

Warrants—

What You Need to Know

Taking the law into your own hands is never a good idea. Rescues are often stymied by working on animal cruelty cases in areas where some violations and crimes related to animal care fall through the cracks of the legal system. Even if your county does not have an animal control officer or that your dog warden is not empowered to execute a search warrant, there are ways for every citizen to petition for justice.

Requesting a warrant, however, can be an intimidating process. Our goal is to help familiarize you with the general process, with the understanding that local jurisdictions can have differing rules.

First, here are some things to keep in mind:

1. A police commissioner, justice of the peace, or sworn officer of the court can request action by judge's order. One form of order is an arrest warrant. Another is a search warrant.
2. You usually need to verify that the violation or crime has been reported to the proper authority so you will need a complaint number or police report record number.
3. You will also need the name and ID number of the person you suspect of committing the violation or crime.
4. You may believe you want a felony charge but this can be a mistake. Felony charges may (and they do NOT always) carry a greater punishment than a lesser crime or civil violation but they are much harder to win and you need clear proof for any warrant. To get a conviction in court, you must prove intent to harm and that no other persons could have helped or been the actual responsible party.
5. Usually an arrest warrant must be issued in conjunction with a search warrant. An arrest warrant says you have reason to believe a violation of law has occurred and some rudimentary evidence, called probable cause, that the person who is responsible is known to you. A search warrant says that you have reason to believe evidence important in proving the violation in question or person involved is accurate is available at a certain location and you need permission to get it.
6. Even if such a warrant is issued by your request, you will not likely be invited to go along. In many cases the arrest warrant is only activated when and if the suspect is picked up for some other reason.

Next, how do you request a warrant? Here is a typical template:

I, (your name), have the following experience in (your expertise here) and hereby swear under penalty of perjury that sections (cite code numbers here) of the law have been violated and reported to (agency and case number here) by (suspect's name and soundex number here).

Based on report received from (choose: anonymous caller, police informant, neighbor, rescue worker, or self) that (describe animals here) (describe conditions here) on (list dates, times and locations here), I request that (person) be summonsed to appear in court to answer for these violations.

I further request that evidence located at (list address here—preferably include a photo from a public access area that shows the location specifically) and in trash cans or outbuildings be collected that will include but is not limited to:

- *animals*
- *animal supplies, medications, food and cages*
- *paperwork or receipts for animal supplies or bills of sale*
- *photographs, samples of tissue from animals*
- *and any other supplies you would consider important.*

Here's a sample:

I, Freddy Fakerson, have 20 years of experience as a veterinary technician and animal shelter volunteer and hereby swear under penalty of perjury that sections 123.456 of the Maryland code have been violated and reported to Fake County Sheriff's Office concerning Mr. John Doe of 123 Main Street in Faketown.

Based on report received from a shelter worker that 50 dogs were being kept without food and water on September 1 and 2 at 123 Main Street, I request that John Doe be summonsed to appear in court to answer for these violations.

I further request that evidence located at 123 Main Street and in trash cans or outbuildings be collected that will include but is not limited to:

- *animals*
- *animal supplies, medications, food and cages*
- *paperwork or receipts for animal supplies or bills of sale*
- *photographs, samples of tissue from animals*
- *and any other supplies you would consider important.*

Remember to sign and notarize the request. More signatures are better but all signers must swear to the same knowledge and all are able to be charged with false arrest if any statements in the affidavit are not true.

Frequently Asked Questions

What should I list as evidence for a search warrant?

Anything you do not list as potential evidence cannot be seized, so don't leave out anything important.

To whom do I submit the request?

You will submit this request to an officer of the court. In every jurisdiction this varies. It may be directly to a commissioner at your local precinct or to an officer in your courthouse. You may be able to submit the request to an animal control or police officer or your attorney. In some cases cruelty investigators are happy to do this they just have never done it before.

Am I qualified to write a request?

You should understand that if your documented expertise does not qualify you to evaluate the evidence you've been given, you will not be granted permission to proceed.

So if you are not a law enforcement officer, what could qualify you? If you are a veterinarian and have witnessed certain conditions of the animals or if you are a 501(c)(3) organization with an investigative license

in your state and you have received verifiable information about conditions that you have confirmed by cursory visit to a property, you are qualified to ask.

This does not mean that a judge will agree that you should proceed. It's possible that if the violation is minor and you have directly witnessed this, you need only be an adult willing to swear to what you have seen. It's also possible that a judge will decide that the violation does not rise to the level of intruding on privacy rights to resolve. If you have not contacted the suspect for resolution or if you only have ambiguous evidence such as you've heard a puppy yelping, this does not in any way indicate anything illegal.

Obviously, you must work with law enforcement and an attorney, in some cases the State's Attorney. If a judge does not approve your request, it will go nowhere.

How reliable is an anonymous tip?

If you receive an anonymous tip, it will probably never rise to the need for a search warrant. Anonymous tips are quite unreliable and often turn out to be motivated by revenge or simply made by mistake. If you have no specific authority or expertise, you will understandably have difficulty. Would you want an angry neighbor to be able to have the police search your basement? But if you have a legitimate witness and animals in danger, most rescues can pursue legal channels to take action.

What happens to any seized property?

You will need to work carefully with the judge who issues any warrants for you because any evidence you seize (including live animals) is itemized and receipted to the judge and owner within 24 hours. It must be kept under lock and key until court and returned in the SAME condition to the owner pending the court's action.

What will happen to live animals?

In the case of live animals you may need to petition the court to transfer ownership of the animals to you before trial to make it possible for you to properly care for them. Be advised the court usually says no to this because you have not yet proved the animals are in danger or that the owner in question is solely responsible. Be prepared for cost and lock down of any animals so that you will be able to do so or they will be returned to their owner. You cannot neuter them or foster them or adopt the out as they are evidence in a court case. You've probably heard stories about rescues saddled with 40 or worse, 200 cats or birds or guinea pigs for nine months while a trail plays out. If you do your homework, the animals will be saved and you will prevail in the court by restricting the owner's ability to commit such violations again. However, this is constitutional law and must be undertaken with the utmost care and expertise to avoid trampling the rights of the innocent. Something to think about whichever side of the case you are on.

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