

Oregon

SEARCH WARRANT GUIDE

ANTHONY BANDIERO, ESQ.

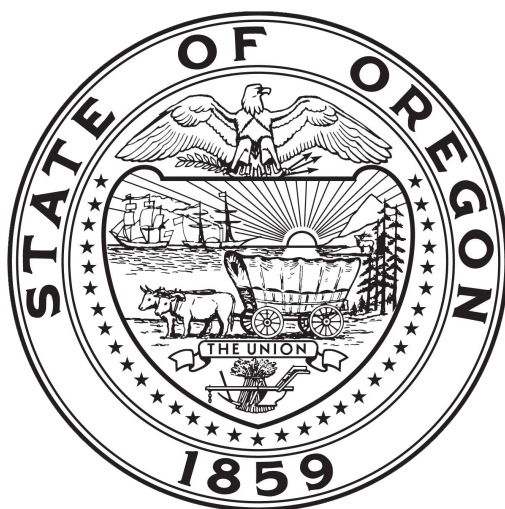
*4th Amendment
the people to be secure in
houses, papers, and effects against
searches and seizures, shall not
and no Warrants*



Blue to Gold

Oregon Search Warrant Guide

A REFERENCE FOR LAW ENFORCEMENT



Anthony Bandiero, JD, ALM

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SPOKANE, WASHINGTON

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— Anthony Bandiero

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PART I

Common Search Warrant Questions

Application Procedure

1) Who may apply?	A district attorney or sheriff, municipal policeman, state policeman, district attorney's office investigator if certified, Department of Justice investigator, or special agent employed by Governor (§§ 133.525(2), 133.545(5))
2) Who has the authority to issue?	A judge of the supreme court, court of appeals, or district court, or circuit judge or justice of the peace, or municipal judge (§§ 133.525(1), 133.545(1) to (4))
3) Is an affidavit necessary?	Yes (§ 133.545(6))
4) Can sworn oral testimony replace an affidavit?	Yes. If recorded by the judge (§ 133.545(7))
5) Are there special provisions for obtaining a warrant by telephone?	Yes, If impracticable for applicant to appear in person. May be sent to court by fax or any electronic transmission that delivers a complete printable image. If by telephone, statement must be

	recorded, transcribed, certified by judge. If affiant swears to affidavit by telephone, it may be signed electronically. Judge may orally authorize police officer or district attorney to sign his signature on the duplicate original warrant (§§ 133.545(8), 133.555(3))
6) What property can be seized?	<ul style="list-style-type: none">—Evidence or information of a crime—Contraband, fruits of crime, or things criminally possessed—Used or intended to be used to commit or conceal a crime—Any person for whose arrest there is probable cause or who is being unlawfully held in concealment (§ 133.535) Property outside of judicial district where: <ul style="list-style-type: none">—Criminal mistreatment in the first degree—Identity theft—Aggravated identity theft—Computer crime—Fraudulent use of a credit card—Forgery

- Criminal possession of a forged instrument
 - Theft
 - Aggravated theft
 - Financial records
- (§ 133.545(4))

7) Contents of application

a) Who or what is to be searched?	Yes. Must be found in the affidavits (§ 133.545(6))
b) State the items being sought?	Yes. Must be found in the affidavits (§ 133.545(6))
c) State the basis for probable cause?	Must state facts tending to show that the allegations made are true (§ 133.545(6))
d) Are there additional requirements?	Affidavits, proposed warrant in conformance with § 133.565 (§ 133.545(6)) Note: requirement when relying upon hearsay that there be facts establishing informant's reliability

The Search Warrant

1) Does it require a standard format?	No
2) Required contents	—Date of issuance —Direction to executing officer —Identity of the issuing judge —Person/place to be searched

—Things to be seized

—Period of time after execution within which warrant is to be returned

For telephone warrants only:

—Time of issuance

(§§ 133.555(3), 133.565)

Execution of Search Warrant

1) How soon must search warrant be executed?

Within 5 days from date of issuance (§ 133.565(2)(d))

Note: issuing judge may authorize a longer period not to exceed 10 days from date of issuance (§ 133.565(3))

2) Who may execute?

A sheriff, municipal policeman, state policeman, Department of Justice investigator (§§ 133.575(1), 133.525(2)); racing commission enforcement agents (§ 462.277); lottery commission enforcement agents (§ 461.110); liquor commission enforcement agents (§ 471.775)

Executing officers may be accompanied by other persons reasonably necessary for successful execution, including: civil enforcement officers; victim services providers; law enforcement agency



PART II

O.R.S. § 133.525

Definitions

As used in ORS 133.525 to 133.703, unless the context requires otherwise:

(1) “Interrelated conduct” means engaging in at least two incidents of activity that:

(a) Have the same or similar intents, results, accomplices, victims or methods of commission, or are otherwise interrelated by distinguishing characteristics, including a connection to the same enterprise;

(b) Are not isolated incidents; and

(c) Violate one or more provisions of ORS 475.005 to 475.285, 475.752 to 475.980, 475A.210 to 475A.722, 475C.005 to 475C.525 or 475C.770 to 475C.919.

(2) “Judge” means any judge of the circuit court, the Court of Appeals, the Supreme Court, any justice of the peace or municipal judge authorized to exercise the powers and perform the duties of a justice of the peace.

(3) “Police officer” means:

- (a) A member of the Oregon State Police;
- (b) A sheriff or municipal police officer, a police officer commissioned by a university under ORS 352.121 or 353.125 or an authorized tribal police officer as defined in ORS 181A.940;
- (c) An investigator of a district attorney’s office if the investigator is or has been certified as a peace officer in this or any other state;
- (d) An investigator of the Criminal Justice Division of the Department of Justice;
- (e) A humane special agent as defined in ORS 181A.345; or
- (f) A regulatory specialist exercising authority described in ORS 471.775 (2).

O.R.S. § 133.535

Property and persons subject to search and seizure

The following are subject to search and seizure under ORS 133.525 to 133.703:

- (1) Evidence of or information concerning the commission of a criminal offense;
- (2) Contraband, the fruits of crime, or things otherwise criminally possessed;
- (3) Property that has been used, or is possessed for the purpose of being used, to commit or conceal the commission of an offense; and
- (4) A person for whose arrest there is probable cause or who is unlawfully held in concealment.

O.R.S. § 133.537

Safeguarding and protecting property seized

(1) In all cases of seizure, an agency that seizes property shall take reasonable steps to safeguard and protect the things seized against loss, damage and deterioration.

(2) Notwithstanding subsection (1) of this section, an agency that seizes property is not liable for loss, damage or deterioration resulting from any reasonable actions taken to secure or develop evidence.



ABOUT THE AUTHOR

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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

Oregon
SEARCH WARRANT
GUIDE

This booklet is a straightforward and essential resource for anyone involved in writing or executing search warrants in Oregon. 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 Oregon Code and Oregon 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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