

Arizona

# 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*



Blue to Gold

# Arizona Search Warrant Guide

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**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

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#### Application Procedure

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1) Who may apply?	No express provision
2) Who has the authority to issue?	Any magistrate (§ 13-3911)
3) Is an affidavit necessary?	Yes (§ 179.045(1))
4) Can sworn oral testimony replace an affidavit?	Yes, if taped or otherwise recorded (§ 13-3914.C)
5) Are there special provisions for obtaining a warrant by telephone?	<p>Statement must be recorded and certified by magistrate and filed with the court. Magistrate may orally authorize his signature on duplicate original warrant (§§ 13-3914.C, 13-3915.D)</p> <p>Magistrate may sign on fax copy of original warrant (§ 13-3915.E)</p> <p>Electronically transmitted search warrants possible (17C A.R.S. Super. Ct. Local Prac. Rules, Maricopa County, Rule 4.10)</p>
6) What property can be	—Stolen or embezzled

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seized?	<ul style="list-style-type: none"><li>—Used in a public offense</li><li>—In possession of one with intent to use in a public offense or in possession of another for concealment</li><li>—Evidence of a public offense or participation in a public offense</li><li>—Health, safety, or welfare inspection</li><li>—Person subject to an outstanding arrest warrant (§ 13-3912)</li><li>—Property associated with drugs or proceeds of drug offenses committed for financial gain (§ 13-3413.B)</li></ul>
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### 7) Contents of application

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a) Who or what is to be searched?	Yes (§ 13-3913)
b) State the items being sought?	Yes (§ 13-3913)
c) State the basis for probable cause?	Yes (§ 13-3914.B)
d) Are there additional requirements?	Affidavit or other testimony (§ 13-3914)

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### The Search Warrant

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1) Does it require a standard	Yes (§ 13-3915.C)
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format?

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|----------------------|--|
| 2) Required contents | <ul style="list-style-type: none"><li>—Signature of issuing judicial official</li><li>—Date of issuance</li><li>—Time of issuance— telephone warrant</li><li>—Names of affiants</li><li>—Person/place to be searched</li><li>—Property sought</li><li>—Recitation of grounds for probable cause</li></ul> <p>(§§ 13-3911, 13-3915)</p> |
|----------------------|--|
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### Execution of Search Warrant

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|--|--|
| 1) How soon must search warrant be executed? | Within 5 calendar days of issuance unless extended by magistrate for no longer than 5 additional calendar days (§ 13-3918.A)   |
| 2) Who may execute?                          | Any peace officer but no other person except in aid of a peace officer (§ 13-3916.A); adult intensive probation officer (§ 13-916(D)); peace officers cross-certified from adjoining state authorized to serve warrants (§ 13-3875.01) |
| 3) Where is the search warrant applicable?   | No express provision   |
| 4) When may warrant be                       |  |
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executed?	
a) Is execution limited during daytime?	Yes. Between 6:30 A.M. and 10:00 P.M. (§ 13-3917)
b) Is execution limited during nighttime?	Yes, upon a showing of good cause therefor. Must be authorized in the warrant (§ 13-3917)
5) Is forced or unannounced entry allowed under the warrant?	<p>No-knock warrant may be authorized on a reasonable showing to issuing magistrate that execution would endanger safety of any person or would result in destruction of items sought in warrant (§ 13-3915.B)</p> <p>After giving notice of authority and purpose</p> <ul style="list-style-type: none"><li>—Executing officer receives no response within a reasonable time</li><li>—Executing officer is refused admittance</li><li>—Magistrate has authorized unannounced entry</li><li>—Reasonable officer would believe giving notice would endanger safety of any person or result in destruction of evidence</li></ul> <p>(§ 13-3916.B)</p>



## **PART II**

### **A.R.S. § 13-3911 Definition**

A search warrant is an order in writing issued in the name of the state of Arizona, signed by a magistrate, directed to a peace officer, commanding him to search for personal property, persons or items described in § 13-3912.

**A.R.S. § 13-3912**  
**Grounds for issuance**

A search warrant may be issued upon any of the following grounds:

1. When the property to be seized was stolen or embezzled.
2. When the property or things to be seized were used as a means of committing a public offense.
3. When the property or things to be seized are in the possession of a person having the intent to use them as a means of committing a public offense or in possession of another to whom he may have delivered it for the purpose of concealing it or preventing it being discovered.
4. When property or things to be seized consist of any item or constitute any evidence which tends to show that a particular public offense has been committed, or tends to show that a particular person has committed the public offense.
5. When the property is to be searched and inspected by an appropriate official in the interest of the public health, safety or welfare as part of an inspection program authorized by law.
6. When the person sought is the subject of an outstanding arrest warrant.

**A.R.S. § 13-3913**  
**Conditions precedent to issuance**

No search warrant shall be issued except on probable cause, supported by affidavit, naming or describing the person and particularly describing the property to be seized and the place to be searched.

**A.R.S. § 13-3914**  
**Examination on oath; affidavits**

A. Before issuing a warrant, the magistrate may examine on oath the person or persons seeking the warrant, and any witnesses produced, and must take his affidavit, or their affidavits, in writing and cause the affidavit to be subscribed by the party or parties making the affidavit. Before issuing the warrant, the magistrate may also examine any other sworn affidavit submitted to the magistrate that sets forth facts tending to establish probable cause for the issuance of the warrant.

B. The affidavit or affidavits must set forth the facts tending to establish the grounds of the application, or probable cause for believing the grounds exist. The person or persons seeking the warrant and the judicial officer issuing the warrant must have probable cause for believing the grounds exist.

C. In lieu of, or in addition to, a written affidavit, or affidavits, as provided in subsection A, the magistrate may take an oral statement under oath which shall be recorded on tape, wire or other comparable method. This statement may be given in person to the magistrate or by telephone, radio or other means of electronic communication. This statement is deemed to be an affidavit for the purposes of issuance of a search warrant. If a recording of the sworn statement is made, the statement shall be transcribed at the request of the court or either party, certified by the magistrate and filed with the court.



### 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)



# Arizona SEARCH WARRANT GUIDE

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