California

SEARCH WARRANT GUIDE

ANTHONY BANDIERO, ESQ.

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Blue to Gold

California Search Warrant Guide

A REFERENCE FOR LAW ENFORCEMENT



Anthony Bandiero, JD, ALM

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— Anthony Bandiero

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Common Search Warrant Questions

Application Procedure		
1) Who may apply?	No express provision	
2) Who has the authority to issue?	Any magistrate (§ 1523)	
3) Is an affidavit necessary?	Yes (§ 1525)	
4) Can sworn oral testimony replace an affidavit?	Yes, if recorded and transcribed and under penalty of perjury (§ 1526(b)(1))	
5) Are there special provisions for obtaining a warrant by telephone?	Yes, also fax, email, or computer server (§ 1526(a)). Affiant must sign affidavit with digital or electronic signature after oath given by magistrate. Search warrant, affidavits, and all papers must be faxed, emailed, or sent by computer server to magistrate. Magistrate shall confirm receipt of all pages, sign warrant if decides it should be issued, indicate on the warrant that oath was administered over telephone, and fax signed warrant to affiant who must	

confirm receipt by telephone. Magistrate shall then authorize affiant to write "duplicate original" on the copy of the warrant. Original warrant, duplicate warrant, and supporting papers must be returned same as ordinary warrant. Procedure may be accomplished by telephone, fax, computer server, or e-mail. (§ 1526(b)(2))

6) What property can be seized?

- -Stolen or embezzled
- -Used in felony
- Intent to use in public offense or in possession of another to conceal
- Evidence of commission of a felony
- -Evidence of sexual exploitation of a person under 18 (see § 311.3)
- -pursuant to arrest warrant
- provider of electronic communication service or remote computing service has evidence showing property was stolen or embezzled
- property includes item that tends to show violation of Labor Code
- -firearms or ammunition in

- possession of subject of a gun violence restraining order
- information from tracking device shows felony or misdemeanor under Fish and Game or Public Resources Codes
- blood sample under VehicleCode
- firearms or ammunition
 possessed by person subject to
 gun violence restraining order
- controlled substances or device for administering controlled substances or paraphernalia
- data from recording device installed by motor vehicle manufacturer evidence of felony or misdemeanor resulting in death or serious bodily injury
- –evidence relating to first responder who has captured photographic image of deceased person at scene of accident or crime for any purpose other than official law enforcement purpose

(§ 1524(a))

Note: provision restricting searches of premises under

	control of lawyers, physicians, psychotherapists, private investigators working for attorneys or appointed by a court to assist an indigent defendant, clergymen, see § 1524(c); court at request of victim may issue warrant to test defendant's blood, semen or other bodily fluid with any HIV test, see § 1524.1	
7) Contents of application		
a) Who or what is to be searched?	Yes (§ 1525)	
b) State the items being sought?	Yes (§ 1525)	
c) State the basis for probable cause?	Yes (§ 1525)	
d) Are there additional requirements?	Affidavit or other testimony	
	Must specify if the search is to be of premises controlled by lawyer, physician, psychotherapist, or clergyman (§ 1525)	
The Search Warrant		
1) Does it require a standard format?	Yes (§ 1529)	
2) Required contents	-Person/place to be searched	
	–Persons, things, or property sought	



West's Ann.Cal.Penal Code § 1523 Issuance; grounds; special master

<Section operative until Jan. 1, 2026. See, also, § 1524 operative Jan. 1, 2026.>

- (a) A search warrant may be issued upon any of the following grounds:
- (1) When the property was stolen or embezzled.
- (2) When the property or things were used as the means of committing a felony.
- (3) When the property or things are in the possession of a person with the intent to use them as a means of committing a public offense, or in the possession of another to whom that person may have delivered them for the purpose of concealing them or preventing them from being discovered.
- (4) When the property or things to be seized consist of an item or constitute evidence that tends to show a felony has been committed, or tends to show that a particular person has committed a felony.
- (5) When the property or things to be seized consist of evidence that tends to show that sexual exploitation of a child, in violation of Section 311.3, or possession of matter depicting sexual conduct of a person under 18 years of age, in violation of Section 311.11, has occurred or is occurring.

- (6) When there is a warrant to arrest a person.
- (7) When a provider of electronic communication service or remote computing service has records or evidence, as specified in Section 1524.3, showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in the possession of a person with the intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom that person may have delivered them for the purpose of concealing them or preventing their discovery.
- (8) When the property or things to be seized include an item or evidence that tends to show a violation of Section 3700.5 of the Labor Code or tends to show that a particular person has violated Section 3700.5 of the Labor Code.
- (9) When the property or things to be seized include a firearm or other deadly weapon at the scene of, or at the premises occupied or under the control of the person arrested in connection with, a domestic violence incident involving a threat to human life or a physical assault as provided in Section 18250. This section does not affect warrantless seizures otherwise authorized by Section 18250.
- (10) When the property or things to be seized include a firearm or other deadly weapon that is owned by, or in the possession of, or in the custody or control of, a person described in subdivision (a) of Section 8102 of the Welfare and Institutions Code.
- (11) When the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to Section 6389 of the Family Code, if a prohibited firearm is possessed, owned, in the custody of, or controlled by a person against whom a protective order has been issued pursuant to Section 6218 of

the Family Code, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.

(12) When the information to be received from the use of a tracking device constitutes evidence that tends to show that either a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code has been committed or is being committed, tends to show that a particular person has committed a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code, or is committing a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code, or will assist in locating an individual who has committed or is committing a felony, a misdemeanor violation of the Fish and Game Code, or a misdemeanor violation of the Public Resources Code. A tracking device search warrant issued pursuant to this paragraph shall be executed in a manner meeting the requirements specified in subdivision (b) of Section 1534.

(13) When a sample of the blood of a person constitutes evidence that tends to show a violation of Section 23140, 23152, or 23153 of the Vehicle Code and the person from whom the sample is being sought has refused an officer's request to submit to, or has failed to complete, a blood test as required by Section 23612 of the Vehicle Code, and the sample will be drawn from the person in a reasonable, medically approved manner. This paragraph is not intended to abrogate a court's mandate to determine the propriety of the issuance of a search warrant on a case-by-case basis.

- (14) Beginning January 1, 2016, the property or things to be seized are firearms or ammunition or both that are owned by, in the possession of, or in the custody or control of a person who is the subject of a gun violence restraining order that has been issued pursuant to Division 3.2 (commencing with Section 18100) of Title 2 of Part 6, if a prohibited firearm or ammunition or both is possessed, owned, in the custody of, or controlled by a person against whom a gun violence restraining order has been issued, the person has been lawfully served with that order, and the person has failed to relinquish the firearm as required by law.
- (15) Beginning January 1, 2018, the property or things to be seized include a firearm that is owned by, or in the possession of, or in the custody or control of, a person who is subject to the prohibitions regarding firearms pursuant to Section 29800 or 29805, and the court has made a finding pursuant to subdivision (c) of Section 29810 that the person has failed to relinquish the firearm as required by law.
- (16) When the property or things to be seized are controlled substances or a device, contrivance, instrument, or paraphernalia used for unlawfully using or administering a controlled substance pursuant to the authority described in Section 11472 of the Health and Safety Code.

(17)(A) When all of the following apply:

(i) A sample of the blood of a person constitutes evidence that tends to show a violation of subdivision (b), (c), (d), (e), or (f) of Section 655 of the Harbors and Navigation Code.



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

California SEARCH WARRANT G U I D E

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