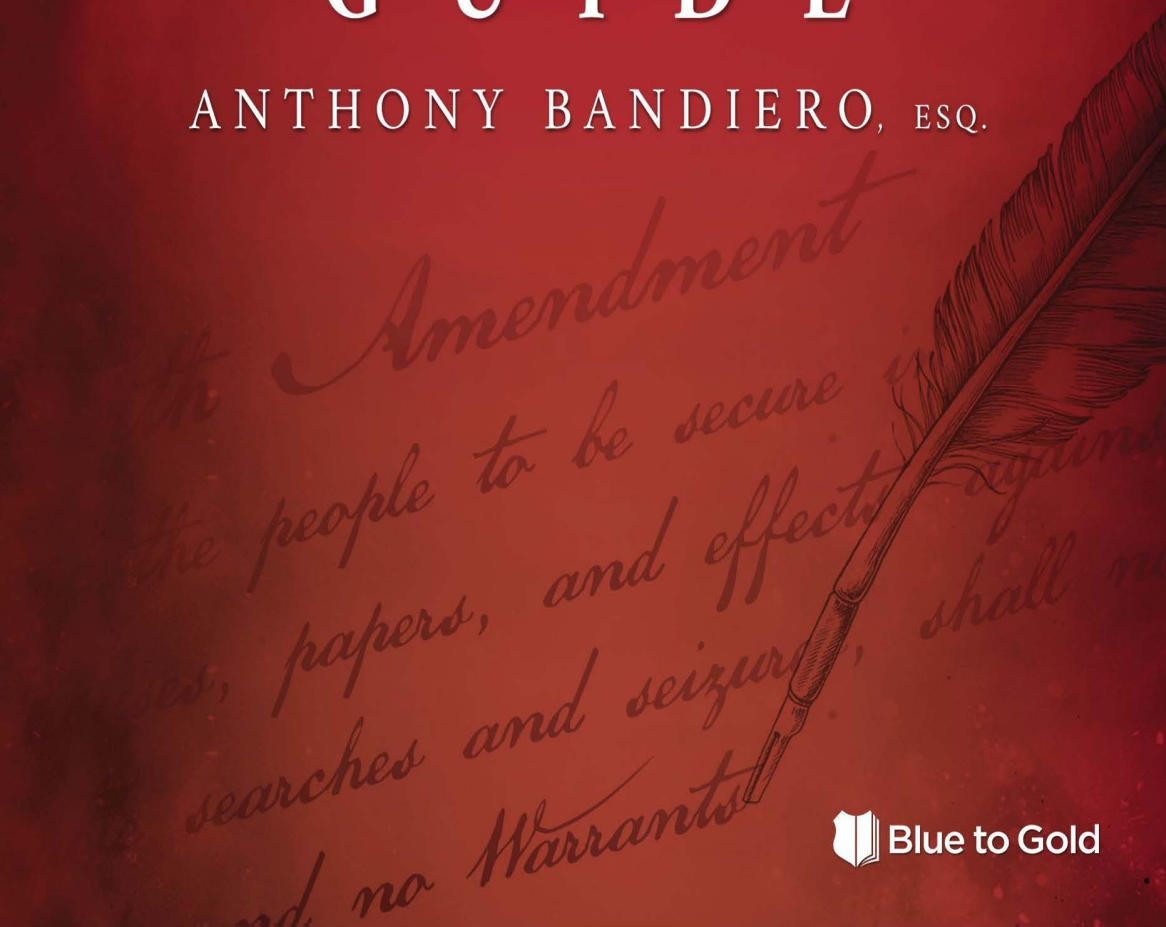


Oklahoma

# SEARCH WARRANT GUIDE

ANTHONY BANDIERO, ESQ.



Blue to Gold

# Oklahoma Search Warrant Guide

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A REFERENCE FOR LAW ENFORCEMENT



**Anthony Bandiero, JD, ALM**

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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 magistrate (§ 1221(A)); a municipal criminal court of record (tit. 11, § 28-121)
3) Is an affidavit necessary?	Yes (§ 1223)
4) Can sworn oral testimony replace an affidavit?	May supplement affidavit if recorded and transcribed (§ 1224.1)
5) Are there special provisions for obtaining a warrant by telephone?	Yes. Oral statement must be recorded electronically and transcribed by an official court reporter and magistrate must sign the transcript (§ 1223.1); e-mailed affidavit must contain notarized acknowledgment or be sworn to by phone (§ 1225(B)(2))  Proposed search warrant affidavit may be communicated to magistrate by telephone or electronic communication or any similar electronic communication which delivers

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	a complete printable image of the warrant or affidavit (§ 1225(B))
6) What property can be seized?	<ul style="list-style-type: none"><li>—Items and information that can be analyzed, seen, weighed, measured, felt or touched or that are in any other manner perceptible to the senses (§ 1221(B))</li><li>—Stolen or embezzled</li><li>—Used in a felony</li><li>—Possessed with intent to commit a public offense or delivered to another in order to prevent its discovery</li><li>—Evidence of a crime or participation in a crime</li><li>— Property or items intended to be used to commit a crime in the future located at a particular place</li><li>— Property authorized by Security of Communications Act</li></ul> (§ 1222)
7) Contents of application	
a) Who or what is to be searched?	Yes. Must be described in the affidavit (§ 1223); Warrant may issue to allow officers to enter, search for, and seize person for whom arrest



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	warrant has been issued (§ 1222(B))
b) State the items being sought?	Yes. Must be described in the affidavit (§ 1223)
c) State the basis for probable cause?	Yes. Must be described in the affidavit (§ 1223)
d) Are there additional requirements?	Affidavit (§ 1223)  When warrant is for property related to future crimes, magistrate shall include direction making execution contingent upon event evidencing probable cause (§ 1222)

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### The Search Warrant

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1) Does it require a standard format?	Yes (§ 1226)  Note: Warrant must substantially conform with the form
2) Required contents	—Signature of magistrate —County of issuance —Direction to executing officer —Property sought —Person/place to be searched —Recitation of probable cause —Names of affiants

- Date of issuing
  - Name of issuing court  
(§§ 1221, 1225, 1226)
  - For telephone warrants only:
    - Time of issuance  
(§ 1225(B))
- 

### Execution of Search Warrant

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1) How soon must search warrant be executed?	Within 10 days, but forensic, scientific or digital analysis of items in law enforcement possession shall take place within a reasonable period of time (§ 1231)
2) Who may execute?	Any of the officers mentioned in the direction (§ 1227); Correctional peace officers (tit. 57, § 510(3)); officers of the Oklahoma Medical Marijuana Authority (tit. 63 § 427.4(F)(2))
3) Where is the search warrant applicable?	Within the judicial district in which the issuing magistrate presides or outside the judicial district if there was probable cause to believe the property was likely to be moved outside the district before the warrant was executed (§ 1225(C))
4) When may warrant be executed?	
a) Is execution limited during	Yes, between the hours of

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## PART II

### **Okl.St.Ann. § 1221 “Search warrant” defined**

A. A search warrant is an order in writing, in the name of the state, signed by a magistrate, directed to a peace officer, commanding the peace officer to search for personal property or to search for a person for whom an arrest warrant has been issued and bring the property or person before the magistrate.

B. For purposes of Sections 1221 through 1241 of this title:

1. “Arrest warrant” means an outstanding arrest warrant for any felony offense or a misdemeanor offense of domestic assault and battery as provided in subsection C of Section 644 of Title 21 of the Oklahoma Statutes. The term shall include arrest and bench warrants, but shall not include warrants issued solely for failure to pay court financial obligations, other than restitution, as defined in subsection A of Section 983 of this title; and
2. “Personal property” or “property” means items and information that can be analyzed, seen, weighed, measured, felt or touched or that are in any other manner perceptible to the senses.

**Okl.St.Ann. § 1222**  
**Grounds for issuance of search warrant--Seizure of**  
**property**

A. A search warrant may be issued and property seized upon any of the following grounds:

First: When the property was stolen or embezzled, in which case it may be taken on the warrant, from any house or other place in which it is concealed, or from the possession of the person by whom it was stolen or embezzled, or of any other person in whose possession it may be.

Second: When it was used as the means of committing a felony, in which case it may be taken on the warrant from any house or other place in which it is concealed, or from the possession of the person by whom it was used in the commission of the offense, or of any other person in whose possession it may be.

Third: When it is in the possession of any person, with the intent to use it as the means of committing a public offense, or in the possession of another to whom the person may have delivered it for the purpose of concealing it or preventing its being discovered, in which case it may be taken on the warrant from such person, or from a house or other place occupied by the person, or under the person's control, or from the possession of the person to whom the person may have so delivered it.

Fourth: When the property constitutes evidence that an offense was committed or that a particular person participated in the commission of an offense.

Fifth: When there is probable cause to believe that, at a future time, the property or items sought which are intended to be used to commit a public offense, will be located at a particular place. Under such circumstances, the magistrate shall insert a direction in the search warrant making execution of the warrant contingent upon the happening of an event which evidences probable cause that the item to be seized is in the place to be searched.

Sixth: As authorized by any provision of the Security of Communications Act.<sup>1</sup>

B. A search warrant may be issued to allow peace officers to enter, search for, and seize a person for whom an arrest warrant has been issued.

**Okl.St.Ann. § 1223**  
**Probable cause must be shown**

A search warrant shall not be issued except upon probable cause, supported by affidavit, naming or describing the person, and particularly describing the property and the place to be searched.



## 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](http://BlueToGold.com/about)

# Oklahoma **SEARCH WARRANT** GUIDE

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