

Department, with a few exceptions, transferred to Attorney General, with power vested in him to authorize their performance or performance of any of his functions by any of such officers, agencies, and employees, by Reorg. Plan No. 2 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to Title 5, Government Organization and Employees.

**§ 3108. Execution, service, and return—(Rule)**

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Method and time for execution, service and return of search warrant, Rule 41(c), (d).

(June 25, 1948, ch. 645, 62 Stat. 819.)

**§ 3109. Breaking doors or windows for entry or exit**

The officer may break open any outer or inner door or window of a house, or any part of a house, or anything therein, to execute a search warrant, if, after notice of his authority and purpose, he is refused admittance or when necessary to liberate himself or a person aiding him in the execution of the warrant.

(June 25, 1948, ch. 645, 62 Stat. 820.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§618, 619 (June 15, 1917, ch. 30, title XI, §§8, 9, 40 Stat. 229).

Said sections 618 and 619 were consolidated with minor changes in phraseology but without change of substance.

**§ 3110. Property defined—(Rule)**

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Term "property" as used in Rule 41 includes documents, books, papers and any other tangible objects, Rule 41(g).

(June 25, 1948, ch. 645, 62 Stat. 820.)

REFERENCES IN TEXT

Rule 41(g), referred to in text, was redesignated 41(h) by 1972 amendment eff. Oct. 1, 1972.

**§ 3111. Property seizable on search warrant—(Rule)**

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Specified property seizable on search warrant, Rule 41(b).

(June 25, 1948, ch. 645, 62 Stat. 820.)

**[§ 3112. Repealed. Pub. L. 97-79, §9(b)(3), Nov. 16, 1981, 95 Stat. 1079]**

Section, acts June 25, 1948, ch. 645, 62 Stat. 820; Dec. 5, 1969, Pub. L. 91-135, §7(c), 83 Stat. 281; Nov. 8, 1978, Pub. L. 95-616, §3(j)(1), 92 Stat. 3112, provided for issuance of search warrants for seizure of animals, birds, and eggs. See section 3375 of Title 16, Conservation.

**§ 3113. Liquor violations in Indian country**

If any superintendent of Indian affairs, or commanding officer of a military post, or special agent of the Office of Indian Affairs for the suppression of liquor traffic among Indians and in the Indian country and any authorized deputies under his supervision has probable cause to believe that any person is about to introduce or has introduced any spirituous liquor, beer, wine or other intoxicating liquors named in sections 1154 and 1156 of this title into the Indian country

in violation of law, he may cause the places, conveyances, and packages of such person to be searched. If any such intoxicating liquor is found therein, the same, together with such conveyances and packages of such person, shall be seized and delivered to the proper officer, and shall be proceeded against by libel in the proper court, and forfeited, one-half to the informer and one-half to the use of the United States. If such person be a trader, his license shall be revoked and his bond put in suit.

Any person in the service of the United States authorized by this section to make searches and seizures, or any Indian may take and destroy any ardent spirits or wine found in the Indian country, except such as are kept or used for scientific, sacramental, medicinal, or mechanical purposes or such as may be introduced therein by the Department of the Army.

(June 25, 1948, ch. 645, 62 Stat. 820; Oct. 31, 1951, ch. 655, §30, 65 Stat. 721; Pub. L. 103-322, title XXXIII, §330004(15), Sept. 13, 1994, 108 Stat. 2142.)

HISTORICAL AND REVISION NOTES

Based on sections 246, 248, 252 of title 25, U.S.C., 1940 ed., Indians (R.S. §2140; Mar. 1, 1907, ch. 2285, 34 Stat. 1017; May 18, 1916, ch. 125, §1, 39 Stat. 124).

Said sections 246, 248, and 252 were consolidated. References to Indian agent and subagent were deleted since those positions no longer exist. See section 64 of title 25, U.S.C., 1940 ed., Indians, and notes thereunder.

Words "except such as are kept or used for scientific, sacramental, medicinal or mechanical purposes" were inserted. See reviser's note under section 1154 of this title.

Words "conveyances and packages" were substituted for the enumeration, "boats, teams, wagons and sleds \* \* \* and goods, packages and peltries."

Minor changes were made in phraseology.

AMENDMENTS

1994—Pub. L. 103-322 struck out last par. which read as follows: "In all cases arising under this section and sections 1154 and 1156 of this title, Indians shall be competent witnesses."

1951—Act Oct. 31, 1951, substituted "Department of the Army" for "War Department" in second par.

**§ 3114. Return of seized property and suppression of evidence; motion—(Rule)**

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Return of property and suppression of evidence upon motion, Rule 41(e).

(June 25, 1948, ch. 645, 62 Stat. 820.)

**§ 3115. Inventory upon execution and return of search warrant—(Rule)**

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Inventory of property seized under search warrant and copies to persons affected, Rule 41(d).

(June 25, 1948, ch. 645, 62 Stat. 820.)

**§ 3116. Records of examining magistrate judge; return to clerk of court—(Rule)**

SEE FEDERAL RULES OF CRIMINAL PROCEDURE

Magistrate judges and clerks of court to keep records as prescribed by Director of the Administrative Office of the United States Courts, Rule 55.

Return or filing of records with clerk, Rule 41(f).

(June 25, 1948, ch. 645, 62 Stat. 821; Pub. L. 90-578, title III, §301(a)(4), Oct. 17, 1968, 82 Stat. 1115;

Pub. L. 101-650, title III, §321, Dec. 1, 1990, 104 Stat. 5117.)

#### HISTORICAL AND REVISION NOTES

Section 627 of title 18, U.S.C., 1940 ed., relating to the filing of search warrants and companion papers, was omitted as unnecessary in view of Rule 41(f) of the Federal Rules of Criminal Procedure.

#### REFERENCES IN TEXT

Rule 41(f), referred to in text, was redesignated 41(g) by 1972 amendment eff. Oct. 1, 1972.

#### AMENDMENTS

1968—Pub. L. 90-578 substituted “Magistrates” for “Commissioners”.

#### CHANGE OF NAME

Words “magistrate judge” substituted for “magistrate” in section catchline and “Magistrate judges” substituted for “Magistrates” in text pursuant to section 321 of Pub. L. 101-650, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-578 effective Oct. 17, 1968, except when a later effective date is applicable, which is the earlier of date when implementation of amendment by appointment of magistrates [now United States magistrate judges] and assumption of office takes place or third anniversary of enactment of Pub. L. 90-578 on Oct. 17, 1968, see section 403 of Pub. L. 90-578, set out as a note under section 631 of Title 28, Judiciary and Judicial Procedure.

### § 3117. Mobile tracking devices

(a) IN GENERAL.—If a court is empowered to issue a warrant or other order for the installation of a mobile tracking device, such order may authorize the use of that device within the jurisdiction of the court, and outside that jurisdiction if the device is installed in that jurisdiction.

(b) DEFINITION.—As used in this section, the term “tracking device” means an electronic or mechanical device which permits the tracking of the movement of a person or object.

(Added Pub. L. 99-508, title I, §108(a), Oct. 21, 1986, 100 Stat. 1858.)

#### CODIFICATION

Another section 3117 was renumbered section 3118 of this title.

#### EFFECTIVE DATE

Section effective 90 days after Oct. 21, 1986, and, in case of conduct pursuant to court order or extension, applicable only with respect to court orders and extensions made after such date, with special rule for State authorizations of interceptions, see section 111 of Pub. L. 99-508, set out as an Effective Date of 1986 Amendment note under section 2510 of this title.

### § 3118. Implied consent for certain tests

(a) CONSENT.—Whoever operates a motor vehicle in the special maritime and territorial jurisdiction of the United States consents thereby to a chemical test or tests of such person’s blood, breath, or urine, if arrested for any offense arising from such person’s driving while under the influence of a drug or alcohol in such jurisdiction. The test or tests shall be administered upon the request of a police officer having rea-

sonable grounds to believe the person arrested to have been driving a motor vehicle upon the special maritime and territorial jurisdiction of the United States while under the influence of drugs or alcohol in violation of the laws of a State, territory, possession, or district.

(b) EFFECT OF REFUSAL.—Whoever, having consented to a test or tests by reason of subsection (a), refuses to submit to such a test or tests, after having first been advised of the consequences of such a refusal, shall be denied the privilege of operating a motor vehicle upon the special maritime and territorial jurisdiction of the United States during the period of a year commencing on the date of arrest upon which such test or tests was refused, and such refusal may be admitted into evidence in any case arising from such person’s driving while under the influence of a drug or alcohol in such jurisdiction. Any person who operates a motor vehicle in the special maritime and territorial jurisdiction of the United States after having been denied such privilege under this subsection shall be treated for the purposes of any civil or criminal proceedings arising out of such operation as operating such vehicle without a license to do so.

(Added Pub. L. 100-690, title VI, §6477(b)(1), Nov. 18, 1988, 102 Stat. 4381, §3117; renumbered §3118, Pub. L. 101-647, title XXXV, §3574, Nov. 29, 1990, 104 Stat. 4929.)

#### AMENDMENTS

1990—Pub. L. 101-647 renumbered second section 3117 of this title as this section.

### CHAPTER 206—PEN REGISTERS AND TRAP AND TRACE DEVICES

Sec.	
3121.	General prohibition on pen register and trap and trace device use; exception.
3122.	Application for an order for a pen register or a trap and trace device.
3123.	Issuance of an order for a pen register or a trap and trace device.
3124.	Assistance in installation and use of a pen register or a trap and trace device.
3125.	Emergency pen register and trap and trace device installation.
3126.	Reports concerning pen registers and trap and trace devices.
3127.	Definitions for chapter.

#### AMENDMENTS

1988—Pub. L. 100-690, title VII, §§7068, 7092(c), Nov. 18, 1988, 102 Stat. 4405, 4411, substituted “trap and trace” for “trap or trace” in item 3123, added item 3125, and redesignated former items 3125 and 3126 as 3126 and 3127, respectively.

### § 3121. General prohibition on pen register and trap and trace device use; exception

(a) IN GENERAL.—Except as provided in this section, no person may install or use a pen register or a trap and trace device without first obtaining a court order under section 3123 of this title or under the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

(b) EXCEPTION.—The prohibition of subsection (a) does not apply with respect to the use of a pen register or a trap and trace device by a provider of electronic or wire communication service—