

Maryland

# SEARCH WARRANT GUIDE

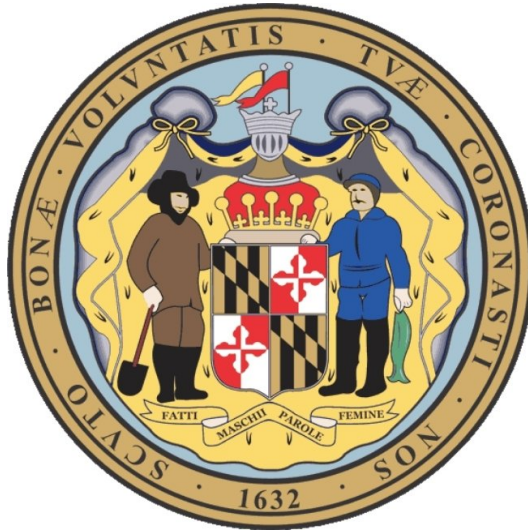
ANTHONY BANDIERO, ESQ.

*Fourth Amendment*  
*the people to be secure in*  
*houses, papers, and effects, against*  
*unreasonable searches and seizures, shall not*  
*be*  
*and no Warrants*

# Maryland Search Warrant Guide

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A REFERENCE FOR LAW ENFORCEMENT



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Blue to Gold Law Enforcement Training, LLC  
SPOKANE, WASHINGTON

## **Maryland Search Warrant Guide**

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— Anthony Bandiero

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## PART I

### Common Search Warrant Questions

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#### Application Procedure

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1) Who may apply?	No express provision
2) Who has the authority to issue?	A circuit or district court judge (§ 1-203(a))
3) Is an affidavit necessary?	Yes (§ 1-203(a))
4) Can sworn oral testimony replace an affidavit?	No express provision
5) Are there special provisions for obtaining a warrant by telephone?	Yes, may be by fax or secure e-mail or telephone or video (§ 1-203(a))
6) What property can be seized?	Anything subject to seizure under the criminal laws of the state (§ 1-203(a))
7) Contents of application	
a) Who or what is to be searched?	Yes (§ 1-203(a))
b) State the items being sought?	Yes (§ 1-203(a))
c) State the basis for probable cause?	Yes (§ 1-203(a))
d) Are there additional	Affidavit (§ 1-203(a))

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requirements?

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**The Search Warrant**

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1) Does it require a standard format?	No
2) Required contents	<ul style="list-style-type: none"><li>—Person/place to be searched</li><li>—Grounds for such search</li><li>—Name of applicant</li><li>—Date of issuance</li></ul> <p>(§ 1-203(a); Md. R. Court, Crim. Causes 4-601(b))</p> <p>Note: issuing judge must retain a copy of the warrant, application, and all supporting affidavits</p>

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**Execution of Search Warrant**

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1) How soon must search warrant be executed?	Within 15 calendar days from date of issuance (§ 1-203(a))
2) Who may execute?	Any duly constituted police officer, the state fire marshal, or the fire marshal's full-time investigative and inspection assistant (§ 1-203(a)); sheriffs and deputy sheriffs in Prince George's County (Cts. & Jud. Pro. § 2-330(h)(1)(ii))
3) Where is the search warrant applicable?	Within the territorial jurisdiction of issuing judge (§ 1-203(a))
4) When may warrant be	

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executed?	
a) Is execution limited during daytime?	No express provision
b) Is execution limited during nighttime?	No express provision
5) Is forced or unannounced entry allowed under the warrant?	No express provision
6) Are there limitations or specific rules regarding the search?	No express provision
7) Is leaving documentation at the scene of the search mandatory?	<p>—A copy of the inventory of all property seized</p> <p>—A copy of the warrant, application, and supporting affidavit</p> <p>—A copy of the return</p> <p>(Md. R. Court, Crim. Causes 4-601(c); § 1-203(a)(5))</p>
8) Are there safeguards against abuse of the search warrant process?	<p>—False statements made to police officers or</p> <p>—False statements to officials or agencies of state</p> <p>Anyone who makes a false statement, knowing it to be false and with the intent to deceive, to a police officer or public official</p> <p>Imprisonment of up to 6</p>



months and/or fine of up to \$500

(Md. Crim. L. § 9-501)

Except for disclosures required for execution, a person who discloses before its execution that warrant has been applied for or issued or after execution discloses its contents may be prosecuted for criminal contempt (Md. R. Court, Crim. Causes 4-601(h))

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### Return and Records Procedure

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1) When must search warrant be returned?

Within 10 days of date of execution or within time specified in the warrant, whichever is shorter (Md. R. Court, Crim. Causes 4-601(f))

Note: Unexecuted warrants returned within 15 days to issuing judge

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2) To which authority or jurisdiction must the warrant be returned?

To the issuing judge or another judge of the same circuit or district (Md. R. Court, Crim. Causes 4-601(f))

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3) Documentation when property seized

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a) Is a detailed inventory required?

Yes (Md. R. Court, Crim. Causes 4-601(c))

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b) Must the inventory be filed with the court?

Yes (Md. R. Court, Crim. Causes 4-601(d); § 1-

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## PART II

### MD Code, Criminal Procedure, § 1-203 Search warrants

#### **“No-knock search warrant” defined; grounds and application for search warrant**

(a)(1) In this subsection, “no-knock search warrant” means a search warrant that authorizes the executing law enforcement officer to enter a building, apartment, premises, place, or thing to be searched without giving notice of the officer’s authority or purpose.

(2) A circuit court judge or District Court judge may issue forthwith a search warrant whenever it is made to appear to the judge, by application as described in paragraph (3) of this subsection, that there is probable cause to believe that:

- (i) a misdemeanor or felony is being committed by a person or in a building, apartment, premises, place, or thing within the territorial jurisdiction of the judge; or

- (ii) property subject to seizure under the criminal laws of the State is on the person or in or on the building, apartment, premises, place, or thing.

(3)(i) An application for a search warrant shall be:

- 1. in writing;

2. signed, dated, and sworn to by the applicant; and
  3. accompanied by an affidavit that:
    - A. sets forth the basis for probable cause as described in paragraph (1) of this subsection; and
    - B. contains facts within the personal knowledge of the affiant that there is probable cause.
- (ii) An application for a search warrant may be submitted to a judge:
1. by in-person delivery of the application, the affidavit, and a proposed search warrant;
  2. by secure fax, if a complete and printable image of the application, the affidavit, and a proposed search warrant are submitted; or
  3. by secure electronic mail, if a complete and printable image of the application, the affidavit, and a proposed search warrant are submitted.
- (iii) The applicant and the judge may converse about the search warrant application:
1. in person;
  2. via telephone; or
  3. via video.
- (iv) The judge may issue the search warrant:
1. by signing the search warrant, indicating the date and time of issuance on the search warrant, and

physically delivering the signed and dated search warrant, the application, and the affidavit to the applicant;

2. by signing the search warrant, writing the date and time of issuance on the search warrant, and sending complete and printable images of the signed and dated search warrant, the application, and the affidavit to the applicant by secure fax; or

3. by signing the search warrant, either electronically or in writing, indicating the date and time of issuance on the search warrant, and sending complete and printable images of the signed and dated search warrant, the application, and the affidavit to the applicant by secure electronic mail.

(v) The judge shall file a copy of the signed and dated search warrant, the application, and the affidavit with the court.

(vi) 1. If approved in writing by a police supervisor and the State's Attorney, an application for a search warrant may contain a request that the search warrant be a no-knock search warrant, on the ground that there is reasonable suspicion to believe that, without the authorization the life or safety of the executing officer or another person may be endangered.

2. An application for a no-knock search warrant under this subparagraph shall contain:

A. a description of the evidence in support of the application;

B. an explanation of the investigative activities that have been undertaken and the information that has been gathered to support the request for a no-knock search warrant;

C. an explanation of why the affiant is unable to detain the suspect or search the premises using other, less invasive methods;

D. acknowledgment that any police officers who will execute the search warrant have successfully completed the same training in breach and call-out entry procedures as SWAT team members;

E. a statement as to whether the search warrant can effectively be executed during daylight hours and, if not, what facts or circumstances preclude effective execution in daylight hours; and

F. a list of any additional occupants of the premises by age and gender, as well as an indication as to whether any individuals with cognitive or physical disabilities or pets reside at the premises, if known.

3. A no-knock search warrant shall be executed between 8:00 a.m. and 7:00 p.m., absent exigent circumstances.

(4) The search warrant shall:

(i) be directed to a duly constituted police officer, the State Fire Marshal, or a full-time



## **PART III**

### **MD Rules, Rule 4-601 Search Warrants**

(a) Authority to Issue; Title 5 Inapplicable. A search warrant may issue only as authorized by law. Title 5 of these Rules does not apply to the issuance of a search warrant.

(b) Submission of Application.

(1) Method of Submission. An applicant may submit an application for a search warrant by (A) delivery of three copies of (i) the application, (ii) a supporting affidavit, and (iii) a proposed search warrant in person or by secure facsimile; or (B) transmission of those documents to the judge by secure and reliable electronic mail that permits the judge to print the complete text of the documents. If the documents are transmitted electronically the proposed warrant shall be sent in an electronic text format specified by the State Court Administrator, and the judge shall print and retain a copy of the documents.

(2) Request for Sealing Affidavit. The application may include a request that the affidavit be sealed pursuant to Code, Criminal Procedure Article, § 1-203(e).

(3) Discussion about Application. Upon receipt of an application, the judge may discuss it with the applicant in person or by telephone, video conferencing, or other electronic means.

(c) Issuance of Search Warrant. The judge may issue a search warrant by (1) signing the warrant and recording on it the date and time of issuance, and (2) delivering the signed and dated warrant, along with a copy of the application and affidavit, to the applicant in person, by secure facsimile, or by transmission of those documents by secure and reliable electronic mail that permits the applicant to print the complete text of the documents.

(d) Retention of Application and Affidavits--Secrecy.

(1) A search warrant shall be issued with all practicable secrecy. The judge may seal a supporting affidavit for up to 30 days, subject to one 30-day extension as provided in Code, Criminal Procedure Article, § 1-203(e).

(2) A judge who issues a search warrant shall retain a copy of the application, affidavit, and warrant until the warrant is returned, executed or unexecuted, pursuant to section (g) or (h) of this Rule. Upon return of an executed warrant, the judge shall comply with section (g). If the signed and dated warrant was transmitted to the applicant by electronic mail, the printed copy retained by the judge, upon its filing pursuant to section (g), shall be the original. A warrant, application, or affidavit shall not be filed with the clerk prior to its return to the judge pursuant to section (g) or (h).

**(e) Executed Warrant--Inventory; Copy.**

(1) An officer shall make, verify, and sign a written inventory of all property seized under a search warrant, including a general description of electronically stored information received pursuant to the warrant in electronic, disk, paper, or other form.

(2) At the time the warrant is executed, the officer executing the warrant shall leave with the person from whom the property was taken or, if that person is not present, an authorized occupant of the premises from which the property was taken (A) a copy of the search warrant and application, (B) a copy of the supporting affidavit, except an affidavit that has been sealed pursuant to section (d) of this Rule, and (C) a copy of the inventory.

(3) Subject to subsections (e)(2) and (e)(4) of this Rule, if the person from whom the property was taken and an authorized occupant of the premises from which the property was taken are not present at the time the search warrant is executed, the copies shall be left in a conspicuous place at the premises from which the property was taken.

(4) If a copy of the supporting affidavit was not left because it was under seal, a copy shall be delivered to the person from whom the property was taken or, if that person is not present, to an authorized occupant of the premises from which the property was taken within 15 days after the affidavit is unsealed.

**(f) Executed Warrant--Return.**



(1) An officer who executes a search warrant shall prepare a detailed search warrant return, which shall include the date and time of the execution of the warrant and a verified inventory.

(2) The officer shall deliver the return to the judge who issued the warrant or, if that judge is not immediately available, to another judge of the same circuit, if the warrant was issued by a circuit court judge, or of the same district, if the warrant was issued by a District Court judge, as promptly as possible and, in any event, (A) within ten days after the warrant was executed, or (B) within any earlier time set forth in the warrant. The return shall be accompanied by the executed warrant and the verified inventory.

(3) Delivery of the return, warrant, and verified inventory may be in person, by secure facsimile, or by secure electronic mail that permits the judge to print the complete text of the documents.

(4) If the return is made to a judge other than the judge who issued the warrant, the officer shall notify the issuing judge of when and to whom the return was made, unless it is impracticable to give such notice.

(5) The officer shall deliver a copy of the return to an authorized occupant of the premises searched or, if such a person is not present, leave a copy of the return at the premises searched.

(g) Executed Warrant--Filing With Clerk. The judge to whom an executed search warrant is returned shall attach to the warrant the return, the verified inventory, and all other papers in connection with



### ABOUT THE AUTHOR

#### **Anthony Bandiero, JD, ALM**

Anthony is an attorney and retired law enforcement officer with experience as both a municipal police officer and sergeant with a state police agency. Anthony has studied constitutional law for over twenty years and has trained countless police officers around the nation in search and seizure.

View his bio at [BlueToGold.com/about](https://BlueToGold.com/about)



# Maryland SEARCH WARRANT GUIDE

This booklet is a straightforward and essential resource for anyone involved in writing or executing search warrants in Maryland. Consolidating relevant statutes and procedural rules and offering clear answers to common questions and addressing real-world challenges.

Designed to be a quick reference, this booklet covers key topics such as warrant application, execution, and return procedures, as well as critical provisions from the Maryland Code and Maryland Rules of Criminal Procedure. Whether clarifying authority to issue warrants, addressing defects, or ensuring compliance with execution and return requirements, this guide provides the tools you need for accuracy and legal compliance.



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