests the decision to issue a summons or a warrant in the prosecutor, while the proposed rule vests that decision in a judicial officer. Thus, the basic premise underlying the arguments against the proposed rule is the notion that only the prosecutor can be trusted to act responsibly in deciding whether a summons or a warrant shall issue.

The Committee rejects the notion that the federal judiciary cannot be trusted to exercise discretion wisely and in the public interest.

The Committee recast the language of Rule 4(b). No change in substance is intended. The phrase “valid reason” was changed to “good cause,” a phrase with which lawyers are more familiar. [Rule 4, both as proposed by the Supreme Court and as changed by the Committee, does not in any way authorize a magistrate to issue a summons or a warrant sua sponte, nor does it enlarge, limit or change in any way the law governing warrantless arrests.]

The Committee deleted two sentences from Rule 4(c). These sentences permitted a magistrate to question the complainant and other witnesses under oath and required the magistrate to keep a record or summary of such a proceeding. The Committee does not intend this change to discontinue or discourage the practice of having the complainant appear personally or the practice of making a record or summary of such an appearance. Rather, the Committee intended to leave Rule 4(c) neutral on this matter, neither encouraging nor discouraging these practices.

The Committee added a new section that provides that the determination of good cause for the issuance of a warrant in lieu of a summons shall not be grounds for a motion to suppress evidence. This provision does not apply when the issue is whether there was probable cause to believe an offense has been committed. This provision does not in any way expand or limit the so-called “exclusionary rule.”

**Notes of Conference Committee, House Report No. 94–414; 1975 Amendment**

Rule 4(e)(3) deals with the manner in which warrants and summonses may be served. The House version provides two methods for serving a summons: (1) personal service upon the defendant, or (2) service by leaving it with someone of suitable age at the defendant's dwelling *and* by mailing it to the defendant's last known address. The Senate version provides three methods: (1) personal service, (2) service by leaving it with someone of suitable age at the defendant's dwelling, or (3) service by mailing it to defendant's last known address.

**Notes of Advisory Committee on Rules—1987 Amendment**

The amendments are technical. No substantive change is intended.

**Notes of Advisory Committee on Rules—1993 Amendment**

The Rule is amended to conform to the Judicial Improvements Act of 1990 [P.L. 101–650, Title III, Section 321] which provides that each United States magistrate appointed under section 631 of title 28, United States Code, shall be known as a United States magistrate judge.

**Committee Notes on Rules—2002 Amendment**

The language of [Rule 4](https://www.law.cornell.edu/rules/frcrmp/rule_4) has been amended as part of the general restyling of the Criminal Rules to make them more easily understood and to make style and terminology consistent throughout the rules. These changes are intended to be stylistic, except as noted below.

The first non-stylistic change is in Rule 4(a), which has been amended to provide an element of discretion in those situations when the defendant fails to respond to a summons. Under the current rule, the judge must in all cases issue an arrest warrant. The revised rule provides discretion to the judge to issue an arrest warrant if the attorney for the government does not request that an arrest warrant be issued for a failure to appear.

Current Rule 4(b), which refers to the fact that hearsay evidence may be used to support probable cause, has been deleted. That language was added to the rule in 1974, apparently to reflect emerging federal case law. *See* Advisory Committee Note to 1974 Amendments to Rule 4 (citing cases). A similar amendment was made to [Rule 41](https://www.law.cornell.edu/rules/frcrmp/rule_41) in 1972. In the intervening years, however, the case law has become perfectly clear on that proposition. Thus, the Committee believed that the reference to hearsay was no longer necessary. Furthermore, the limited reference to hearsay evidence was misleading to the extent that it might have suggested that other forms of inadmissible evidence could not be considered. For example, the rule made no reference to considering a defendant's prior criminal record, which clearly may be considered in deciding whether probable cause exists. *See, e.g., Brinegar v. United States*, [338 U.S. 160 (1949)](https://www.law.cornell.edu/jureeka/index.php?doc=U.S.&vol=338&page=160&pinpoint=undefined&year=1949) (officer's knowledge of defendant's prior criminal activity). Rather than address that issue, or any other similar issues, the Committee believed that the matter was best addressed in Rule 1101(d)(3), [Federal Rules of Evidence](https://www.law.cornell.edu/jureeka/index.php?doc=FRE&rule=undefined). That rule explicitly provides that the [Federal Rules of Evidence](https://www.law.cornell.edu/jureeka/index.php?doc=FRE&rule=undefined) do not apply to “preliminary examinations in criminal cases, . . . issuance of warrants for arrest, criminal summonses, and search warrants.” The Advisory Committee Note accompanying that rule recognizes that: “The nature of the proceedings makes application of the formal rules of evidence inappropriate and impracticable.” The Committee did not intend to make any substantive changes in practice by deleting the reference to hearsay evidence.

New Rule 4(b), which is currently Rule 4(c), addresses the form of an arrest warrant and a summons and includes two non-stylistic changes. First, Rule 4(b)(1)(C) mandates that the warrant require that the defendant be brought “without unnecessary delay” before a judge. The Committee believed that this was a more appropriate standard than the current requirement that the defendant be brought before the “nearest available” magistrate judge. This new language accurately reflects the thrust of the original rule, that time is of the essence and that the defendant should be brought with dispatch before a judicial officer in the district. Second, the revised rule states a preference that the defendant be brought before a federal judicial officer.

Rule 4(b)(2) has been amended to require that if a summons is issued, the defendant must appear before a magistrate judge. The current rule requires the appearance before a “magistrate,” which could include a state or local judicial officer. This change is consistent with the preference for requiring defendants to appear before federal judicial officers stated in revised Rule 4(b)(1).

Rule 4(c) (currently Rule 4(d)) includes three changes. First, current Rule 4(d)(2) states the traditional rule recognizing the territorial limits for executing warrants. Rule 4(c)(2) includes new language that reflects the recent enactment of the Military Extraterritorial Jurisdiction Act (Pub. L. No. 106–523, 114 Stat. 2488) that permits arrests of certain military and Department of Defense personnel overseas. *See also* [14 U.S.C. §89](https://www.law.cornell.edu/jureeka/index.php?doc=U.S.C.&title=14&sec=89&sec2=undefined&year=undefined) (Coast Guard authority to effect arrests outside territorial limits of United States). Second, current Rule 4(d)(3) provides that the arresting officer is only required to inform the defendant of the offense charged and that a warrant exists if the officer does not have a copy of the warrant. As revised, Rule 4(c)(3)(A) explicitly requires the arresting officer in all instances to inform the defendant of the offense charged and of the fact that an arrest warrant exists. The new rule continues the current provision that the arresting officer need not have a copy of the warrant, but if the defendant requests to see it, the officer must show the warrant to the defendant as soon as possible. The rule does not attempt to define any particular time limits for showing the warrant to the defendant.

Third, Rule 4(c)(3)(C) is taken from former Rule 9(c)(1). That provision specifies the manner of serving a summons on an organization. The Committee believed that [Rule 4](https://www.law.cornell.edu/rules/frcrmp/rule_4) was the more appropriate location for general provisions addressing the mechanics of arrest warrants and summonses. Revised [Rule 9](https://www.law.cornell.edu/rules/frcrmp/rule_9) liberally cross-references the basic provisions appearing in Rule 4. Under the amended rule, in all cases in which a summons is being served on an organization, a copy of the summons must be mailed to the organization.

Fourth, a change is made in Rule 4(c)(4). Currently, Rule 4(d)(4) requires that an unexecuted warrant must be returned to the judicial officer or judge who issued it. As amended, Rule 4(c)(4)(A) provides that after a warrant is executed, the officer must return it to the judge before whom the defendant will appear under [Rule 5](https://www.law.cornell.edu/rules/frcrmp/rule_5). At the government's request, however, an unexecuted warrant must be canceled by a magistrate judge. The change recognizes the possibility that at the time the warrant is returned, the issuing judicial officer may not be available.

**Committee Notes on Rules—2011 Amendment**

Rule 4 is amended in three respects to make the arrest warrant process more efficient through the use of technology.

*Subdivision (c).* First, Rule 4(c)(3)(A) authorizes a law enforcement officer to retain a duplicate original arrest warrant, consistent with the change to subdivision (d), which permits a court to issue an arrest warrant electronically rather than by physical delivery. The duplicate original warrant may be used in lieu of the original warrant signed by the magistrate judge to satisfy the requirement that the defendant be shown the warrant at or soon after an arrest. *Cf.* Rule 4.1(b)(5) (providing for a duplicate original search warrant).

Second, consistent with the amendment to Rule 41(f), Rule  
4(c)(4)(A) permits an officer to make a return of the arrest warrant electronically. Requiring an in-person return can be burdensome on law enforcement, particularly in large districts when the return can require a great deal of time and travel. In contrast, no interest of the accused is affected by allowing what is normally a ministerial act to be done electronically.

*Subdivision (d).* Rule 4(d) provides that a magistrate judge may issue an arrest warrant or summons based on information submitted electronically rather than in person. This change works in conjunction with the amendment to [Rule 3](https://www.law.cornell.edu/rules/frcrmp/rule_3), which permits a magistrate judge to consider a criminal complaint and accompanying documents that are submitted electronically. Subdivision (d) also incorporates the procedures for applying for and issuing electronic warrants set forth in [Rule 4.1](https://www.law.cornell.edu/rules/frcrmp/rule_4-1).

*Changes Made to Proposed Amendment Released for Public Comment*

No changes were made in the amendment as published.

**Amendment by Public Law**

**1975** —Pub. L. 94–64 struck out subds. (a), (b), and (c) and inserted in lieu new subds. (a) and (b); redesignated subd. (d) as (c); and redesignated subd. (e) as (d) and amended par. (3) thereof generally.

**Approval and Effective Date of Amendments Proposed April 22, 1974; Effective Date of 1975 Amendments**

Section 2 of Pub. L. 94–64 provided that: “The amendments proposed by the United States Supreme Court to the [Federal Rules of Criminal Procedure](https://www.law.cornell.edu/jureeka/index.php?doc=FRCrimP&rule=undefined&ruleDec=undefined) [adding rules 12.1, 12.2 and 29.1 and amending rules 4, 9, 11, 12, 15, 16, 17, 20, 32, and 43 of these rules] which are embraced in the order of that Court on April 22, 1974, are approved except as otherwise provided in this Act and shall take effect on December 1, 1975. Except with respect to the amendment to [Rule 11](https://www.law.cornell.edu/rules/frcrmp/rule_11), insofar as it adds Rule 11(e)(6), which shall take effect on August 1, 1975, the amendments made by section 3 of this Act [to rules 4, 9, 11, 12, 12.1, 12.2, 15, 16, 17, 20, 32, and 43 of these rules] shall also take effect on December 1, 1975.”

**Committee Notes on Rules—2016 Amendment**

**Subdivision (a).** The amendment addresses a gap in the current rule, which makes no provision for organizational defendants who fail to appear in response to a criminal summons. The amendment explicitly limits the issuance of a warrant to individual defendants who fail to appear, and provides that the judge may take whatever action is authorized by law when an organizational defendant fails to appear. The rule does not attempt to specify the remedial actions a court may take when an organizational defendant fails to appear.

**Subdivision (c)(2).** The amendment authorizes service of a criminal summons on an organizati on outside a judicial district of the United States.

**Subdivision (c)(3)(C).** The amendment makes two changes to subdivision (c)(3)(C) governing service of a summons on an organization. First, like Civil Rule 4(h), the amended provision does not require a separate mailing to the organization when delivery has been made in the United States to an officer or to a managing or general agent. Service of process on an officer or a managing or general agent is in effect service on the principal. Mailing is required when delivery has been made on an agent authorized by statute, if the statute itself requires mailing to the entity.

Second, also like Civil Rule 4(h), the amendment recognizes that service outside the United States requires separate consideration, and it restricts Rule 4(c)(3)(C) and its modified mailing requirement to service on organizations within the United States. Service upon organizations outside the United States is governed by new subdivision (c)(3)(D).

These two modifications of the mailing requirement remove an unnecessary impediment to the initiation of criminal proceedings against organizations that commit domestic offenses but have no place of business or mailing address within the United States. Given the realities of today’s gl obal economy, electronic communication, and federal criminal practice, the mailing requirement should not shield a defendant organization when the Rule’s core objective—notice of pending criminal proceedings —is accomplished.

**Subdivision (c)(3)(D).** This new subdivision states that a criminal summons may be served on an organizational defendant outside the United States and enumerates a non- exhaustive list of permissible means of service that provide notice to that defendant.

Although it is presumed that the enumerated means will provide notice, whether actual notice has been provided may be challenged in an individual case.

**Subdivision (c)(3)(D)(i).** Subdivision (i) notes that a foreign jurisdiction’s law may authorize delivery of a copy of the criminal summons to an officer, or to a managing or general agent. This is a permissible means for serving an organization outside of the United States, just as it is for organizations within the United States. The subdivision also recognizes that a foreign juris diction’s law may provide for service of a criminal summons by delivery to an appointed or legally authorized agent in a manner that provides notice to the entity, and states that this is an acceptable means of service.

**Subdivision (c)(3)(D)(ii).** Subdivision (ii) provides a non- exhaustive list illustrating other permissible means of giving service on organizations outside the United States, all of which must be carried out in a manner that “gives notice.”

Paragraph (a) recognizes that service may be made by a means stipulated by the parties.

Paragraph (b) recognizes that service may be made by the diplomatic methods of letters rogatory and letters of request, and the last clause of the paragraph provides for service under international agreements that obligate the parties to provide broad measures of assistance, including the service of judicial documents. These include crime - specific multilateral agreements (e.g., the United Nations Convention Against Corruption (UNCAC), S. Treaty Doc. No. 109- 6 (20 03)), regional agreements (e.g., the Inter - American Convention on Mutual Assistance in Criminal Matters (OAS MLAT), S. Treaty Doc. No. 105- 25 (1995)), and bilateral agreements.

Paragraph (c) recognizes that other means of service that provide notice and are permitted by an applicable international agreement are also acceptable when serving organizations outside the United States.

As used in this rule, the phrase “applicable international agreement” refers to an agreement that has been ratified by the United States and the foreign jurisdiction and is in force.

[‹ Rule 3. The Complaint](https://www.law.cornell.edu/rules/frcrmp/rule_3) [up](https://www.law.cornell.edu/rules/frcrmp/title_II) [Rule 4.1 Complaint, Warrant, or Summons by Telephone or Other Reliable Electronic Means ›](https://www.law.cornell.edu/rules/frcrmp/rule_4.1)

Toolbox

* Wex: [Criminal Procedure: Overview](https://www.law.cornell.edu/wex/criminal_procedure)

AddThis Sharing Buttons

Share to EmailShare to TwitterShare to Facebook**49**Share to LinkedInShare to Google+Share to More**68**

Find a Lawyer

Sponsored Listings

[**Thomas Raymond Nell**](https://lawyers.law.cornell.edu/lawyer/thomas-raymond-nell-1391156)

[](https://lawyers.law.cornell.edu/lawyer/thomas-raymond-nell-1391156)

PREMIUM

* [**(717) 259-1111**](tel:7172591111)
* **East Berlin, PA**

Elder Law, Family Law, Divorce, Probate

[**Website**](http://www.attorneynell.com/)[**Email**](https://lawyers.law.cornell.edu/lawyer/thomas-raymond-nell-1391156/contact)[**Profile**](https://lawyers.law.cornell.edu/lawyer/thomas-raymond-nell-1391156)

* [**About LII**](https://www.law.cornell.edu/lii/about/about_lii)
* [**Contact us**](https://www.law.cornell.edu/lii/about/contact_us)
* [**Advertise here**](https://www.law.cornell.edu/lii/help_out/sponsor)
* [**Help**](https://www.law.cornell.edu/lii/help)
* [**Terms of use**](https://www.law.cornell.edu/lii/terms/documentation)
* [**Privacy**](https://www.law.cornell.edu/lii/terms/privacy_policy)
* [https://www.law.cornell.edu/sites/all/themes/liizenboot/images/LII_logo_footer.gif](https://www.law.cornell.edu/)