

South Carolina

SEARCH WARRANT GUIDE

ANTHONY BANDIERO, ESQ.

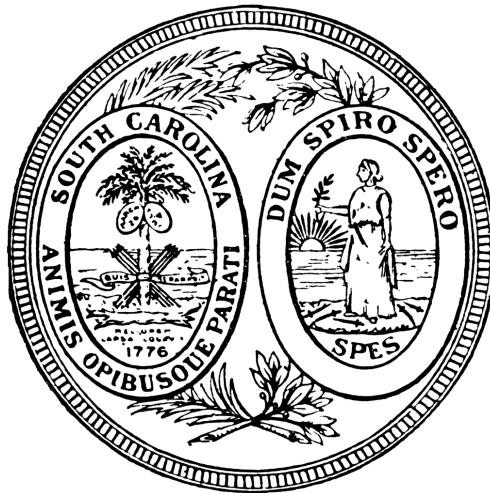
*4th Amendment
The people to be secure in
their persons, papers, and effects against
unreasonable searches and seizures, shall not
be compelled to furnish a warrant*



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South Carolina Search Warrant Guide

A REFERENCE FOR LAW ENFORCEMENT



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Blue to Gold Law Enforcement Training, LLC
SPOKANE, WASHINGTON

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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?	Any magistrate, recorder, city judge having powers of magistrates, or any judge of any state court of record (§ 17-13-140); ministerial recorders (§ 14-25-115)
3) Is an affidavit necessary?	Yes (§ 17-13-140)
4) Can sworn oral testimony replace an affidavit?	No express provision
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—Possession of which is unlawful—Used or intended for use in a crime or concealment of a crime—Evidence of a crime or tending to show participation

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	in a crime —Narcotics, barbituates or other drugs (§ 17-13-140)
7) Contents of application	
a) Who or what is to be searched?	No express provision
b) State the items being sought?	No express provision
c) State the basis for probable cause?	Yes. Must be contained in the affidavit (§ 17-13-140)
d) Are there additional requirements?	Affidavit (§ 17-13-140)

The Search Warrant

1) Does it require a standard format?	No Note: any forms for search warrants shall be as prescribed by the Attorney General's office (§ 17-13-160)
2) Required contents	—Property sought —Person/place to be searched —Direction to executing officer (§ 17-13-140)

Execution of Search Warrant

1) How soon must search warrant be executed?	Within 10 days after date of issuance (§ 17-13-140)
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2) Who may execute?	Any peace officer having jurisdiction in county where warrant was issued (§ 17-13-140)
3) Where is the search warrant applicable?	Within territorial jurisdiction of the issuing judicial official (§ 17-13-140)
4) When may warrant be executed?	
a) Is execution limited during daytime?	Warrant relating to controlled substances may be served at any time of day or night if magistrate concludes probable cause exists for service at such time (§ 44-53-570)
b) Is execution limited during nighttime?	Warrant relating to controlled substances may be served at any time of day or night if magistrate concludes probable cause exists for service at such time (§ 44-53-570)
5) Is forced or unannounced entry allowed under the warrant?	No express provision
6) Are there limitations or specific rules regarding the search?	No express provision
7) Is leaving documentation at the scene of the search mandatory?	—Any person who is served with a search warrant must be given a copy of the warrant and supporting affidavits (§ 17-13-

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	150) —Inventory of property seized (must be signed by executing officer) (§ 17-13-140)
8) Are there safeguards against abuse of the search warrant process?	<p>Any judicial official authorized to issue search warrants who fails to keep records of search warrants and their execution for the prescribed period of time (3 years after issuance) or who alters such records</p> <p>Imprisonment for up to 30 days or fine of up to \$100 (§ 17-13-141(b))</p> <p>Any person impersonating a law enforcement officer and performing the duties of a law enforcement officer, including the search of any building or vehicle</p> <p>Imprisonment for up to 1 year or fine of up to \$500 (§ 16-17-720)</p>

Return and Records Procedure

1) When must search warrant be returned?	Within time provided for execution (§ 17-13-140)
2) To which authority or jurisdiction must the warrant be returned?	<p>Warrants issued by magistrate: issuing magistrate</p> <p>Warrants issued by a judge of a</p>



PART II

Code 1976 § 17-13-10

Circumstances when any person may arrest a felon or thief.

Upon (a) view of a felony committed, (b) certain information that a felony has been committed or (c) view of a larceny committed, any person may arrest the felon or thief and take him to a judge or magistrate, to be dealt with according to law.

Code 1976 § 17-13-20

Additional circumstances when citizens may arrest; means to be used.

A citizen may arrest a person in the nighttime by efficient means as the darkness and the probability of escape render necessary, even if the life of the person should be taken, when the person:

- (a) has committed a felony;
- (b) has entered a dwelling house without express or implied permission;
- (c) has broken or is breaking into an outhouse with a view to plunder;
- (d) has in his possession stolen property; or
- (e) being under circumstances which raise just suspicion of his design to steal or to commit some felony, flees when he is hailed.

Code 1976 § 17-13-30

**Officers may arrest without warrant for offenses committed
in view.**

The sheriffs and deputy sheriffs of this State may arrest without warrant any and all persons who, within their view, violate any of the criminal laws of this State if such arrest be made at the time of such violation of law or immediately thereafter.

Code 1976 § 17-13-40

Law enforcement officer jurisdiction when in pursuit of offender; authority, rights, privileges and immunities extended.

(A) When the police authorities of a town or city are in pursuit of an offender for a violation of a municipal ordinance or statute of this State committed within the corporate limits, the authorities may arrest the offender, with or without a warrant, at a place within the corporate limits, at a place within the county in which the town or city is located, or at a place within a radius of three miles of the corporate limits.

(B) When the police authorities of a county are in pursuit of an offender for a violation of a county ordinance or statute of this State committed within the county, the authorities may arrest the offender, with or without a warrant, at a place within the county, or at a place within an adjacent county.

(C) When a law enforcement officer's jurisdiction is expanded pursuant to this section, the authority, rights, privileges, and immunities, including coverage under the workers' compensation laws, and tort liability coverage obtained pursuant to the provisions of Chapter 78, Title 15, that are applicable to an officer within the jurisdiction in which he is employed are extended to and include the expanded areas of jurisdiction granted pursuant to this section.



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

South Carolina
SEARCH WARRANT
GUIDE

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