



Indiana University Police Department

Search and Seizure with a Warrant

Issue Date:	7/17/2020	Effective Date:	7/17/2020
Review Date:	7/17/2021	Number of Pages:	5
Rescinds:	08-02 Search & Seizure with Warrant		
IACLEA Standards:	2.2.4		

Purpose

To provides guidelines and governs for the execution of search warrants by sworn officers.

General Order

The search warrant is one of the more powerful and valuable tools in the law enforcement arsenal. While the process of applying for and obtaining a search warrant should be familiar to most officers, there are many technical and legal pitfalls that can invalidate a search warrant, lead to the suppression of evidence or dismissal of cases, and have liability implications for involved officers. Therefore, it is the directive of Indiana University Police Department (IUPD) that all officers have a sound knowledge of the legal requirements associated with obtaining a search warrant in order to prevent suppression of evidence, support the Constitutional rights of community members and to maintain public confidence in this agency’s mandate to carry out the police function in an ethical, unbiased and legal manner.

Definition

Search Warrant – A written order, in the name of the people, signed by a magistrate or other judicial authority, directing a peace officer to search for specified personal property and bring it before the magistrate.

Procedures

2.2.4 Search and Seizure with a Warrant

IUPD while not having control of outside agencies and their protocols have very good relationships with those agencies and ask that those agencies notify IUPD if they need to serve a search warrant on any property controlled by Indiana University. IUPD will, when possible, send an officer to accompany the outside agency. (2.2.4)

The Family Educational Rights and Privacy Act (FERPA) stipulates student records have certain protections. IUPD, except when exigent circumstances exist, will not execute a search warrant on a student’s record until the student has been notified and has had the opportunity to respond. (2.2.4)

Legal Requirements for a Search Warrant – The Fourth Amendment to the U.S. Constitution prohibits unreasonable searches. Officers should consider obtaining a search warrant whenever time and circumstances permit. Officers conducting searches without a warrant—such as those noted in (G2.2.5 *Search and Seizure without a Warrant*) bear the burden of proving that the search was reasonable.



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Some exceptions to the search warrant requirement include the following:

- **Search Incident to Arrest** – Searches of a person or the area within the immediate control of a person who has been lawfully arrested are permitted to secure weapons or evidence of a crime.
- **Emergencies** – Officers may conduct searches when they believe that a person is in need of immediate assistance under life-threatening conditions, when immediate action is necessary to protect the public from harm or when, for example, an officer encounters a homicide scene and needs to search for additional victims, protect vital evidence or pursue the perpetrator.
- **Vehicle Search** – A motor vehicle and containers found within may be searched when probable cause exists to believe that the vehicle may reasonably contain contraband or the fruits or instrumentalities of a crime.

Consent Searches – A search may be conducted pursuant to consent without a warrant and without probable cause to obtain a warrant. The consent must be voluntary, freely, and intelligently given by an appropriate party and the search must be limited to the terms of the consent. Written consent should be sought whenever reasonably possible.

Legal Basis for Seeking a Warrant – To obtain a search warrant, an officer must be able to show probable cause to believe that specific evidence, contraband, or fruits of a crime may be found at a location.

Specific facts establishing probable cause shall be set forth with clarity and specificity. Officers shall not rely solely upon opinion or unauthenticated third-party information or hearsay. Such facts may be based on:

- Personal observation/knowledge of the officer; or
- Information from a reliable source.
 - When informants are used—particularly confidential informants—the reliability of the informant and information provided shall be specified. Whenever possible, officers shall corroborate informant information.

Affidavit Preparation – An affidavit supporting application for a search warrant shall be prepared on the designated agency form. The accuracy of the affidavit is vital to the validity of the search warrant; thus, officers shall ensure that the following information is clearly and completely specified.

- **Offense** – The offense shall be described with reference to the criminal code section where possible.



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○ **Place or Thing to be Searched** – The place or thing to be searched shall be described with specificity, and officers shall ensure that the warrant includes the specific reference(s). Where premises are to be searched, references should include:

- Street number and apartment number if appropriate.
- Physical description of the premises.
- Legal description of the premises.
- Name of owner or occupant.
- Geographical location of the property.
- Photographs, maps, or diagrams that help to specify the location in question.

Scope of the Search – Only those things described in the search warrant can be seized. Therefore, the affidavit shall specify, and officers shall ensure that the warrant includes the following:

- All areas that officers desire to search shall be designated. In cases where officers wish to conduct a complete search of a home and its surroundings, the affidavit should specify a “premises” search and its “curtilage” and should identify any outbuildings such as garages, tool sheds or barns, where appropriate.
- Motor vehicles known to be on the premises that may be searched should be specified.
- Searches (other than frisks for weapons) of specific persons on the premises shall be referenced in the affidavit by name if possible.
- The specific items to be searched for shall be detailed. Where the items may be dismantled (e.g. firearms), the warrant should authorize search for parts, pieces, or components of that item.
- Officers anticipating search of computers and related high-technology equipment shall consult a designated expert for appropriate language to use in the affidavit and procedures for seizure of hardware and software.

Time and Method of Search - A search warrant may be served at any time of the day or night if the affidavit provides good cause and permission is granted in the warrant.

Anticipatory search warrants may be sought when it can be shown that the evidence in question will be at a specific location at some time soon.



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Officers may request a “no knock and announce” provision in the warrant when they have reason to believe that adherence to the knock-and-announce rule would endanger their safety or the safety of others, would enable wanted persons to escape or would likely result in the destruction of evidence before entry can be made.

Review of the Warrant – Officers shall review search warrants issued by judicial authorities to ensure that they include all pertinent information set forth in the affidavit accurately and completely, and that the warrant has been properly signed. Officers shall not attempt to serve any warrant that is known to contain substantive or administrative errors.

Return on the Warrant – Officers shall observe statutory and administrative requirements regarding return on the warrant to include providing a receipt to the proper person for property taken, retention and security of property taken, and return of the warrant and delivery of the property inventory to the appropriate judicial authority within specified time limits.

Recording – A record shall be maintained of all warrants issued to this agency and actions taken in response to each.

Liaison with the Prosecutor’s Office – Officers seeking warrants in unusual situations or where the seriousness, nature or legal complexity of the case dictates should consider reviewing the case with the prosecutor’s office prior to seeking a search warrant.

Related Information

Fourth Amendment – U.S. Constitution of the United States

The Family Educational Rights and Privacy Act (FERPA)

Indiana University Police Department:

G2.2.5 Search and Seizure without a Warrant

Benjamin Hunter (7/17/2020)
Superintendent of Public Safety



INDIANA UNIVERSITY
POLICE DEPARTMENT

F2.2.4 Search Warrant

STATE OF INDIANA)
) SS: IN THE MONROE CIRCUIT COURT
COUNTY OF MONROE) PC 53CO _____ MC _____

SEARCH WARRANT

To the **INDIANA UNIVERSITY POLICE DEPARTMENT**. You are authorized and Ordered, in the name of the State of Indiana, with the necessary and proper assistance to enter unto or upon:

and diligently search for:

You are ordered to seize such property, or any part thereof, found on such search.

Dated this _____ of _____, 202 __, at the hour of _____ M.

JUDGE (Judge's Name / Please Print)
MONROE CIRCUIT COURT

(Signature of officer signing for above Judge)

Executed this _____ of _____, 202 __, at the hour of _____ M.

LAW ENFORCEMENT OFFICER