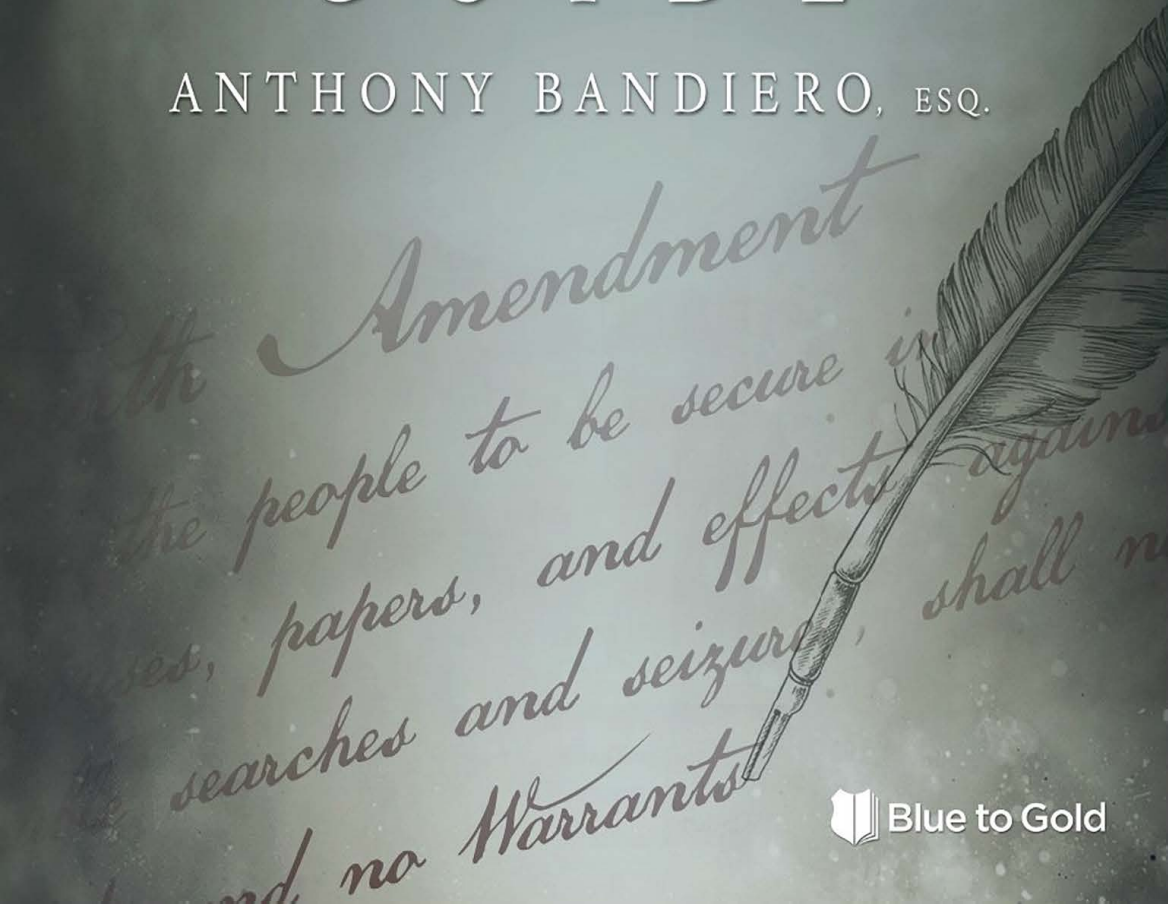


Pennsylvania

SEARCH WARRANT GUIDE

ANTHONY BANDIERO, ESQ.



Blue to Gold

Pennsylvania Search Warrant Guide

A REFERENCE FOR LAW ENFORCEMENT



Anthony Bandiero, JD, ALM

Blue to Gold Law Enforcement Training, LLC
SPOKANE, WASHINGTON

Pennsylvania Search Warrant Guide

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— Anthony Bandiero

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PART I

Common Search Warrant Questions

Application Procedure

1) Who may apply?	District attorney may require applicant to have approval of Commonwealth attorney prior to filing (Pa. R. Crim. P. 202); Special Prosecutor in mass transit law violation cases (74 Pa.C.S.A. § 1786(a)(2))
2) Who has the authority to issue?	Any issuing authority except where supporting affidavit to be sealed, in which case only common pleas court judges and appellate court judges and justices (Pa. R. Crim. P. 200; Pa. R. Crim. P. 211(b)(1))
3) Is an affidavit necessary?	Yes (Pa. R. Crim. P. 203(b)) Special rule for sealing of affidavit upon good cause shown by attorney for the Commonwealth (Pa. R. Crim. P. 211)
4) Can sworn oral testimony replace an affidavit?	Not permitted (Pa. R. Crim. P. 203(a))

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5) Are there special provisions for obtaining a warrant by telephone?	Application may be submitted using advanced communication technology (Pa. R. Crim. P. 203)
6) What property can be seized?	<ul style="list-style-type: none">—Contraband, fruits of crime, things criminally possessed—Used in a crime—Evidence of a crime (Pa. R. Crim. P. 201)
7) Contents of application	
a) Who or what is to be searched?	Yes. Must be contained in the affidavit (Pa. R. Crim. P. 206)
b) State the items being sought?	Yes. Must be contained in the affidavit (Pa. R. Crim. P. 206)
c) State the basis for probable cause?	Yes. Must be contained in the affidavit (Pa. R. Crim. P. 206)
d) Are there additional requirements?	<p>Affidavit:</p> <ul style="list-style-type: none">—Name of affiant—Owner/occupant of place to be searched—Crime which has been or is being committed—Facts establishing reasonable cause for nighttime search (if applicable) (Pa. R. Crim. P. 206) <ul style="list-style-type: none">—Facts and circumstances establishing good cause for sealing affidavit (where

applicable)
(Pa. R. Crim. P. 206(8); Pa. R. Crim. P. 211(b)(2))

The Search Warrant

1) Does it require a standard format?	No
2) Required contents	<ul style="list-style-type: none">—Signature and seal of issuing authority—Date of issuance—Time of issuance—Property to be seized—Person/place to be searched—Time period within which warrant is to be executed (must not exceed 2 days from date of issuance or, when the warrant is for prospective event, only after the event has occurred)—Direction that warrant is to be served between 6:00 A.M. and 10:00 P.M. unless otherwise authorized on the warrant—Judicial officer to whom warrant is to be returned—Recitation of probable cause—Affidavit must be attached (Pa. R. Crim. P. 205)

—Certification that affidavits are sealed and length of time they will be sealed (where applicable)

(Pa. R. Crim. P. 205(8); Pa. R. Crim. P. 211(c))

Execution of Search Warrant

1) How soon must search warrant be executed?	Within the time period designated in the warrant (Pa. R. Crim. P. 205(4)) Note: must not exceed 2 days from date of issuance or, when the warrant is for prospective event, only after the event has occurred.
2) Who may execute?	A law enforcement officer (Pa. R. Crim. P. 204)
3) Where is the search warrant applicable?	Within the judicial district of issuing authority (Pa. R. Crim. P. 200)
4) When may warrant be executed?	
a) Is execution limited during daytime?	Yes, between 6:00 A.M. and 10:00 P.M. (Pa. R. Crim. P. 203(c), 205(5), 206(7))
b) Is execution limited during nighttime?	Yes. If reasonable cause is shown and the warrant expressly authorizes execution at night (Pa. R. Crim. P. 203(c), 205(5), 206(7))

§ 4704)

10) Controlled substances
forfeiture (tit. 42, § 6801)



PART II

Pa.R.Crim.P. Rule 200 Who May Issue

A search warrant may be issued by any issuing authority within the judicial district wherein is located either the person or place to be searched.

**Pa.R.Crim.P. Rule 201
Purpose of Warrant**

A search warrant may be issued to search for and to seize:

- (a) contraband, the fruits of a crime, or things otherwise criminally possessed;
- (b) property that is or has been used as the means of committing a criminal offense;
- (c) property that constitutes evidence of the commission of a criminal offense; or
- (d) a person for whom a bench or arrest warrant has been issued.

Pa.R.Crim.P. Rule 202
Approval of Search Warrant Applications by Attorney for
the Commonwealth--Local Option

A) The district attorney of any county may require that search warrant applications filed in the county have the approval of an attorney for the Commonwealth prior to filing.

(B) If the district attorney elects to proceed under paragraph (A), the district attorney shall file a certification with the court of common pleas, which certification shall specify the circumstances in which search warrant applications shall require prior approval and shall also specify the date such procedure is to become effective. The court of common pleas shall thereupon promulgate a local rule in the following form, setting forth the circumstances specified in the certification:

RULE __. APPROVAL OF SEARCH WARRANT
APPLICATIONS BY ATTORNEY FOR THE
COMMONWEALTH.

The District Attorney of _____ County having filed a certification pursuant to Pa.R.Crim.P. 202, search warrants in the following circumstances:

shall not hereafter be issued by any judicial officer unless the search warrant application has the approval of an attorney for the Commonwealth prior to filing.

(C) If an attorney for the Commonwealth disapproves a search warrant application, the attorney shall furnish to the police officer who prepared the application a written notice of the disapproval, in substantially the form set forth in Rule 507(C), and the attorney shall maintain a record of the written notice.

(D) No defendant shall have the right to relief based solely upon a violation of this rule.



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.

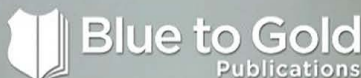
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Pennsylvania **SEARCH WARRANT** GUIDE

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