

Search Warrants

A search Warrant is an affidavit that shows that there is probable cause to believe that certain property is evidence of a crime, is contraband, is unlawfully possessed, or, is subject to seizure, AND, is located at a particular location (i.e. a safe deposit box) or is in possession of a particular person described in the warrant.

The description of what is being looked for may be broad, but there are specific pieces of information which must be resent. The warrant must give specific information on a particular box. It is acceptable for the box to be joint with an individual not named in the search warrant, but problems could arise later when the police have to prove who the property they seized belongs to. If the warrant gives specific box number and the name in the warrant does not match the name in the bank's records for that box, tell the police that the information is wrong and must be corrected before access will be granted.

The bank's representative must look carefully at the description of the property which may be seized because it may be very broad. It may specify items related to drug dealings. The police will decide if the item they remove complies with the search warrant. If you have doubts, make specific notes and later contact your legal counsel. A bank officer should be present when the box is opened and an inventory made of the box contents. In addition, you should request a copy of the inventory the police make of the items they are taking. Keep a signed copy of the search warrant and the police inventory.

Another specific bit of information which must appear in the search warrant is when the search may be made, day or night. Night searches will not normally be relevant to banks. The law recognizes however that privacy is important and in order to obtain a nighttime search warrant the police must show special cause.

Search warrants are issued by District Justices. The police go to the District Attorney with their evidence for probable cause and the District Attorney goes to the District Justice to have the warrant issued. The search warrant will indicate the name of the Justice. The search warrant will be served by a police officer, a constable or a deputy. Do not be afraid to get identification from the law enforcement officer. If you have any doubts as to who this person is, or the validity of the warrant, contact your legal counsel and the Justice who issued the warrant. If the warrant is legitimate and they really want to get it, they will wait, even if it means leaving an individual as the bank to watch the box while any problems are straightened out. If the problem is that the box must be drilled and no one is available to drill the box immediately, a court order can be obtained to seal the box.

DO NOT contact the customer when you are served with a search warrant. If the customer comes in and removes the boxes' contents, you may be found guilty of obstruction of justice. You may notify the customer after the search has been made. Send a copy of the warrant along with a list of items taken. Certified mail is recommended. Diplomacy will be the best policy in this type of situation.

To summarize, the search warrant must specify who (box renter, issuing Justice), when (day or night), where (which financial organization and if possible which box) and why (probable cause). Remember these definitions – Search Warrant: Specifies a particular item being removed from a particular location at a particular time. Not to be confused with a Subpoena: the request by a particular court proceeding to appear in court to present a particular item or records to the court.