

Iowa

SEARCH WARRANT GUIDE

ANTHONY BANDIERO, ESQ.



Blue to Gold

Iowa Search Warrant Guide

A REFERENCE FOR LAW ENFORCEMENT



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Blue to Gold Law Enforcement Training, LLC
SPOKANE, WASHINGTON

Iowa Search Warrant Laws

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PART I

Common Search Warrant Questions

Application Procedure	
1) Who may apply?	Any person (§ 808.3)
2) Who has the authority to issue?	Any magistrate (§ 808.3)
3) Is an affidavit necessary?	Yes. Applicant must provide sworn written statement establishing probable cause (§ 808.3)
4) Can sworn oral testimony replace an affidavit?	May supplement applicant's affidavit (§ 808.3)
5) Are there special provisions for obtaining a warrant by telephone?	Electronic submission acceptable (§§ 808.3(b), 808.4A)
6) What property can be seized?	<ul style="list-style-type: none">—Obtained unlawfully—Property possession of which is unlawful—Used or intended to be used in a crime or concealment of a crime

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<hr/>		—Evidence of a crime (§ 808.2)
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7) Contents of application		
<hr/>		
a) Who or what is to be searched?	Yes (§ 808.3), or to place, track, monitor, or remove a gps device (§ 808.1)	
b) State the items being sought?	Yes (§ 808.3), or to place, track, monitor, or remove a gps device (§ 808.1)	
c) State the basis for probable cause?	Yes (§ 808.3)	
<hr/>		
d) Are there additional requirements?	Names and addresses of persons relied upon (except informants) and abstract of affidavit or testimony relied upon (§ 808.3) Special application form (Iowa R. Crim. P. 2.36—Form 2)	
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The Search Warrant		
<hr/>		
1) Does it require a standard format?	Yes (Iowa R. Crim. P. 2.36—Form 1)	
	Note: Warrant must substantially conform	
<hr/>		
2) Required contents	—Signature of magistrate —Name of magistrate's office —Person/place to be searched —Property to be seized —County of issuance	
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—Case number of underlying criminal case

—Date of issuance

—Recital of probable cause

—Reason why informant or information is credible

(§§ 808.3, 808.4)

Execution of Search Warrant

1) How soon must search warrant be executed?

Within 10 days from its date (§ 808.8)

2) Who may execute?

Any peace officer (§§ 808.4, 808.5); individual employed by Insurance Division and designated as peace officer (§ 507E.8(2))

3) Where is the search warrant applicable?

No express provision

4) When may warrant be executed?

a) Is execution limited during daytime?

Yes (§ 808.5)

b) Is execution limited during nighttime?

Yes (§ 808.5)

5) Is forced or unannounced entry allowed under the warrant?

Executing officer may break any barrier if, after notice of his authority and purpose, admittance is not immediately authorized. In case of abandoned

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	or vacated structures, executing officer may search without giving notice. May break any restraints necessary for liberation (§ 808.6)
6) Are there limitations or specific rules regarding the search?	<p>Detention and search of persons found on premises to be searched if:</p> <ul style="list-style-type: none">—Necessary to protect executing officer from attack—Necessary to avoid disposal or concealment of property to be seized—Necessary to obtain any instrument for resisting arrest <p>(§ 808.7)</p>
7) Is leaving documentation at the scene of the search mandatory?	Itemized receipt for property taken (§ 808.8)
8) Are there safeguards against abuse of the search warrant process?	<p>Anyone who maliciously and without just cause procures a search warrant to be issued and executed— serious misdemeanor</p> <p>Anyone who willfully exceeds his authority or exercises it with unnecessary severity—serious misdemeanor (§ 808.10)</p> <p>Imprisonment of up to 1 year and/or fine of up to \$1875 (§ 903.1(1)(b))</p>



PART II

Chapter 808. Search and Seizure Rules Related to Arrest and Search Warrants

**I.C.A. § 808.1
Definitions**

For purposes of this chapter, unless the context otherwise requires:

1. “Affidavit” means a written declaration or statement of fact made under oath, or legally sufficient affirmation, before any person authorized to administer oaths within or without the state.

1. “Affidavit” means a written declaration or statement of fact made under oath, or legally sufficient affirmation, submitted in person or by electronic submission before any person authorized to administer oaths within or without the state.

2. “Search warrant” means an order in writing, in the name of the state, signed by a magistrate, and directed to a peace officer commanding the officer to search a person, premises, or thing, issued pursuant to the requirements of section 808.3, or to place, track, monitor, or remove a global positioning device, issued pursuant to the requirements of section 808.4A.

3. “Electronic” or “electronically” means relating to technology having electrical, digital, magnetic, telephonic, wireless, optical, electromagnetic, or similar capabilities. For governmental agencies, this may include alternate software to exchange electronic records with the court’s electronic document management system.

4. “Electronic submission” means the process by which a person may electronically submit an application for a search warrant and any supporting documents to the court for review or other court action.

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I.C.A. § 808.2 Authorization

A search warrant may be issued:

1. For property which has been obtained in violation of law.
2. For property, the possession of which is unlawful.
3. For property used or possessed with the intent to be used as the means of committing a public offense or concealed to prevent an offense from being discovered.
4. For any other property relevant and material as evidence in a criminal prosecution.

I.C.A. § 808.3
Application for search warrant

1. a. A person may make application for the issuance of a search warrant by submitting before a magistrate a written application, supported by the person's oath or affirmation, which includes facts, information, and circumstances tending to establish sufficient grounds for granting the application, and probable cause for believing that the grounds exist. The application shall describe the person, place, or thing to be searched and the property to be seized with sufficient specificity to enable an independent reasonable person with reasonable effort to ascertain and identify the person, place, or thing.

b. The search warrant application and any supporting documents may be submitted to the magistrate in person or by electronic submission. If a search warrant is submitted by electronic submission, the magistrate may use electronic means to contact the person submitting the application and supporting documents to confirm the identity of the person, and may administer the person's oath or affirmation and accept the person's sworn testimony by electronic means, subject to the processes and procedures established by the judicial branch.

2. If the magistrate issues the search warrant, the magistrate shall endorse on the application the name and address of all persons upon whose sworn testimony the magistrate relied to issue the warrant together with the abstract of each witness' testimony, or the witness' affidavit. However, if the grounds for issuance are supplied by an informant, the magistrate shall identify only the peace officer to whom the information was given. The application or sworn testimony supplied in support of the application must establish the credibility of the informant or the credibility of the information given by the informant. The magistrate may in the magistrate's discretion require that a witness upon whom the applicant relies for information appear personally and be examined concerning the information.



PART III

**I.C.A. Rules Related to Rules Related to Arrest and Search
Warrants**

I.C.A. Rule 2.12

Formerly cited as IA ST § 813.2 R 11

Suppression of unlawfully obtained evidence

2.12(1) Motion to suppress evidence. A person aggrieved by an unlawful search, seizure, interrogation, or other unlawfully obtained evidence may move to suppress for use as evidence anything so obtained. The court shall receive evidence on any issue of fact necessary to the decision of the motion. The motion shall be made as provided in rule 2.11(4)-(6).

2.12(2) Discretionary review of an interlocutory order. Any party aggrieved by an interlocutory order affecting the suppression of evidence, except in simple misdemeanors, may apply for discretionary review of the order in advance of trial.

2.12(3) Effect of failure to file. Failure to file a timely motion to suppress evidence waives the objection that the evidence was unlawfully obtained unless good cause is shown for a later filing.

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I.C.A. Rule 2.13 **Formerly cited as IA ST § 813.2 R 12** **Depositions**

2.13(1) By defendant. A defendant in a criminal case may depose all witnesses listed by the State in the minutes of testimony in the same manner, with the same effect, and with the same limitations, as in civil actions except as otherwise provided by statute and these rules.

2.13(2) Reciprocal disclosure of witnesses.

a. At or before the taking of any deposition by a defendant, the defendant shall file a written list of the names and addresses of all witnesses expected to be called for the defense except the defendant and surrebuttal witnesses.

b. The defendant shall have a continuing duty before and throughout trial promptly to disclose additional defense witnesses.

c. If the defendant has taken depositions and does not disclose to the prosecuting attorney all of the defense witnesses, except the defendant and surrebuttal witnesses, at least 9 days before trial, the court may order the defendant to permit the discovery of such witnesses, grant a continuance, or enter such other order as it deems just under the circumstances. The court may, if it finds that no less severe remedy is adequate to protect the State from undue prejudice, order the exclusion of the testimony of any such witnesses.

d. The State may depose any witness listed by the defense.

2.13(3) Objections to depositions. If either party objects to the taking of a deposition, the court shall determine whether discovery of the witness is necessary in the interest of justice and shall allow or disallow the deposition.

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2.13(4) Time of taking. If the defendant does not waive speedy trial, depositions shall be taken within 30 days after arraignment unless the deadline is extended by the court. If the defendant waives speedy trial, depositions shall be taken at least 30 days before trial unless the court orders otherwise.

2.13(5) Presence of defendant. Subject to rules 2.13(6)(c) and 2.27(1)(c), the defendant is required to be personally present at all depositions. If the identity of the defendant is at issue and the defendant makes a timely motion, the court may allow the defendant to be absent during the part of the deposition when the parties question an eyewitness concerning the identity of the perpetrator of the crime. In that event, all parties shall complete their examination of the eyewitness regarding identity before the defendant is required to be present.

2.13(6) Special circumstances.

a. Perpetuation of testimony where a witness will be unavailable at trial. Whenever the interests of justice make necessary the taking of the deposition of a prospective witness for use at trial, the court may, upon motion of a party and notice to the other parties, order that the deposition be taken and that any designated materials, not privileged, be produced at the same time and place. This provision is available even if the moving party is the only party intending to call the prospective witness at trial.

b. Continuation of the prosecuting attorney's investigation. After a complaint or indictment has been filed, the prosecuting attorney may continue to subpoena witnesses and utilize subpoenas duces tecum, as provided in rule 2.5(6). However, the defendant shall receive notice, and if a witness appears pursuant to a subpoena, the defendant shall have the opportunity to appear, cross-examine the witness, and review materials produced by the witness.



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



Iowa

SEARCH WARRANT

GUIDE

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