

CSUCI Police Department Training Outline

Search Warrants (06/2017)

Introduction:

1. Instructor: Officer Wes Johnson
2. Definition and historical purpose: This training will give officers at CSU Channel Islands PD training in the way to write a search warrant and the process necessary in order to get the warrant approved.
3. Justification for the class: CIPD currently does not have a part time or full time detective or investigative officer position and circumstances may arise where officers may have to write a search warrant without the ability or time to wait for additional resources to assist in the course of an investigation.

Materials and/or handouts to be used in the class:

1. Lexipol Policy 606 (specifically 606.4, 606.6, and 606.9)
2. Search Warrant template form
3. Search Warrant Notice of Service form
4. Return to Search Warrant form

Course Objectives:

Upon completion of this course the learner will be able to:

1. Know what a search warrant is used for and the grounds for obtaining one
2. Write a search warrant
3. Know the process necessary to get the search warrant approved after it has been written
4. Know how to access and utilize the search warrant templates and examples folder in the G drive.

Course Overview:

1. Fundamentals of search warrants
 - A. What is a search warrant (basic knowledge of what they are for and other important knowledge about warrants)
 - B. What information is necessary to put in a search warrant (mechanics of writing one)
 - C. How to get a search warrant approved by a Deputy District Attorney and a Judge.
 - D. What to do before you serve the warrant
 - E. What to do after you serve the warrant

2. Format of the class

- A. Review of this outline and attachments with time to navigate through the search warrants folder in the G drive (1 hour).

Content (List each topics main points and relevancy to meeting the course objectives):

Fundamentals of search warrants:

A. What is a search warrant and what are the grounds for obtaining one

- 1. A search warrant is a legal document authorizing a police officer or other official to enter and search premises or gain access to documents or information. In essence, a search warrant is to show “probable cause” that you may find additional information/evidence for your investigation by searching/obtaining information done by the search.
- 2. Penal Code section 1524(a) states several reasons by which a search warrant may be issued. The following are applicable to patrol officers/investigators:

- 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 any person with the intent to use them as a means of committing a public offense, or in the possession of another to whom he or she 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 either 311.3 PC (possession of child pornography or child exploitation) or 311.11 PC (matter depicting sexual conduct of a person under 18 years of age) has occurred or is occurring.
- 6) When there is a warrant to arrest a person (Steagald warrant required to enter third party residence).
- 7) When the provider of an electronic communication service or remote computing service has records or evidence showing that property was stolen or embezzled constituting a misdemeanor, or that that property or things are in the possession of any person with the intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery.
- 8) A worker’s compensation Labor Code violation has occurred.
- 9) Seizure of guns or other deadly weapons in connection with a domestic violence or physical assault incident involving a threat to human life.
- 10) Seizure of guns or other deadly weapons owned by or in possession of the custody or control of somebody who meets the criteria for a 5150 WI, 5250 WI, or 5300 WI.
- 11) Seizure of firearms by somebody who has a protective restraining order against them as defined in 6218 of the Family Code.
- 12) Use of tracking device to show a misdemeanor or felony has occurred.
- 13) When a sample of the blood of a person constitutes evidence that tends to show a violation of 23140, 23152, or 23153 VC, 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 23612 VC. The sample must be drawn in a reasonable, medically approved manner.

- 14) Seizure of firearms and/or ammunition owned by somebody issued with a served gun violence restraining order after that person has failed to relinquish the firearm as required by law.
- 15) 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.

3. Other information and Penal Code sections associated with the service/execution of a search warrant.

- 1531 PC-allows a peace officer to break down any outer or inner door or window to execute the warrant
- 1533 PC-Unless night service is approved by the Judge, warrants may be served between 0700 hours and 2200 hours.
- 1534 PC-A search warrant shall be executed and returned within 10 days after date of issuance.
- 1535 PC-When an officer takes property under the warrant, a receipt must be issued with list of property seized, if nobody present the receipt must be left where the property was found.
- 1537 PC-An officer must provide a written inventory of the property taken (via a search warrant return form) to the issuing judge.
- Knock and notice-When serving a search warrant, police must knock on the door, announce their authority to search the premises and wait a reasonable period of time before they enter. If the knock and notice is not given without approval from a judge, evidence may be suppressed and the subject may have cause for a civil rights violation lawsuit.

B. Mechanics of writing the search warrant

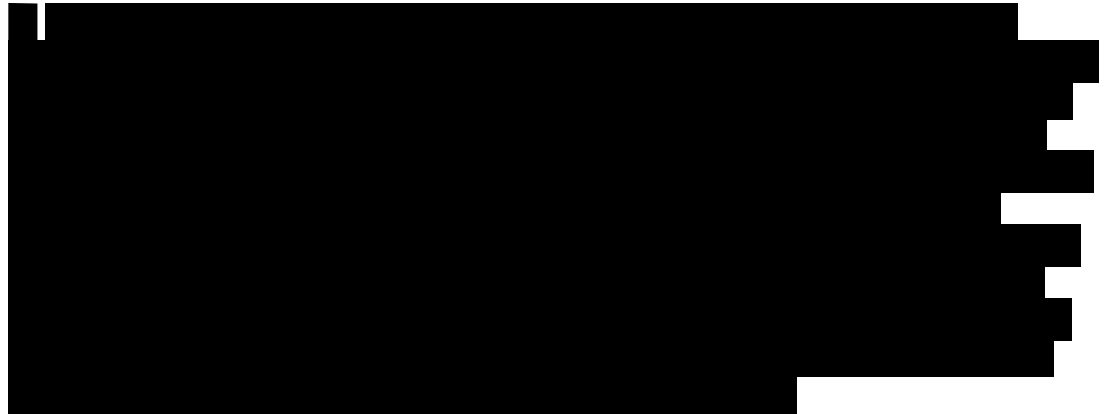
Step 1: go to G drive, click on police, click on CSUCI Police Files & Documents, click on Criminal Investigation, click on Search Warrants folder, click on Search Warrant Forms, then click on Search Warrant Form.

1. Page one: Put in your name as the affiant, check the proper box of why the warrant is to be issued.
2. Page two: If there is an address to be searched, input the address with a detailed description of the residence (color of house, one story or two story, location of door, type of roof and exterior of home, address numbers affixed to house, door and/or mailbox). If you would like to search a person include a driver's license/identification card number, date of birth, physical description. If you would like to search a vehicle include make, model, color, number of doors, license plate number, VIN, and registered owner information (If registered owner does not have any affiliation with your case, you need to establish a connection to the case and why it is necessary to search or include it in your warrant). Describe the property or item(s) you are searching for.

3. Page three:

-Training and experience (Hero statement): Include how many years of service you have as a law enforcement officer, your current and past assignments (collateral assignments can be included), small history of your education (Associate, Bachelor's or Master's degree), that you have investigated various types of crimes and have testified in court on these cases, and that you have attended training courses (if possible include one that you have been to that is directly related to the investigation your conducting).

EXAMPLE of what can be included:



-Statement of Probable Cause: This will be the portion the Deputy DA and Judge will care most about and needs to obtain the reasons why there is probable cause for your search and why you think the search will yield the items you are searching for. Most of the time you can just cut and paste your report narrative into this section (but go through the warrant and make sure you leave out any unnecessary information).

-Conclusion: At the end of this paragraph include a conclusion (Example: Based on the information contained in this declaration and my training and experience, I believe that by searching xxx, I will find further evidence, including the items listed in attachment A, which will tend to further prove the suspects involvement in the crime and therefore request a search warrant be granted.)

-If a sealing order is being sought (needed in cases where you do not want the suspect to know of the investigation), provide the request after the probable cause and sign the form attached. Be prepared to explain to the Deputy DA and Judge why it is necessary for this case to be sealed.

C. Steps to getting your completed warrant approved and ready to be served.

-After the search warrant is completed, bring a copy of your warrant and a thumb/flash drive containing your warrant to the District Attorney's office located at the Government Center, suite 314 (the thumb/flash drive is important in case there are

changes that need to be made). See attached map for further details about locations at the Government Center. Inform a secretary at the front counter that you are there to get a search warrant reviewed by a DA. Once the DA approves the warrant, he or she will sign it and give you the face page with their signature, which will be placed on top of the warrant.

-After the warrant is approved by the DA, respond to the Civil Services area (room 101, northeast corner on the first floor of the courthouse building near the metal detector entrance). Tell the employee at the counter you have a search warrant for review and advise how many pages the warrant is. You will be provided with a form (asking your name, department, date, etc.), which is used to notify the judges of the warrant being ready for review. You will then be provided a court room number to go to and that is where you will meet the judge. You will use the back door and find the elevator to go through the back channels. The judge will be in their chambers if not in the courtroom (if needed, ask for assistance in locating the judge). The judge will review your warrant and correct any changes that are necessary.

-Once the warrant has been signed and approved, it is considered active and can be served immediately.

D. Before serving the warrant

Prior to serving the warrant, make two copies of the warrant (one for our records and the original eventually gets returned to the Judge). Attach a copy to the report in RIMS and provide a copy to records. You will also need a copy of the face page only to provide to the place/person you are searching.

E. After the warrant has been served

After the warrant has been served you must do a search warrant return (this form is located in the Search Warrants Folder). This basically shows what, if anything, was obtained from the search. This form will be returned as the top page along with the original warrant. This should be completed within a few days after the warrant was served. The warrant needs to be returned to the traffic window (where we normally turn in citations) on the first floor of the courthouse. The judge does not need to review or see it at this time and the clerk will stamp the top right corner of the return and provide the officer with a copy of the stamped return for our records. The officer should attach a copy of this to the RIMS report and place the copy in the records box. (If an arrest was made, it does not need to be noted in the search warrant return).

If during your search, you obtain information that requires an additional warrant for a different location or information, you can do a "piggy-back warrant." A piggy-back warrant is a new warrant, however, you simply use your existing narrative and add the additional information to the end of it and explain the updated probable cause and reason for the new search. The same return procedure will be used for this warrant as well.