

# ST. FRANCOIS COUNTY PROSECUTING ATTORNEY

MICHAEL BLAKE DUDLEY, PROSECUTING ATTORNEY



## Search Warrants and Law Enforcement

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Obtaining search warrants is an integral part of many law enforcement investigations. Relying on the courts to grant access to certain information isn't always a familiar process, so we have created this guide to assist you in compiling the best cases you can without breaking your neck to do it. Additionally, you will find templates and fictitious examples of search warrants on our website. It is worth noting, however, that these examples are not sufficient on their own – you must change them to substantially reflect your own investigation. Appellate courts have frowned upon or outright thrown out “form” or “template” warrants that are not specific enough.

Search warrants are governed by RSMO 542.261 through RSMO 542.296. You, the investigating officer, must prepare the search warrant. An attorney with our office will review the warrant and sign the application for obtaining the search warrant.

## Search Warrants: Frequently Asked Questions

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### Who can request a search warrant?

Any peace officer as defined in RSMO 542.261.

### Who can issue a search warrant?

A search warrant may be issued by an appellate judge or by any judge of a court having original jurisdiction of criminal offenses within the territorial jurisdiction where the person, place or thing to be searched is located at the time of making the application. (RSMO 542.266.2).

### What things can a search warrant be issued for?

Search warrants may be issued to search for, photograph, copy, or seize evidence of a crime, stolen property/contraband, and individuals (suspects or victims). Note that search warrants are related to criminal investigations only – civil cases, lost property, or other matters are not sufficient for the issuance of a search warrant.

## What documents are needed to obtain and execute a search warrant?

A search warrant has four integral parts – the affidavit, the application, the search warrant itself, and the return/inventory for the court.

## What are the essential requirements for an application for a search warrant?

1. The application must be made by a peace officer or prosecuting attorney.
2. The application must be made in writing and verified by oath or affirmation of the applicant. (RSMO 542.276.2(1) and (6) respectively.)
3. The application **must** contain the following:
  - a. The time and date of the making of the application.
  - b. Specifically identify the property or item to be seized or searched.
  - c. Specifically identify the person, place, or thing to be searched.
  - d. State facts showing probable cause to issue the warrant.
4. The application must be filed in the proper court having jurisdiction over the person or place to be searched. [See: **State v. Berkwit**, 689 S.W.2d 763 (Mo. App. S.D. 1985) and 542.276.2(7).]
5. Must be signed by the prosecutor or assistant. [See: **State v. Gordon**, 851 S.W.2d 607 (Mo.App.S.D. 1993).]
6. All attachments must be appended to the application for search warrant to be considered by the judge.

## What must a search warrant contain?

1. It must be in writing, signed by the judge with his title indicated (542.276.6(7)) and directed to any peace officer. (542.276.6 (1) & (2)).
2. Must be timed and dated and contain the same details as to who or what is to be searched for, and who, where or what is to be searched as detailed by the application.
3. Must command the object to be searched and seized and provide that the officer make a return.

## Does a search warrant ever expire?

A search warrant must be executed as soon as practicable. It must be executed and returned within 10 days of issuance. (RSMO 542.276.8)

## How many copies of the documents are required?

An original and two copies (see: RSMO 542.276.4)

# SFCPA Search Warrant Procedures

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When your investigation leads you to a point where a search warrant is necessary to obtain evidence in a case, follow these steps to ensure you can get the warrant as quickly as possible.

## 1. Probable Cause

Have you reached a point in your investigation that you have sufficient probable cause to believe that the person, object, or thing would be located or found in a specific place or location?

## 2. Contact the On-Call Attorney

Call the on-call prosecuting attorney (573-218-0848) about the warrant request. You will be asked to briefly describe your investigation and what you believe the probable cause to be. A determination can be made at that time if probable cause exists or if more evidence is necessary for the issuance of a search warrant. If it is believed probable cause exists, the attorney will arrange a conference call with a judge to swear you in or you will need to appear in person before the judge to be sworn in.

*Note: Unless the immediate issuance of a warrant is necessary to prevent the destruction of evidence, if the safety of officers or the public is at risk, or other exigent circumstances exist, please do not call in the overnight hours for non-emergent needs. A warrant to ping the phone of a homicide suspect who just fled the scene is different from a warrant to get the contents of an already seized phone.*

## 3. Write up the Warrant

Write the Affidavit, the Application, the Search Warrant, and the Return. Templates and samples are available on our website so you may easily adapt them for your investigation. It is worth noting that the affidavit will read much like a report narrative, but in a summarized and numbered format.

## 4. Submit the Warrant Packet to the On-Call Attorney

Email the completed warrant packet to the on-call attorney with your signature applied or bring a paper copy to the office. The attorney will sign off on the warrant application and email the warrant to a judge for their signature.

## 5. Submit the Warrant Packet to the Court

Email a copy or take a physical copy of the signed warrant packet to the St. Francois County Court - Criminal Division (during business hours) to obtain a warrant number and court number.

*Note: If this is a warrant issued outside of business hours for exigent circumstances, this step may be completed later.*

## 6. Serve the Warrant

Execute the search warrant to seize the person or property you are seeking. Remember to leave a copy with the person you are seizing the property from.

## 7. Return the Warrant to the Court

After executing the warrant, complete the inventory sheet of what was seized and return it to the Criminal Division of the Court.