

Chief Justice Steven C. González
Washington State Supreme Court
Temple of Justice
415 12th Ave SW
Olympia , Wash. 98504-0929

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AUG 31 2021

Washington State
Supreme Court

Re: Suggested Amendment to CrR 2.3/CrRLJ 2.3 -Issuance of Search Warrant

Dear Mr. Chief Justice ,

My name is Stephen Kozer . I am a public defender in Grant County , Washington .

I know you are busy , however I have a suggestion to the Search Warrant rule(s).

I am writing you on my own as a citizen , not on behalf of the Grant County Dept. of Public Defense . I do have a concern that if the Grant County found out that I was writing to you on this subject my employment would be terminated .

My suggestion is simple (although I have a lot more of them) .

When police go to search a "residence" that the search be conducted during day light hours (not at night)

That the term "residence" should be defined as any home or other building ,tent, camper or vehicle used by any person to live in or that police have grounds to believe a person may be living in .

That the search warrant for the residence be executed in one day (not 10 days) .

The thought is to preserve the sanctity of one's home and to avoid a Breonna Taylor situation .

Thank you for your time and consideration .


Stephen Kozer

WSBA # 14413

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WESTLAW CLASSIC

West's Revised Code of Washington Annotated
 Title 10 Appendix. Criminal Procedure
RULE 2.3. SEARCH AND SEIZURE Criminal Rules (CRR) (Refs & Annos)
WA ST SUPER CT CR CrR 2.3 West's Revised Code of Washington Annotated Title 10 Appendix Criminal Procedure Effective: February 1, 2021 (Approx. 2 pages)

- NOTES OF DECISIONS (364)**
- In general
 - Administrative warrants
 - Affidavits
 - Arrest incident to search
 - Arrest warrants, procedural requirements
 - Blood tests
 - Body cavity search
 - Civil actions
 - Credibility, informants
 - Crime under investigation, validity of warrant
 - Delay
 - Derivative evidence
 - Descriptions, validity of warrant
 - Disclosure of identity, informants
 - Discretion of court
 - Drug violations, probable cause
 - Embezzlement, probable cause
 - Errors and omissions, affidavits
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 - Expectation of privacy
 - False statements, affidavits
 - Forcible entry
 - Fruit of the poisonous tree, probable cause
 - Grounds
 - Hearing
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 - Jurisdiction, procedural requirements
 - Knock and notice
 - Misdemeanors
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 - Persons on premises, scope of search
 - Plain view, scope of search
 - Pornography, probable cause
 - Possession of property
 - Presumptions and burden of proof, procedural requirements
 - Pretext stops
 - Probable cause
 - Procedural requirements
 - Purses, scope of search
 - Reasonableness
 - Record, procedural requirements
 - Return of property to accused or owner
 - Return of warrant, procedural requirements
 - Review
 - Scope of search
 - Severance, validity of warrant
 - Staleness, grounds
 - Standing to challenge search or seizure
 - Stolen property, probable cause
 - Strip searches, scope of search
 - Sufficiency, grounds

Effective: February 1, 2021

Superior Court Criminal Rules, **CrR 2.3**

RULE 2.3. SEARCH AND SEIZURE

Currentness

(a) Authority to Issue Warrant. A search warrant authorized by this rule may be issued by the court upon request of a peace officer or a prosecuting attorney.

(b) Property or Persons Which May Be Seized With a Warrant. A warrant may be issued under this rule to search for and seize any (1) evidence of a crime; or (2) contraband, the fruits of crime, or things otherwise criminally possessed; or (3) weapons or other things by means of which a crime has been committed or reasonably appears about to be committed; or (4) person for whose arrest there is probable cause, or who is unlawfully restrained.

(c) Issuance and Contents. A search warrant may be issued only if the court determines there is probable cause for the issuance of a warrant. The evidence in support of the warrant must be in the form of affidavits, a statement as provided in **GR 13**, or sworn testimony establishing the grounds for issuing the warrant and may be provided to the court by any reliable means. Any sworn testimony must be recorded and made part of the court record and shall be transcribed if requested by a party if there is a challenge to the validity of the warrant or if ordered by the court. The evidence in support of the finding of probable cause shall be preserved and shall be subject to constitutional limitations for such determinations and may be hearsay in whole or in part. If the court finds that probable cause for the issuance of a warrant exists, it shall issue a warrant or direct an individual whom it authorizes for such purpose to affix the court's signature to a warrant identifying the property or person and naming or describing the person, place, or thing to be searched. The court's authorization may be communicated by any reliable means. A record shall be made of any additional evidence on which the court relies. The warrant shall be directed to any peace officer and shall command the officer to search, within a specified period of time not to exceed 10 days, the person, place, or thing named for the property or person specified. The warrant shall designate the court to which the warrant shall be returned. The warrant may be served at any time.

(d) Execution and Return With Inventory. The peace officer taking property under the warrant shall give to the person from whom or from whose premises the property is taken a copy of the warrant and a receipt for the property taken. If no such person is present, the officer may post a copy of the search warrant and receipt. The return shall be made promptly and shall be accompanied by a written inventory of any property taken. The inventory shall be made in the presence of the person from whose possession or premises the property is taken, or in the presence of at least one person other than the officer. The court shall upon request provide a copy of the inventory to the person from whom or from whose premises the property was taken and to the applicant for the warrant.

(e) Motion for Return of Property. A person aggrieved by an unlawful search and seizure may move the court for the return of the property on the ground that the property was illegally seized and that the person is lawfully entitled to possession thereof. If the motion is granted the property shall be returned. If a motion for return of property is made or comes on

for hearing after an indictment or information is filed in the court in which the motion is pending, it shall be treated as a motion to suppress.

(f) Searches of Media.

(1) *Scope.* If an application for a search warrant is governed by [RCW 10.79.015\(3\)](#) or [42 U.S.C. §§ 2000aa et seq.](#), this section controls the procedure for obtaining the evidence.

(2) *Subpoena Duces Tecum.* Except as provided in subsection (3), if the court determines that the application satisfies the requirements for issuance of a warrant, as provided in section (c) of this rule, the court shall issue a subpoena duces tecum in accordance with [CR 45\(b\)](#).

(3) *Warrant.* If the court determines that the application satisfies the requirements for issuance of a warrant and that [RCW 10.79.015\(3\)](#) and [42 U.S.C. §§ 2000aa et seq.](#) permit issuance of a search warrant rather than a subpoena duces tecum, the court may issue a warrant.

Credits

[Amended effective September 1, 1983; September 1, 1986; September 1, 1995; September 1, 2014; February 1, 2021.]

Editors' Notes

COMMENT--1973

Supersedes [RCW 10.79.010](#), .030.

COMMENT--1986

The addition of cautionary language regarding the use of hearsay evidence in making a finding of probable cause is identical to the amendment proposed for [CrR 2.2\(a\)](#). A similar warning is presently found in [CrR 4.7\(b\)\(2\)](#). The committee was concerned that a rule user might be misled into believing that [CrR 2.3\(c\)](#) codified all the decisional law governing the use of hearsay evidence. The proposed change will provide a warning to consult case law or otherwise make an examination beyond the rule.

The remaining amendments to sections (c), (d), and (e) reflect the committee's decisions on style. The committee decided to substitute "court" for "judge", and to change gender-specific pronouns in rules which were otherwise being amended.

Relevant Additional Resources

Additional Resources listed below contain your search terms

RESEARCH REFERENCES

Treatises and Practice Aids

[1B Washington Practice Series § 60:2](#), Criminal Practice and Procedure Relating to Rules for Procedures Prior to Arrest and Other Special Proceedings ([CrR 2.1](#) to [2.3](#)).

[1B Washington Practice Series § 60:3](#), [CrR 2.1](#), the Indictment and the Information (Selected Portion).

[1B Washington Practice Series § 60:5](#), [CrR 2.3](#), Search and Seizure (Selected Portion).

[1 Washington Practice Series § 17:8](#), [CrR 2.1](#), the Indictment and the Information (Selected Portion).

[1 Washington Practice Series § 17:10](#), [CrR 2.3](#), Search and Seizure (Selected Portion).

[1 Washington Practice Series § 24:13](#), [CrRLJ 2.3](#), Search and Seizure (Selected Portion).

[4A Washington Practice Series CrR 2.2](#), Warrant of Arrest and Summons.

[4A Washington Practice Series CrR 2.3](#), Search and Seizure.

[4B Washington Practice Series CrRLJ 2.3](#), Search and Seizure.

Notes of Decisions containing your search terms (0)

[View all 364](#)

CrR 2.3, WA ST SUPER CT CR CrR 2.3

Annotated Superior Court Criminal Rules, including the Special Proceedings Rules -- Criminal, Criminal Rules for Courts of Limited Jurisdiction, and the Washington Child Support Schedule Appendix are current with amendments received through 8/1/21. Notes of decisions annotating these court rules are current through current cases available on Westlaw. Other state rules are current with amendments received through 8/1/21.

- Sworn testimony
- Tax collection
- Telephonic testimony, procedural requirements
- Telephonic warrants
- Timeliness, procedural requirements
- Validity
- Validity of warrant
- Vehicle on premises, scope of search
- Vehicle search, in general
- Vehicle search, probable cause
- Warrant following illegal search

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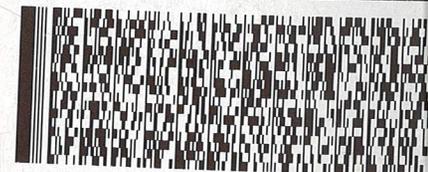
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