

Florida

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
no Warrants

Florida Search Warrant Guide

A REFERENCE FOR LAW ENFORCEMENT



Anthony Bandiero, JD, ALM

Blue to Gold Law Enforcement Training, LLC
SPOKANE, WASHINGTON

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— Anthony Bandiero

TABLE OF CONTENTS



PART I
Common Search Warrant Questions

Application Procedure 1

The Search Warrant 2

Execution of Search Warrant 3

Return and Records Procedure 6



PART II
West’s Florida Statutes Related to Arrest and Search Warrants

933.01. Persons competent to issue search warrant..... 13

933.02. Grounds for issuance of search warrant..... 14

933.03. Destruction of obscene prints and literature..... 16

933.04. Affidavits..... 17

933.05. Issuance in blank prohibited..... 18

933.06. Sworn application required before issuance..... 19

933.07. Issuance of search warrants..... 21

933.08. Search warrants to be served by officers 22

933.09. Officer may break open door, etc., to execute warrant..... 23

933.10. Execution of search warrant during day or night..... 24

933.101. Service on Sunday..... 25

933.11. Duplicate to be delivered when warrant served..... 26

933.12. Return and inventory..... 27

933.13. Copy of inventory shall be delivered upon request..... 28

933.14. Return of property taken under search warrant..... 29

933.15. Obstruction of service or execution of search warrant..... 31

933.16. Maliciously procuring search warrant to be issued..... 32

933.17. Exceeding authority in executing search warrant..... 33

933.18. When warrant may be issued for search of private dwelling..... 34

933.19. Searches and seizures of vehicles carrying contraband or
illegal intoxicating liquors or
merchandise..... 36

933.20. “Inspection warrant”; definition..... 38

933.21. Requirements for issuance of inspection warrant..... 39

933.22. When cause deemed to exist..... 40

933.23. Examination of applicant for inspection warrant..... 41

933.24. Issuance of inspection warrant; contents..... 42

933.25. Duration of inspection warrant..... 43

933.26. Conduct of inspection; notice..... 44

933.27. Refusal to permit authorized inspection..... 45

933.28. Maliciously causing issuance of inspection warrant..... 46

933.29. Powers of state agency not restricted..... 47

933.30. Inspector; restrictions on giving information, testifying.... 48

933.40. Agriculture warrants..... 49



PART I

Common Search Warrant Questions

Application Procedure

1) Who may apply?	Some person (§ 933.06)
2) Who has the authority to issue?	Any judge, including the committing judge of the trial court, having jurisdiction where the place, vehicle, or thing to be searched may be (§ 933.01)
3) Is an affidavit necessary?	Yes (§§ 933.02, 933.04)
4) Can sworn oral testimony replace an affidavit?	May be used to supplement applicant's statement if recorded in writing. (§ 933.06)
5) Are there special provisions for obtaining a warrant by telephone?	No
6) What property can be seized?	<ul style="list-style-type: none">—Stolen or embezzled—Used in a crime—Used in connection with gambling—Property used in violation of obscenity laws (see § 847.011)—Evidence of a felony or its

commission

—Possessed in violation of liquor laws, fish and game laws, food and drug laws, or citrus canker quarantine laws

—Evidence of violations of cruelty to animal laws

—Any paper or document used in any crime

(§ 933.02)

7) Contents of application

a) Who or what is to be searched?

Yes (§§ 933.04, 933.05)

b) State the items being sought?

Yes (§§ 933.04, 933.05)

c) State the basis for probable cause?

Yes (§§ 933.05, 933.06)

d) Are there additional requirements?

Affidavit or other testimony (§§ 933.05, 933.06)

The Search Warrant

1) Does it require a standard format?

No

2) Required contents

—Person/place to be searched

—Property sought

—Signature of issuing judicial officer

—Name of issuing court

(§§ 933.05, 933.07)

Note: No search warrant shall be issued in blank (§ 933.05)

Execution of Search Warrant

1) How soon must search warrant be executed?	No express provision
2) Who may execute?	<ul style="list-style-type: none">—Any sheriff or his deputies—Any police officer or—Any person authorized by law to execute process (§ 933.07) <p>Note: warrant may be executed only by officers mentioned therein (§ 933.08)</p> <ul style="list-style-type: none">—Division of Investigative and Forensic Services investigators (§ 626.989)
3) Where is the search warrant applicable?	Within territorial jurisdiction of issuing judicial officer (§ 933.01)
4) When may warrant be executed?	
a) Is execution limited during daytime?	<p>Yes (§ 933.10)</p> <p>Note: special express authorization by judge needed for execution on Sunday (§ 933.101)</p>
b) Is execution limited during nighttime?	Yes. If authorized in the warrant as the exigencies of

	the occasion may demand or require (§ 933.10)
5) Is forced or unannounced entry allowed under the warrant?	If, after notice of his authority and purpose, executing officer is refused admittance (§ 933.09)
6) Are there limitations or specific rules regarding the search?	<p>No warrant shall issue to search a private dwelling unless:</p> <ul style="list-style-type: none">—Used for unlawful sale, possession, manufacture of liquor—Contains stolen or embezzled property—Used to carry on gambling—Used to perpetrate frauds and swindles—Used to violate drug abuse and narcotics laws—Contains weapon, instrumentality, or evidence of a felony—Being used in part as a place of business—Used for unlawful sale, possession, purchase of wildlife—Animal cruelty laws being violated therein—Child abuse offense committed therein



PART II

West's F.S.A. § 933.01

Persons competent to issue search warrant

A search warrant authorized by law may be issued by any judge, including the committing judge of the trial court having jurisdiction where the place, vehicle, or thing to be searched may be.

West's F.S.A. § 933.02
Grounds for issuance of search warrant

Upon proper affidavits being made, a search warrant may be issued under the provisions of this chapter upon any of the following grounds:

- (1) When the property shall have been stolen or embezzled in violation of law;
- (2) When any property shall have been used:
 - (a) As a means to commit any crime;
 - (b) In connection with gambling, gambling implements and appliances; or
 - (c) In violation of s. 847.011 or other laws in reference to obscene prints and literature;
- (3) When any property constitutes evidence relevant to proving that a felony has been committed;
- (4) When any property is being held or possessed:
 - (a) In violation of any of the laws prohibiting the manufacture, sale, and transportation of intoxicating liquors;
 - (b) In violation of the fish and game laws;
 - (c) In violation of the laws relative to food and drug; or

(d) In violation of the laws relative to citrus disease pursuant to s. 581.184; or

(5) When the laws in relation to cruelty to animals, as provided in chapter 828, have been or are violated in any particular building or place.

This section also applies to any papers or documents used as a means of or in aid of the commission of any offense against the laws of the state.

West's F.S.A. § 933.03
Destruction of obscene prints and literature

All obscene prints and literature, or other things mentioned in s. 847.011 found by an officer in executing a search warrant, or produced or brought into court, shall be safely kept so long as is necessary for the purpose of being used as evidence in any case, and as soon as may be afterwards, shall be destroyed by order of the court before whom the case is brought.



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



Florida SEARCH WARRANT GUIDE

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