

Indiana

SEARCH WARRANT GUIDE

ANTHONY BANDIERO, ESQ.

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

Indiana Search Warrant Guide

A REFERENCE FOR LAW ENFORCEMENT



Anthony Bandiero, JD, ALM

Blue to Gold Law Enforcement Training, LLC
SPOKANE, WASHINGTON

Indiana Search Warrant Guide

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Indiana Search Warrant Guide
ISBN 979-8592919831
Last updated 12-2024

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— Anthony Bandiero

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PART I

Common Search Warrant Questions

Application Procedure

1) Who may apply?	No express provision
2) Who has the authority to issue?	A court (§ 35-33-5-1(a))
3) Is an affidavit necessary?	Yes (§ 35-33-5-2(a))
4) Can sworn oral testimony replace an affidavit?	Yes. Where testimony is of the same facts required for affidavits in a nonadversary, recorded hearing before a judge, in writing by fax, or in writing by electronic mail or other electronic transmission (§ 35-33-5-8)
5) Are there special provisions for obtaining a warrant by telephone?	Yes (§ 35-33-5-8) Warrant may also be obtained by facsimile or radio or electronic transmission (§ 35-33-5-8) Affiant and judge may use an electronic signature on affidavit and warrant (§ 35-33-

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	5-8(h))
6) What property can be seized?	<ul style="list-style-type: none">–Obtained unlawfully–Property the possession of which is unlawful–Used or intended for use in an offense or concealed to prevent discovery of an offense–Evidence of a crime or participation in a crime–Any person–Evidence needed to prevent cruelty to or neglect of children–Firearm possessed by a dangerous person (§§ 34-24-1-2(a), 35-33-5-1(a))
7) Contents of application	
a) Who or what is to be searched?	Yes (§ 35-33-5-2)
b) State the items being sought?	Yes (§ 35-33-5-2)
c) State the basis for probable cause?	Yes (§§ 35-33-5-1(a), 35-33-5-2)
d) Are there additional requirements?	Affidavit or other testimony <ul style="list-style-type: none">–Name of affiant–Date of affidavit (§§ 35-33-5-1(a), 35-33-5-2(a), 35-33-5-2(c))

Note: requirements when affidavit is based on hearsay (§ 35-33-5-2(b))

Note: prescribed affidavit form (§ 35-33-5-2(c))

The Search Warrant

1) Does it require a standard format?	Yes (§ 35-33-5-3); affidavit (§ 35-33-5-2)
2) Required contents	<ul style="list-style-type: none">–Name of issuing court–Names, departments or classifications executing officers–Direction to executing officers–Person/place to be searched–Items to be seized–Date of issuance–Time of issuance–Signature of issuing judge (§ 35-33-5-3)

Execution of Search Warrant

1) How soon must search warrant be executed?	Within 10 days after date of issuance (§ 35-33-5-7(b)(1))
2) Who may execute?	Officer to whom warrant addressed (§§ 10-11-2-21(d), 35-33-5-3); district marshal or district marshal’s deputy (§ 14-33-25-3(3))

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3) Where is the search warrant applicable?	–Court of record: anywhere within state –Not a court of record: anywhere within county of issuing court (§ 35-33-5-7(a))
4) When may warrant be executed?	
a) Is execution limited during daytime?	Yes (§ 35-33-5-7(c)(2))
b) Is execution limited during nighttime?	Yes (§ 35-33-5-7(c)(2))
5) Is forced or unannounced entry allowed under the warrant?	A law enforcement officer may break open any outer or inner door or window if not admitted following announcement of his/her authority and purpose (§ 35-33-5-7(d))
6) Are there limitations or specific rules regarding the search?	Search for dead bodies (§ 35-33-5-6); “Place” for search includes locations where property might be secreted or hidden, including buildings, persons, or vehicles (§ 35-33-5-1(b)) Warrant authorizing search, testing, or other analysis of item is deemed executed when item is seized by law enforcement officer (§ 35-33-5-7(f))



PART II

Ind. Code § 35-33-5-1

Issuance by court; probable cause; oath and affirmation; "place" defined; objects of search

(a) A court may issue warrants only upon probable cause, supported by oath or affirmation, to search any place for any of the following:

- (1) Property which is obtained unlawfully.
- (2) Property, the possession of which is unlawful.
- (3) Property used or possessed with intent to be used as the means of committing an offense or concealed to prevent an offense from being discovered.
- (4) Property constituting evidence of an offense or tending to show that a particular person committed an offense.
- (5) Any person.
- (6) Evidence necessary to enforce statutes enacted to prevent cruelty to or neglect of children.
- (7) A firearm possessed by a person who is dangerous (as defined in IC 35-47-14-1).

(b) As used in this section, "place" includes any location where property might be secreted or hidden, including buildings, persons, or vehicles.

Ind. Code § 35-33-5-2
Affidavit; descriptions; information to establish credibility
of hearsay; form

(a) Except as provided in section 8 of this chapter, and subject to the requirements of section 11 of this chapter, if applicable, no warrant for search or arrest shall be issued until there is filed with the judge an affidavit:

(1) particularly describing:

(A) the house or place to be searched and the things to be searched for; or

(B) particularly describing the person to be arrested;

(2) alleging substantially the offense in relation thereto and that the affiant believes and has good cause to believe that:

(A) the things sought are concealed there; or

(B) the person to be arrested committed the offense;
and

(3) setting forth the facts known to the affiant through personal knowledge or based on hearsay, constituting the probable cause.

(b) When based on hearsay, the affidavit must either:

(1) contain reliable information establishing the credibility of the source and of each of the declarants of the hearsay and establishing that there is a factual basis for the information furnished; or

(2) contain information that establishes that the totality of the circumstances corroborates the hearsay.

**Ind. Code § 35-33-5-3
Form**

A search warrant in substantially the following form shall be sufficient:

STATE OF INDIANA)

) SS:

COUNTY OF _____)

IN THE ____ COURT OF _____

To _____ (herein insert the name, department or classification of the law enforcement officer to whom it is addressed)

You are authorized and ordered, in the name of the State of Indiana, with the necessary and proper assistance to enter into or upon _____ (here describe the place to be searched), and there diligently search for _____ (here describe property which is the subject of the search). You are ordered to seize such property, or any part thereof, found on such search.

Dated this ____ day of ____, 20__, at the hour of __ __M.

(Signature of Judge)

Executed this __ day of ____, 20__, at the hour of __ __M.

(Signature of Law Enforcement Officer)



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



Indiana

SEARCH WARRANT

GUIDE

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