

41.1 Search Warrant Applications.

(a) To Judge.

A search warrant application should be presented to a magistrate judge, but may be presented to a district judge if no magistrate judge is reasonably available. When no federal judge is reasonably available, including emergency circumstances as stated in Nebraska Criminal Rule 41.1(a)(3), the warrant application may be presented to a state judicial officer.

(1) Request.

Copies of the application, the proposed search warrant, and any supporting affidavits must be delivered to the judge for private review before presentation of the warrant to the judge for signing. In an emergency situation, the judge may waive this requirement. If authorized by law, and consented to by the judge considering the application, a search warrant may be considered and issued by telephone or other means.

(2) Government Attorney.

Ordinarily, an officer presenting a search warrant application to a judge should be accompanied by a government attorney. In unusual circumstances, a judge may entertain a search warrant application from an officer not accompanied by a government attorney.

(3) Emergency.

In an emergency, a magistrate judge may be contacted away from the courthouse, including at home, to consider a search warrant application. If no magistrate judge is reasonably available, a district judge may be contacted away from the courthouse, including at home, to consider a search warrant application.

(b) Sealing of Search Warrant Documents.

Unless the court orders otherwise, search warrants, all affidavits filed in support of search warrants, and all search warrant returns, must be filed by the clerk under seal within 14 days after the executed warrant is returned.