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2. A federal warrant may be issued under Rule 41 for any of the following:
 - a. Evidence of a crime.
 - b. Contraband, fruits of crime, or other items illegally possessed.
 - c. Property designed for use, intended for use, or used in committing a crime.
 - d. A person to be arrested or a person who is unlawfully restrained.
3. Four primary federal warrants are identified in Rule 41 of the Federal Rules of Criminal Procedure:
 - a. Seizure/arrest warrant.
 - b. Search warrant.
 - c. Warrant seeking electronically stored information.
 - d. Warrant for a tracking device.
4. **Note for any warrant:** If the ERO Officer intends to arrest a subject with an arrest warrant, then the ERO Officer must remember that to serve that arrest warrant, the ERO Officer must have lawful access to the subject.
 - a. In *Peyton v. New York*, 445 U.S. 573 (1980), the Supreme Court said it was permissible to conduct a search for an individual named in an arrest warrant in his/her dwelling when there is reason to believe that he/she is inside. It is generally preferred, however, to search based on a search warrant, even when armed with an arrest warrant. Certainly, if the home is not the subject's dwelling, a search warrant would be required.
 - b. Example: If an ERO Officer knows that a subject is located in a home at 123 Maple Street, the mere fact that the ERO Officer has an arrest warrant for the subject may not justify the entry into the home because entering would constitute a search, and arrest warrants generally only authorize seizures. However, if the ERO Officer knew the home was also the subject's residence and if he were able to articulate why he had reason to believe the subject was inside, he could rely on the arrest warrant for entry into the home to arrest the subject. If the home was not the subject's residence, the ERO Officer could obtain a search warrant based on Probable Cause.
5. A federal warrant (search or arrest/seizure) consists of three parts: the actual warrant, the affidavit of probable cause, and the inventory/receipt.



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- a. The actual warrant (types):
 - 1) Search warrant – The actual warrant identifying the place to be searched, the things to be seized, and the Probable Cause that those items will be found at a particular location.
 - 2) Arrest warrant – The actual warrant identifying the person to be arrested and the Probable Cause to support the arrest.
 - 3) Warrant seeking electronically stored information – The actual warrant identifying the electronically stored information to be seized.
 - 4) Tracking device warrant – The actual warrant identifying the person or property to be tracked.
- b. The affidavit of probable cause, which is attached to the warrant.
- c. The inventory/receipt is also attached to the warrant. The inventory lists the items taken from a location searched, and the receipt is provided to a person responsible for the location from which the property was taken.
- d. See Warrant Application (AO-106) and Search and Seizure Warrant (AO-93) forms (included in Attachments)

EPO 3: Explain the process to obtain and execute a Rule 41 search warrant.

1. Obtaining a Rule 41 search warrant
 - a. The ERO Officer prepares a warrant application with an attached affidavit of probable cause.
 - b. The warrant and affidavit of probable cause is presented to the magistrate.
Note: Most U.S. attorney offices have a policy that an AUSA must review a warrant application before it can be submitted to a U.S. magistrate judge.
 - c. The ERO Officer is placed under oath and swears to the accuracy of the information contained in the application and affidavit of probable cause.

Note: The magistrate will likely have questions about the application for the ERO Officer.