



Issuing Search Warrants

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Grounds for Issuance

- Fair probability that object of search is evidence of crime:
 - Stolen or embezzled items
 - Contraband or other items unlawful to possess
 - Items used to commit or conceal crime
 - Evidence of offense or identity of person participating in offense
 - Search warrant could be for person wanted for arrest
- Fair probability that object of search is where officer wants to search

Basics

- District court judges may issue search warrants for their own districts only
 - Beware officers' territorial jurisdiction
- Front of form
 - In the matter of ???
 - Name of applicant (and any additional affiants)
 - Can anyone be applicant?

Essential Components-1

- Property to be seized (second set of lines on left, near top)
- Description varies with item
 - Marijuana vs. common property such as TV
 - Still must be sufficiently detailed so executing officer knows what to look for
- Special problem with arrest of person in another person's house
 - Give name and description of person

Essential Components-2

- Crime (third set of lines on left, near middle of column)
- Short phrase is sufficient
 - No charges yet so need not be as detailed as in arrest warrant or summons
- A.A.

Essential Components-3

- Place (three check boxes on left and one top right)
- Premises
 - Give street #, apt. #, and if rural area, physical description
 - Include outbuildings
 - If separate premises, separate warrants
- Person
 - Different from person to be seized
- Vehicles
 - If known, include them and describe them
- Other property

Essential Components-4

- Statement of facts (multiple lines on right)
- Separate sheets, please!
- Additional affidavit block
 - For multiple affiants
- Additional testimony block
 - Can be for information officer does not want known yet
- Everything you hear must be attached

How to Write Good

- Require that officer act like a
 - Reporter (who, what, when, etc.), or
 - Lawyer (lay a foundation for statements)
- Bad
 - The chicken crossed the road to buy cocaine
- Good
 - I saw the chicken cross the road and buy a white substance that appeared to me to be cocaine based on my training and experience

Drafting Tips-1

1. Write chronologically
2. Write in first person
3. Use active voice
4. Use separate sheets
5. Use concrete words
6. Avoid abbreviations
7. Use single-fact sentences

Drafting Tips-2

8. Give basis of information
 - Personal observations
 - Reliable hearsay
9. Show reliability of person providing information, particularly confidential informants
10. Include corroboration by officer

Issuance

- Officer signs under oath
- Issuing official signs
- Three copies
- Don't revise! Reissue!
- If not served within 48 hours, officer returns it unexecuted

Statements of Probable Cause

1. The currency exchange

- Insufficient
- Insufficient detail about information from informants
- Insufficient information to believe currency at location to be searched
- Writing in “third person” muddies information

Statements of Probable Cause

3. Cocaine in the house

- Sufficient
- Reliability of informant shown
- Recent information
- More corroboration by officer would help

Statements of Probable Cause

5. The purloined microscopes

- Insufficient
- Bare bones information
- No showing as to basis of informant's knowledge
- No showing as to reliability of informant
- No corroboration by officer

Statements of Probable Cause

8. Controlled buy

- Sufficient
- Details verified by officer
- More on reliability of informant would help

Statements of Probable Cause

9. Citizen report

- Sufficient
- Named informant
- Some corroboration by officer
- Timely and therefore reasonably inferable that gun and proceeds still at suspect's dwelling

I am before you seeking a warrant . . .

- My name is Bob Farb, Miami Vice Officer (but today I'm on assignment in Wilmington)
- I need a search warrant NOW!
- For Charlie Crook's apt.
- He stole a bunch of stuff from Arnold Heart's house
- That should be all you need to issue my warrant



What Else Do You Want to Know?

