

Wyoming

SEARCH WARRANT GUIDE

ANTHONY BANDIERO, ESQ.

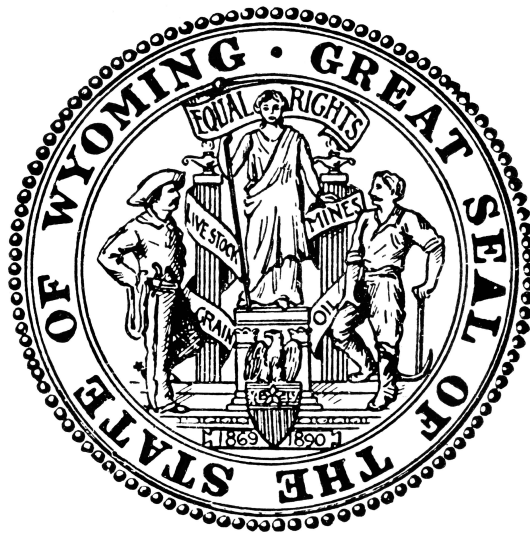
Fourth Amendment
the people to be secure in
houses, papers, and effects
from searches and seizures, shall not
be
and no Warrants



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Wyoming 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

TABLE OF CONTENTS



PART I
Common Search Warrant Questions

Application Procedure 1

The Search Warrant 2

Execution of Search Warrant 3

Return and Records Procedure 4



PART II
Wyoming Statutes Related to Arrest and Search Warrants

7-7-101. Authority to issue; grounds..... 9

7-7-102. Procedures governed by rules..... 10

7-7-103. Disposition of property..... 11

7-7-104. Officer’s authority to forcibly enter with warrant..... 12

7-7-105. Applicability of more specific provisions..... 13



Rules of Criminal Procedure Related to Arrest and Search Warrants

Rule 41. Search and Seizure..... 14

Rule 42. Contempt..... 24

Rule 42.1. Remedial Sanctions; Payment for Losses..... 29

Rule 43. Presence of Defendant..... 31

Rule 43.1. Use of Video Conferencing..... 32

Rule 44. Right to Assignment of Counsel..... 34

Rule 45. Time..... 39

Rule 46. Release From Custody..... 41

Rule 46.1. Pretrial Release..... 44



PART I

Common Search Warrant Questions

Application Procedure

1) Who may apply?	Attorney for the state or a federal, state or local peace officer (Wyo. R. Crim. P. 41(b))
2) Who has the authority to issue?	Any district judge, district court commissioner, circuit judge or magistrate authorized pursuant to §§ 5-9-208(a), (b) or (c)(xv), or 5-9-212(a)(ix), (§ 7-7-101(a)) A municipal judge (§ 5-6-202(b)) A district judge or judicial officer for the jurisdiction wherein the property sought is located (Wyo. R. Crim. P. 41(b))
3) Is an affidavit necessary?	Yes (Wyo. Const. art. I, § 4; Wyo. R. Crim. P. 41(d))
4) Can sworn oral testimony replace an affidavit?	May be required in addition to affidavit (Wyo. R. Crim. P. 41(d))
5) Are there special provisions for obtaining a warrant by telephone?	Yes, telephone or reliable electronic means (Wyo. R. Crim. P. 41(d))

Wyoming Search Warrant Guide

6) What property can be seized?	—Stolen or embezzled —Designed or intended for use in a crime —Possessed, controlled for use or used in violation of any law —Evidence of a crime or participation in a crime (§ 7-7-101(a); Wyo. R. Crim. P. 41(c))
7) Contents of application	
a) Who or what is to be searched?	Yes (Wyo. R. Crim. P. 41(d))
b) State the items being sought?	Yes (Wyo. R. Crim. P. 41(d))
c) State the basis for probable cause?	Yes. Must be contained in the affidavit (Wyo. R. Crim. P. 41(d))
d) Are there additional requirements?	Affidavit must establish grounds for issuance (Wyo. R. Crim. P. 41(d))

The Search Warrant

1) Does it require a standard format?	Illustrative not mandatory (Crim. Form 10)
2) Required contents	—Property sought —Person/place to be searched —Direction to executing officer —Recitation of grounds of probable cause for issuance

Wyoming Search Warrant Guide

- Names of affiants
 - Direction that search be executed in the daytime unless otherwise authorized
 - Name of judicial officer before whom warrant shall be returned
- (Wyo. R. Crim. P. 41(d); Crim. Form 10)

Execution of Search Warrant

1) How soon must search warrant be executed?	Within 10 days after its date (Wyo. R. Crim. P. 41(e)(1))
2) Who may execute?	Any law enforcement officer authorized to enforce or assist in enforcing state law (Wyo. R. Crim. P. 41(b))
3) Where is the search warrant applicable?	Within issuer's territorial jurisdiction (Wyo. R. Crim. P. 41(b))
4) When may warrant be executed?	
a) Is execution limited during daytime?	Yes, between 6 A.M. and 10 P.M. (Wyo. R. Crim. P. 41(e)(1))
b) Is execution limited during nighttime?	Yes. If good cause is shown therefor and the warrant so directs (Wyo. R. Crim. P. 41(e)(1))
5) Is forced or unannounced entry allowed under the	Executing officer may break door or window of any building

Wyoming Search Warrant Guide

warrant?	described in the warrant if, after notice of his authority and purpose, he is refused admittance (§ 7-7-104)
6) Are there limitations or specific rules regarding the search?	The term “property” includes documents, books, papers and any other tangible objects and information (Wyo. R. Crim. P. 41(a)(2)) Exact date and time of execution must be entered on warrant (Wyo. R. Crim. P. 41(f))
7) Is leaving documentation at the scene of the search mandatory?	—Copy of the warrant —Receipt for property taken (Wyo. R. Crim. P. 41(f))
8) Are there safeguards against abuse of the search warrant process?	Any person who, while under a lawfully administered oath in a matter where such is required by law, knowingly makes a false affidavit or statement other than in a judicial or administrative proceeding Imprisonment for up to 2 years and/or fine of up to \$2000 (§ 6-5-303)

Return and Records Procedure

1) When must search warrant be returned?	Within 5 days after execution (Wyo. R. Crim. P. 41(f))
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PART II

W.S.1977 § 7-7-101

Authority to issue; grounds

(a) Any district judge, district court commissioner, circuit judge or magistrate authorized pursuant to W.S. 5-9-208(a), (b) or (c)(xv) or 5-9-212(a)(ix) may issue a search warrant to search for and seize any property:

- (i) Stolen or embezzled in violation of law;
- (ii) Designed or intended for use or which is or has been used as the means of committing a criminal offense;
- (iii) Possessed, controlled, or designed or intended for use or which is or has been used in violation of any law; or
- (iv) When the property or things to be seized consist of any item, or constitute any evidence which tends to show a crime has been committed, or tends to show that a particular person has committed a crime.

W.S.1977 § 7-7-102
Procedures governed by rules

Except as provided by W.S. 7-7-105, the Wyoming Rules of Criminal Procedure shall govern procedures relating to the issuance, form, execution and return of search warrants and procedures relating to motions to return unlawfully seized property and to suppress evidence. (b) If a term defined in section 169.011, but not defined in this chapter, is used in this chapter, the term has the meaning given in section 169.011, unless the context clearly indicates otherwise.

W.S.1977 § 7-7-103
Disposition of property

(a) Except as otherwise provided by law, property seized pursuant to a search warrant shall be disposed of as follows:

(i) If the defendant is convicted:

(A) Property which was stolen or embezzled shall be returned to the owner;

(B) Other property shall be destroyed or otherwise disposed of as directed by the court.

(ii) If the criminal charges against the defendant are dismissed or he is acquitted, the property shall be returned to the owner or otherwise disposed of as directed by the court.

W.S.1977 § 7-7-104

Authority of officer to break open building in execution of warrant

Except as otherwise specifically provided by law, an officer executing a search warrant may break a door or window of any building described in the warrant if he is not admitted after he has announced his authority and purpose.



PART III

W.R. Cr. P. Rule 41 Search and Seizure

(a) Scope and Definitions.

(1) Scope. This rule does not modify any law inconsistent with it, regulating search, seizure and the issuance and execution of search warrants in circumstances for which special provision is made.

(2) Definitions. The following definitions apply under this rule.

(A) “Property” includes documents, books, papers, any other tangible objects and information.

(B) “Tracking device” means an electronic or mechanical device which permits the tracking of the movement of a person or object.

(b) Authority to issue warrant. Upon the request of the attorney for the state or a federal, state, or local peace officer, a search warrant authorized by this rule may be issued by a judicial officer. If issued by a judicial officer other than a district or circuit judge it shall be by a judicial officer for the jurisdiction wherein the property sought is located.

(c) Property or persons which may be seized with warrant. A warrant may be issued under this rule to search for and seize any:

(1) Property that constitutes evidence of the commission of a criminal offense;

(2) Contraband, the fruits of crime, or things otherwise criminally possessed;

(3) Property designed or intended for use or which is or has been used as the means of committing a criminal offense; or

(4) Person for whose arrest there is probable cause, or who is unlawfully restrained.

(d) Issuance of warrant. A warrant shall issue on an affidavit sworn to before a person authorized by law to administer oaths and establishing the grounds for issuing the warrant. If the judicial officer is satisfied that the grounds for the application exist or that there is probable cause to believe that they exist, the judicial officer shall issue a warrant particularly identifying the property or person to be seized and naming or describing the person or place to be searched. Before ruling on a request for a warrant the judicial officer may require the applicant to appear personally and may examine under oath the applicant and any witnesses the applicant may produce, provided that such proceeding shall be taken down by a court reporter or recording equipment and made part of the affidavit. The following additional rules may apply:

(1) Warrant on Sworn Testimony. The judicial officer may wholly or partially dispense with a written affidavit and base a

warrant on recorded sworn testimony, which record shall be preserved as if in writing.

(2) Recording Testimony. Testimony taken in support of a warrant must be preserved by a court reporter or by recording device.

(3) Requesting a Warrant by Telephonic or Other Reliable Electronic Means. A judicial officer may issue a warrant based on information communicated by telephone or other reliable electronic means.

(4) Procedures for Telephonic or Electronic Warrant. If a judicial officer proceeds under this rule, the following procedures apply:

(A) Taking Testimony Under Oath. The judicial officer must place under oath--and may examine--the applicant and any person on whose testimony the application is based.

(B) Testimony Limited to Attestation. If the applicant does no more than attest to the contents of a written affidavit submitted by reliable electronic means, the judicial officer must acknowledge the attestation in writing on the affidavit.

(C) Preparing a Proposed Duplicate Original of a Warrant. The applicant must prepare a proposed duplicate original of a warrant and must read or otherwise transmit its contents verbatim to the judicial officer.

(D) Preparing an Original Warrant. If the applicant reads the contents of the proposed duplicate original, the judicial officer must enter those contents into an original warrant. If the applicant transmits the contents by reliable electronic means, the transmission received by the judicial officer may serve as the original.

(E) Modification. The judicial officer may modify the warrant. The judicial officer must then:

- (i) transmit the modified version to the applicant by reliable electronic means; or
- (ii) file the modified original, and direct the applicant to modify the proposed duplicate original accordingly.

(e) Contents of Warrant. The warrant shall be directed to any peace officer authorized to enforce or assist in enforcing the state law. It shall state the grounds or probable cause for its issuance and the names of the persons whose affidavits have been taken in support thereof. It shall designate the judicial officer to whom it shall be returned.

(1) Warrant to Search for and Seize a Person or Property. Except for a tracking device warrant, the warrant must identify the person or property to be searched, identify any person or property to be seized, and designate a judicial officer to whom it must be



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

Wyoming SEARCH WARRANT GUIDE

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