



AFFIDAVIT IN SUPPORT OF TELEPHONIC SEARCH WARRANT

Important: Do not write down or say the judge's telephone number or address on this form or during the call.

Investigation Number: _____

Turn on the recording device. Read verbatim the following document, including the necessary filled-in areas.

Judge _____, this is Officer _____ Badge No. _____ of the
 _____ Police Dept _____ County Sheriff's Office Montana Highway Patrol

Other _____

I am requesting your assistance with a Telephonic Search Warrant in support of a:

- | | |
|--|--|
| <input type="checkbox"/> DUI Investigation (Second or Subsequent Offense, Refusal) | <input type="checkbox"/> Vehicular Homicide |
| <input type="checkbox"/> Aggravated DUI Investigation | <input type="checkbox"/> Negligent Vehicular Assault |
| <input type="checkbox"/> Other: _____ | |

My testimony is being recorded (and Officer _____ Badge No. _____ is my witness.)
Will you swear me in, please?

Thank you, your honor. I will now continue with the affidavit.

Judge, I have probable cause to believe that there is now in the body, blood or bodily fluid of

_____ Suspect's name _____ Date of birth _____

Located at: _____

The following substance and/or property, to wit:

- Alcohol and/or drugs that together with other evidence constitutes the crime of:
- | | |
|--|--|
| <input type="checkbox"/> Driving Under the Influence of Alcohol or Drugs as defined by Montana law, and/or | <input type="checkbox"/> Vehicular Homicide |
| <input type="checkbox"/> Other: _____ | <input type="checkbox"/> Negligent Vehicular Assault |

As set forth in this affidavit, I, Officer _____, am a peace officer in the State of Montana, employed by
 _____ Police Dept _____ County Sheriff's Office Montana Highway Patrol.

I have been a sworn peace officer for _____ years. I have specialized training in:

- | | |
|--|------|
| <input type="checkbox"/> DUI investigation and apprehension | |
| <input type="checkbox"/> Drug recognition as a Drug Recognition Expert (D.R.E.), with certification on _____ | date |
| <input type="checkbox"/> Crash investigation | |
| <input type="checkbox"/> Other: _____ | |

I am investigating the crime of:

- | | |
|---|--|
| <input type="checkbox"/> DUI | <input type="checkbox"/> Vehicular Homicide |
| <input type="checkbox"/> Aggravated DUI | <input type="checkbox"/> Negligent Vehicular Assault |
| <input type="checkbox"/> Other: _____ | |

Which I believe to have been committed on the _____ day of _____, 20____, at the time of _____ hours
at the location of _____, _____ County, Montana,
based on the following reasons and circumstances:

Crash (describe circumstances): _____

Driving behavior/other observations (including identity of suspect as driver): _____

As to the DUI investigation, the suspect has a:

prior conviction for DUI or substantially similar offense (or a prior refusal) on _____

The following observations of symptoms and/or impairment were made of _____ by me or other witness(es).

- | | | | | |
|--|--|---|---|--|
| Eyes
<input type="checkbox"/> watery
<input type="checkbox"/> bloodshot | Face
<input type="checkbox"/> flushed
<input type="checkbox"/> pale
<input type="checkbox"/> dazed expression | Odor – alcohol
<input type="checkbox"/> faint
<input type="checkbox"/> moderate
<input type="checkbox"/> strong | Odor – marijuana
<input type="checkbox"/> faint
<input type="checkbox"/> moderate
<input type="checkbox"/> strong | Speech
<input type="checkbox"/> Slurred
<input type="checkbox"/> incoherent
<input type="checkbox"/> profanity |
| Balance
<input type="checkbox"/> swaying
<input type="checkbox"/> staggering
<input type="checkbox"/> lost balance/fell down | Attitude
<input type="checkbox"/> antagonistic
<input type="checkbox"/> combative
<input type="checkbox"/> mood swings | Unusual actions
<input type="checkbox"/> hiccupping
<input type="checkbox"/> vomiting
<input type="checkbox"/> urination/defecation | Pupils
<input type="checkbox"/> poor reaction
<input type="checkbox"/> dilated | Clothing
<input type="checkbox"/> soiled
<input type="checkbox"/> messy, torn |

Other: _____

HGN _____ Walk/turn _____ One leg stand _____, indicating impairment

DRE Observations: _____

PBT results: _____ refused; Intoxilyzer results: _____ refused

I believe that the property, substance, and behavior that I have described in this affidavit are evidence of driving or being in actual physical control of a vehicle while under the influence of alcohol and/or drugs.

I have informed the suspect that regardless of any blood draw performed based on the issuance of a warrant that he/she has the right to an independent blood test. I believe there is an immediate need to obtain this evidence in a timely manner because, based on my training and experience, alcohol and/or drug concentrations in the body change and are completely eliminated from the body simply with the passage of time. Therefore, the evidence is perishable in nature and a time delay would render it useless.

Based on the preceding facts, I am seeking a Telephonic Search warrant. This concludes my affidavit, Your Honor. Do I have your permission to sign your name to this affidavit and search warrant, and then execute the search warrant?

Judge _____ by _____
print full name initials of Affiant date

Affiant _____
signature date time

Witness _____
signature date

I will provide a recording of this call to your chambers as soon as possible. I will also place a copy of this recording into evidence.



SEARCH WARRANT

Investigation Number: _____ Date: _____

SUSPECT	DATE OF BIRTH
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Pursuant to the sworn application on the ____ day of _____, 20__ having been made by telephone and recorded in accordance with Section 46-5-222, Montana Code Annotated, by Officer _____, Badge # _____, and based on the immediate need as noted in the application, he/she has reason to believe that in the body of Suspect _____, date of birth _____, there is the following evidence:

- Alcohol and/or drugs that together with other evidence constitutes the crime of:
- Driving Under the Influence of Alcohol or Drugs as defined by Montana law, and/or
 - Other: _____
 - Vehicular Homicide
 - Negligent Vehicular Assault

I am satisfied that there is probable cause to believe that the evidence described is in or upon the person described above and that such evidence is related to the crime as identified in the sworn affidavit.

You are hereby commanded to serve this warrant to obtain a proper sample of blood for subsequent testing of alcohol and/or drugs and to record any findings and document on a receipt for it, and then prepare and bring before me a written inventory verified by you of the evidence seized, all in the manner required by law. Service of this warrant may be made either during the daytime or at nighttime.

Judge _____ by _____
print full name initials of Affiant date

Judge _____
original signature date

SERVICE OF SEARCH WARRANT

This search warrant (or duplicate) was served on _____ day of _____, 20__.

officer's full name (printed) officer's signature badge number date

KEEPER'S RECEIPT

Based on the telephonic search warrant issued on _____ (date) as provided above, the undersigned being the officer in Charge of property in this matter does herewith acknowledge that he/she has in custody _____ vial(s) of blood that have been seized as authorized by the search warrant and that he/she will hold and keep such evidence in the custody of _____, acting as custodian of such property, until it is sent to the Montana State Crime Laboratory, or other accredited laboratory, in accordance with all Administrative Rules of Montana for testing and storage or otherwise authorized by the proper judge.

Officer: _____ (Signature) _____ (Date)



RETURN OF SEARCH WARRANT

Investigation Number: _____

Date: _____

SUSPECT	DATE OF BIRTH
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I, Officer _____, by authority of a telephonic search warrant issued on _____ day
of _____, 20____ of _____ have searched and seized the following
items: _____
Number

I, Officer _____, being first duly sworn, deposes and says that I am the person named
in the above return and that I have prepared it; that all of the matters stated therein are true; that the list of evidence is true and
complete; and that a list has been delivered to the proper judge.

Officer _____
signature date

SWORN TO AND SUBSCRIBED TO before me on this _____ day of _____, 20__.

JUDGE

ORDER OF CUSTODY

WHEREAS there has been filed with this Court an application for a telephonic search warrant; and a telephonic search warrant has
been duly issued by this Court; and a return to such search warrant and recording in accordance with Section 46-5-222, Montana
Code Annotated, has been made listing all evidence seized pursuant to the law as provided above; and the Court having had an
opportunity to inspect such evidence seized; and having a written inventory of the evidence seized; and

WHEREAS it appears from the nature of the evidence seized, and because of facilities available to the Court for storage of evidence,
that to store the evidence and to better safeguard such evidence it would be practical and advantageous for the law enforcement
agency executing the warrant to retain in custody the evidence seized.

NOW, THEREFORE, IT IS ORDERED, that the evidence seized pursuant to the search warrant heretofore issued and any evidence
seized pursuant to law be retained in the custody of the Property Officer or other custodian of the agency executing the warrant,
and/or transferred by the agency to any facility, including any forensic laboratory, for further testing as may be necessary.

Dated and signed this _____ day of _____, 20__.

JUDGE