



U.S. Department  
of Transportation

**National Highway  
Traffic Safety  
Administration**



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DOT HS 812 949

April 2021

# **Practices for Implementing Expedited Search Warrant Programs for Obtaining Evidence From Impaired Drivers**

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Suggested APA Format Citation:

Symoun, J., Kehoe, N., Carlson, L., & Marose, D. (2021, April). *Practices for implementing expedited search warrant programs for obtaining evidence from impaired drivers* (Report No. DOT HS 812 949). National Highway Traffic Safety Administration.

## Technical Report Documentation Page

<b>1. Report No.</b> DOT HS 812 949		<b>2. Government Accession No.</b>		<b>3. Recipient's Catalog No.</b>	
<b>4. Title and Subtitle</b> Practices for Implementing Expedited Search Warrant Programs for Obtaining Evidence From Impaired Drivers				<b>5. Report Date</b> April 2021	
				<b>6. Performing Organization Code</b>	
<b>7. Authors</b> Jennifer Symoun, Nicholas Kehoe, Lauren Carlson, and Lt. Donald Marose				<b>8. Performing Organization Report No.</b>	
<b>9. Performing Organization Name and Address</b> ToXcel, LLC 7140 Heritage Village Plaza Gainesville, VA 20155				<b>10. Work Unit No. (TRAVIS)</b>	
				<b>11. Contract or Grant No.</b>	
<b>12. Sponsoring Agency Name and Address</b> National Highway Traffic Safety Administration 1200 New Jersey Avenue SE Washington, DC 20590				<b>13. Type of Report and Period Covered</b> Final Report	
				<b>14. Sponsoring Agency Code</b>	
<b>15. Supplementary Notes</b> Elizabeth Wolfe and Nicole Booker were the NHTSA task order managers for this report.					
<b>16. Abstract</b> Reliable evidence of alcohol and/or drug use while driving is a vital component of court sentencing in impaired driving cases. All States have "implied consent" laws, which mean a driver has consented to blood alcohol concentration (BAC) or drug testing when driving by virtue of operating a vehicle on a public roadway. NHTSA research has found implied consent laws often have penalties inadequate to prevent impaired driving suspects from refusing to take a breath test, and suspects who avoid testing are often able to avoid being held accountable. A 2008 NHTSA report, Refusal of Intoxication Testing: A Report to Congress (Report No. DOT HS 811 098), identified the use of search warrants as a promising strategy to reduce refusal rates. When a warrant is obtained to draw blood, the suspect is then subject to the State's administrative sanctions for refusal, as well as criminal sanctions if the results show they were driving while impaired. The typical process for obtaining approval for a warrant and drawing blood is time-consuming. Two promising strategies to reduce this time are implementing an expedited warrant process and a law enforcement phlebotomy program. While implementing both strategies together is ideal, implementing just one of these strategies can improve the impaired driving arrest process. This report focuses primarily on implementing an expedited warrant program for impaired driving arrests. In general, expedited search warrant systems for impaired driving arrests enable law enforcement officers to request a warrant from a judge on any day and at any time, provide users with enhanced accessibility to obtain warrants (e.g., available on phones, tablets, and computers), and allow for quicker capture of blood and/or urine samples, thereby ensuring more accurate evidence. This report provides successful practices for implementing expedited warrants as well as case studies from several agencies who have seen benefits from using expedited warrants.					
<b>17. Key Words</b> electronic warrant, expedited warrant, ewarrant, e-warrant, search warrant, impaired driving, law enforcement phlebotomy, blood draw, DUI, DUID, DWI				<b>18. Distribution Statement</b> Document is available to the public from the National Technical Information Service, <a href="http://www.ntis.gov">www.ntis.gov</a> .	
<b>19. Security Classif. (of this report)</b> Unclassified		<b>20. Security Classif. (of this page)</b> Unclassified		<b>21. No. of Pages</b> 62	<b>22. Price</b>

## **Acknowledgements**

NHTSA would like to thank the following people for their invaluable contributions to this report. Any program information in the report that is not cited was provided through interviews and discussions with these people.

- Alberto Gutier, Arizona Governor's Office of Highway Safety
- Jack Liu, San Bernardino County Deputy District Attorney
- Keith Bogardus, Orange County Senior Assistant District Attorney
- Crista Newmyer-Olsen, District Attorney for Colorado 12th District
- Jennifer Cifaldi, Illinois Traffic Safety Resource Prosecutor
- Karen Wittman, Deputy District Attorney, Wyandotte County
- Corey Kenney, Office of the Kansas Attorney General
- Greg Benefiel, McPherson County, Kansas Attorney's Office
- Thomas Lockridge, Office of the Kentucky Attorney General
- Captain James DeCoursey, Maryland State Police
- Mike Asleson, Minnesota Bureau of Criminal Apprehension

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## Introduction

Reliable evidence of alcohol and/or drug use while driving is a vital component for court sentencing in impaired driving cases. All States have “implied consent” laws, providing that as part of receiving a driver’s license, a driver has consented to providing a blood, breath, or urine sample when properly requested by law enforcement and if the driver refuses, they may be subject to sanctions (Namuswe et al., 2014). These sanctions vary by State and include the suspension of their driver’s license and/or fine or jail sentence. In some States, testing refusal is admissible in court (Zwicker et al, 2005).

NHTSA research has found implied consent laws often have penalties inadequate to prevent impaired driving suspects from refusing to take a breath test, and suspects who avoid testing are often able to avoid being held accountable. In some States, refusal to submit to blood alcohol concentration (BAC) testing leads to an administrative license suspension or revocation but no criminal charges. In 2011 (the most recent data available), refusal rates ranged from 1 percent to 82 percent, with an average refusal rate of 24 percent across the 34 States included in the research (Namusweet al., 2014).

A 2008 NHTSA report, *Refusal of Intoxication Testing: A Report to Congress* (Berning et al., 2014), identified the use of search warrants as a promising strategy to reduce refusal rates. When a warrant is obtained to draw blood, the suspect is then subject to the State’s administrative sanctions for refusal, as well as criminal sanctions if the results show they were driving while impaired.

## Case Law

The first well-known case on compulsory blood tests was *Schmerber v. California* (1966), in which the United States Supreme Court ruled that taking a suspect’s blood while in custody at the hospital over the suspect’s objections did not violate his Fourth Amendment right to be free of unreasonable search or seizure. The Court noted that although a warrant would normally be required for blood to be drawn, the circumstances in this case and the need to draw blood quickly before the alcohol in the suspect’s blood dissipated were exigent circumstances and therefore a valid exception to the warrant requirement.

In *Missouri v. McNeely* (2013) the United States Supreme Court reiterated that a blood draw constitutes a search, and therefore requires a search warrant, unless an exception to the warrant requirement applies. However, unlike the *Schmerber* case, the Court found in this case that the natural dissipation of alcohol in the bloodstream does not generally alone constitute an exigent circumstance that would allow for blood to be involuntarily drawn without a warrant. In this case, the Court held the warrantless involuntary blood draw to be unconstitutional. The

“The importance of the needs served by BAC testing is hard to overstate. The bottom line is that BAC tests are needed for enforcing laws that save lives. The specifics, in short, are these: Highway safety is critical; it is served by laws that criminalize driving with a certain BAC level; and enforcing these legal BAC limits requires efficient testing to obtain BAC evidence, which naturally dissipates. So BAC tests are crucial links in a chain on which vital interests hang. And when a breath test is unavailable to advance those aims, a blood test becomes essential.”  
—*Mitchell v. Wisconsin* (2019)

Court noted that the question of whether an exigency exists is based on the “totality of the circumstances.”

In *Birchfield v. North Dakota* (2016) the Supreme Court held that the Fourth Amendment permits warrantless breath tests for suspected impaired drivers, but does not permit warrantless blood draws. The Court contrasted breath tests, which it found do not implicate a significant privacy interest, with blood draws, which are significantly more intrusive and result in a sample that can be preserved and used to obtain information beyond chemical testing results.

Most recently, in *Mitchell v. Wisconsin* (2019), the Supreme Court reiterated that the question of whether exigent circumstances exist to allow a warrantless blood draw is fact-specific, but concluded that when a driver is unconscious and cannot be given a breath test, the exigent-circumstances doctrine generally permits a blood draw without a warrant.

### **Expediting the Warrant Process**

The typical process for obtaining approval for a warrant and drawing blood is time-consuming. In some cases, it can be two or more hours for an officer to complete the necessary forms, contact a judge, travel to the judge’s location, fax the forms, receive the warrant approval, transport the offender to the location of the blood draw, and wait for a phlebotomist to obtain the sample (Berning et al., 2007). Two promising strategies to reduce this time are implementing an expedited warrant process and a law enforcement phlebotomy program. While implementing both strategies together is ideal, even implementing just one of these strategies can benefit and improve the impaired driving arrest process. This report focuses primarily on implementing an expedited warrant program for impaired driving arrests; however, more information about implementing a law enforcement phlebotomy program can be found in NHTSA’s Law Enforcement Phlebotomy Toolkit (NHTSA, 2019).

The terms “expedited warrant,” “electronic warrant,” and “e-warrant” are often used to describe a system that speeds up the process to obtain a warrant. These systems can be used for arrest warrants, search warrants, or both. For the purposes of this report, the term, “expedited warrant,” is used to cover all possible procedures used to facilitate the search warrant process for chemical testing in impaired driving cases. In general, expedited search warrant systems for impaired driving arrests enable law enforcement officers to request a warrant from a judge on any day and at any time, provide users with enhanced accessibility to obtain warrants (e.g., available on phones, tablets, and computers), and allow for quicker capture of blood and/or urine samples, thereby ensuring more accurate evidence.

**Expedited Warrant:** A warrant that is quickly obtained electronically, by fax, or by phone on any day at any time.

For the purposes of this report, the term, “expedited warrant,” is used to cover all possible procedures used to facilitate the search warrant process for chemical testing in impaired driving cases.

In 2018 the International Association of Chiefs of Police (IACP) Highway Safety Committee passed a resolution in support of the use of expedited warrants in the fight against impaired driving. The resolution states that the IACP supports the, “Development, implementation, and legislative engagement of eWarrant systems by law enforcement agencies and prosecutors to prevent injury and death on our nation’s roadways” (IACP, 2018).



## Report Objectives

This report was developed to assist law enforcement officers, judges, magistrates, and prosecutors in understanding how to develop and implement a successful expedited warrant program for obtaining evidence from impaired drivers. It can also be used by jurisdictions that already have an expedited warrant program in place to identify strategies to improve or enhance their program. This report focuses solely on expedited search warrants for obtaining blood and/or urine samples from impaired drivers. It provides examples of robust programs that use sophisticated electronic systems, as well as more simple programs that primarily use tablets, e-mail, or fax to expedite the warrant process.

## Why Implement an Expedited Warrant Program?

In most States and jurisdictions included in the research for this report, the response to expedited warrants from judges and law enforcement has been very positive. States and jurisdictions that have implemented expedited warrant programs have found numerous benefits, both measurable and supported by data, as well as perceived. The primary benefit of expedited warrants is the time savings in obtaining a warrant to collect chemical evidence for impaired driving cases. Another important benefit is the ability to quickly obtain accurate evidence from suspected impaired drivers and get them off the road, increasing safety for everyone. The following list outlines the most commonly noted benefits.

- **Saves time and money.** All jurisdictions included in the research noted significant time and cost savings by using expedited warrants. Prior to the implementation of expedited warrants, most jurisdictions required officers to fill out the search warrant request (often by hand) and then drive it to the courthouse and wait to meet with a magistrate or judge for review and approval of the warrant. If the search warrant was needed after hours, it could require officers to drive to a judge's house to obtain a signature. Some jurisdictions also require that a prosecutor review the warrant application before it goes to a judge, adding even more time to the process. Expedited warrants speed up the process by enabling search warrant requests to be submitted and approved electronically or by phone. In Douglas County, Kansas, obtaining a search warrant and blood sample used to take two officers and 1.5 to 2 hours. It now takes one officer about 45 minutes (Benefiel, 2012). In Minnesota, the use of an expedited warrant system has reduced the time it took for an officer to fill out the forms and request a warrant from 1 to 3 hours to less than 15 minutes. In addition, records staff previously took 20 minutes to enter information related to a DWI arrest; this time has been reduced to approximately 4 minutes on average due to the information already being entered into the system by the officer (Vanlaar et al., 2016).

### Benefits of Expedited Warrants

- Saves time and money.
- Allows officers to quickly return to service.
- Assists with successful prosecution of impaired driving cases.
- Reduces chemical testing refusals.
- Eliminates errors on search warrant applications.
- Improves records management.
- Reduces disruption to judges.

- **Allows officers to quickly return to service.** The time savings from expedited warrants means that officers can more quickly return to their duties on the road and elsewhere. As a result, they also have the opportunity for more impaired driving arrests during their shift, therefore getting more impaired drivers off the road, increasing safety for everyone.
- **Assists with the successful prosecution of impaired driving cases by allowing evidence to be collected in a timely manner.** Obtaining and testing blood for alcohol and especially drug levels is time-sensitive, and evidence may be lost forever if the blood draw and testing process takes too long. While there is no data to conclusively prove that expedited warrants correlate with the successful prosecution of impaired driving cases, the jurisdictions included in the research felt that there is a likely connection and have some promising statistics. For example, in Adams County, Illinois, the conviction rate went from approximately 60 percent to 98.6 percent, court time was drastically reduced, and the number of impaired driving trials was reduced as well after the implementation of expedited warrants due to the availability of concrete evidence.
- **Reduces chemical testing refusals.** This benefit cannot be tied specifically to the implementation of expedited warrants, yet several jurisdictions noted that they believe the implementation of expedited warrants, as well as a law enforcement phlebotomy program, have caused a reduction in refusals of chemical testing. One possible reason is that offenders are aware that even if they refuse testing, an officer will still be able to quickly obtain a search warrant and draw blood. For example, in Arizona, it is believed that the very low refusal rate of approximately five percent is due largely to implementation of an effective phlebotomy program, as well as support and funding for telephonic and telefacsimile warrant systems (Gutier, 2016).
- **Reduces error rate on search warrant application forms.** Many expedited warrant systems use checkboxes, drop down menus, formatted templates and other data entry methods that reduce the amount of text that must be typed into the form. Thus, there is less room for error that can be introduced when an officer has to hand write or manually fill in the data in the form.
- **Improves records management.** By having all data stored electronically, case management becomes less burdensome for law enforcement, the courts, the prosecution, and the defense. For example, in San Bernardino, California, previously, staff attempted to match returned warrants with the initial request and warrants with filed cases; with the expedited warrant system, a warrant number is assigned to each warrant and stored in the electronic system, providing a unique reference that makes locating a warrant simple when required (California Courts, n.d.). In Utah, it was noted that by storing the signed warrant (and return-of service) in the Court's document management system, the warrant is readily available for review by the subject upon whom the warrant was served, as is their legal right (Utah, 2018). Kentucky's expedited warrant system currently houses over 98 percent of all statewide warrants and has a user base consisting of judges, attorneys, court clerks, probation and parole officers, victim advocates, safe house/domestic violence shelter sites, law enforcement officers, and 911 dispatchers.
- **Reduces disruption to judges.** Without an expedited warrant system, law enforcement or prosecutors often have to wake a judge in the middle of the night to obtain a search warrant. In San Bernardino, law enforcement has been glad not to have to call a judge in the middle of the night, as the system automatically makes the initial contact. In the 12th

District in Colorado, judges have an assigned on-call week, whereas prior to the implementation of the expedited warrant system they could have been awakened in the middle of the night by officers knocking at their door seeking a search warrant.

## **Planning and Implementing an Expedited Warrant Program**

This section provides information about how to plan for and implement an expedited warrant program, focusing on determining if State law allows for such a program, identifying stakeholders and needs, determining costs, and identifying funding sources. The following sections expand on the aspects of developing and implementing the system, to include technology and operations, training, and outreach.

Most expedited warrant programs begin with one or more champions who desire to implement such a program, lead the planning, and sell the benefits of expedited warrants to decision makers. In places with existing programs, this person is commonly someone from the State Highway Safety Office, a district attorney or assistant district attorney, a traffic safety resource prosecutor (TSRP), the Administrative Office of the Courts (AOC), or State or local law enforcement. The champions must first ensure that telephonic, video, or electronic affidavits are permissible within their State. Assuming expedited warrants are legal, the next step is to determine where to initially implement the program.

Demonstrating the value of expedited warrants and persuading key stakeholders of the benefits is essential to getting more counties/jurisdictions to implement expedited warrants. Ensuring “early adopters” are successful and sharing their successes is important as well.

Once it is determined where the program will initially be implemented, it is then important to identify all stakeholders who need to be involved in the planning and implementation, as well as those who may need to be persuaded to approve use of expedited warrants at the local level. The stakeholders who will use the system can assist with determining what the system will look like, how it will improve upon existing practice, and how it will be used. This should be done by first identifying and clearly stating the problem that needs to be solved (i.e., the time-consuming process to obtain a warrant to draw blood for an impaired driving arrest) and then identifying the goals and objectives of an expedited warrant system in order to overcome that problem (Holmes, 2018).

### **Steps to Planning and Implementing an Expedited Warrant Program**

1. Identify a champion (or champions) for the program.
2. Determine the permissibility of telephonic, video, or electronic affidavits.
3. Determine where the program will initially be implemented – start small and then expand.
4. Identify stakeholders.
5. Determine the problem to be solved and the goals and objectives of an expedited warrant system as it relates to the problem.
6. Identify costs.
7. Identify funding sources.
8. Develop system, standard operating procedures, and related policies and guidelines.
9. Pilot test system.
10. Revise system as needed.
11. Implement the full-scale system.
12. Capture benefits, time and cost savings, and other useful information to share and expand use of the system.

The next step is to identify development, implementation, and maintenance costs, as well as funding sources to help pay for those costs. The system can then be developed and implemented, as well as improved and expanded upon over time.

### **Determining the Legality of Expedited Warrants**

The Fourth Amendment of the U.S. Constitution prohibits unreasonable searches and seizures and states that probable cause must exist for a warrant to be issued. As of 2018 there were 45 States that specifically allow for the issuance of warrants based on telephonic, video, or electronic affidavits (Borakove & Banks, 2018). Although a statute explicitly allowing for electronic transmission of warrants is not necessarily required in order to implement an expedited warrant program, it is recommended in order to ensure consistency within a State and prevent legal challenges that may prevent successful prosecution of impaired driving cases.

Borakove & Banks' *Guide to Implementing Electronic Warrants* (2018) includes a legislative checklist to assist States with identifying the legislative elements that are the most critical for supporting effective and efficient expedited warrant systems, including ensuring that State law allows for transmission, oral testimony, and signature of the warrant using electronic means. It is also important that State law is not overly prescriptive, but rather leaves the door open as to what type of technology is used for the expedited warrant system.

In some cases, State law may allow for the electronic request and approval of a warrant but does not specifically say that the officer's oath in which they swear to the facts contained in the warrant may be done electronically. Some States and jurisdictions have overcome this through the following (Borakove & Banks, 2018).

- Adding a penalty of perjury statement on the warrant (i.e., declaring the facts stated in the warrant to be true and correct), which is then signed and dated.

- Allowing the swearing-in to occur over a recorded telephone line or video conference.
- Allowing law enforcement officers to swear-in other law enforcement officers.

The case studies provided later in this report include the legislative language within each studied State that allows for expedited warrants. In some of these cases, the language is broad and allows for “electronic transmission” of warrants. For example, Minnesota State law allows warrants and other documents to be sent via electronic submission. It also says that the request for a search warrant may be made, in whole or in part, on sworn oral testimony “via telephone, radio, or other similar means of communication” and “written submissions may be presented by facsimile or electronic transmission, or by other appropriate means.” In other States, the laws describe the specific type of technology that may be used for transmission of warrants. For example, Maryland law states that electronic submission and issuance of warrants can be done either through secure fax or secure e-mail. California law permits the use of telephone, facsimile, e-mail, and computer servers to request and issue a warrant.

## **Starting Small**

Identifying stakeholders who need to be involved with expedited warrant planning and implementation requires determining where and how the program will be implemented. States and jurisdictions with existing expedited warrant programs have commonly found success by starting small and making incremental steps to expand their programs. This includes initiating a program in one jurisdiction before expanding to others or using expedited warrants only at certain times or for specific cases, such as No Refusal Weekends or for the most serious offenders.

### **No Refusal Weekends**

No Refusal Weekends are an enforcement strategy in which all suspected impaired drivers caught during the given timeframe who refuse breath testing are subject to blood testing for alcohol. No Refusal Weekends are often held during holiday weekends or other timeframes known for increased impaired driving. During these specified enforcement efforts, prosecutors and judges make themselves available to streamline the warrant acquisition process and help build solid cases that can lead to impaired driving convictions. No Refusal Weekends are typically highly publicized to let the public know that their chances of being caught, arrested, and convicted increase during these efforts.

The NHTSA No Refusal Weekend Talking Points document provides resources to assist jurisdictions with planning and implementing No Refusal Weekends.

[www.trafficsafetymarketing.gov/sites/tsm.nhtsa.dot.gov/files/norefusal\\_talkingpoints.docx](http://www.trafficsafetymarketing.gov/sites/tsm.nhtsa.dot.gov/files/norefusal_talkingpoints.docx)

### Examples of Programs that Started Small and then Expanded

- In **Arizona** the Governor's Office of Highway Safety began in 2012 by piloting their expedited warrant program with the Maricopa County Superior Court and the Phoenix Police Department. The program expanded over time to other lower courts and in 2016, authorization from the Arizona Supreme Court enabled statewide program coverage.
- **Minnesota's** program was initially piloted in Hennepin County before expanding to several other counties. The sequential implementation of the system was done to avoid overloading the system; the State added one court district at a time until all the courts were in the system, a process that took about four months.
- **Douglas County, Kansas**, first found success by using expedited warrants during No Refusal Weekends only, allowing them to collect data to show the benefits of such a system. They were then able to expand the program to full time usage and other counties are beginning to implement their own programs.
- **Colorado** currently uses expedited warrants for only the most egregious offenders (i.e., felony DUIs), but it may be eventually expanded for broader usage.
- In **Utah** the Department of Public Safety/Bureau of Criminal Identification pilot-tested the system in 2007 in the Third District Court, with a limited number of judges and police agencies trained to use the system. After the pilot, the Administrative Office of the Courts introduced the e-warrants system to all of the judges at their conferences and usage of the system has since spread statewide (State of Utah, 2008).

### Identifying Stakeholders

Effective expedited warrant systems require input from a variety of stakeholders, both traditional and non-traditional. This may include judges, law enforcement, prosecutors, information technology personnel at the State or county levels, legislators, medical personnel and laboratory technicians involved in the analysis of blood tests, defense attorneys, county or State government representatives for the procurement process, State Highway Safety Office, TSRPs, sheriffs and police chief associations, and the State driver licensing authority (Borakove & Banks, 2018). Identifying the right stakeholders from the start is important to planning and implementing an effective system. While law enforcement and prosecutors are likely to support the implementation of an expedited warrant program, other stakeholders such as judges and magistrates may be hesitant due to the need to be available around the clock to review and sign off on a warrant.

### **North Dakota Search Warrant Workgroup (North Dakota, 2016)**

In May 2016, North Dakota Chief Justice VandeWalle established a workgroup on search warrants in anticipation of the U.S. Supreme Court ruling in *Birchfield v. North Dakota*. Because North Dakota law requires that blood tests be taken within two hours of a DUI stop, the workgroup was charged with developing a recommendation for responding to warrant requests for DUI stops in a consistent, timely, and efficient manner. Workgroup members included the following.

- Presiding Judge from each judicial district
- Bismarck Municipal Judge
- Legal Counsel for the North Dakota Association of Counties and Executive Director of the North Dakota State Attorney's Association
- Court Administrator
- Chief of West Fargo Police Department
- North Dakota State Patrol
- Director of State Radio, Department of Emergency Services
- State Court Administrator
- Staff Attorney
- Programmer
- Director of Technology

### **Obtaining Buy-In From the Courts**

Throughout the planning process, close coordination and buy-in from the courts is important. For example, the Arizona Governor's Office for Highway Safety was able to receive authorization from the State Supreme Court for statewide implementation of expedited warrants by first starting with the local courts and obtaining their buy-in on the system.

As of 2019 Kentucky's expedited warrant system is for arrest warrants only; however, they are in the initial planning phases to add search warrants to the existing system. The implementation of the system was successful because executive level sponsors throughout Kentucky's criminal justice community championed the project. The Kentucky State Police (KSP) and the AOC worked together to implement the project and made sure that the project steering committee consisted of representatives from AOC, KSP, Homeland Security, and the Office of the Attorney General. Furthermore, KSP and AOC had a solid communications plan that they used to keep everyone informed of project progress, rollout dates, training, etc. (Jacobson, 2013).

In Alabama, the AOC warrant management team visited Lee County to see how paper documents were created and processed. Following this visit, the AOC created a committee comprised of State and local law enforcement and district attorneys to answer questions about the current process and identify improvements to expedite the process. Additionally, the AOC assembled a committee of magistrates, circuit court clerks, and staff to review the current process and suggest improvements from the court point of view. AOC staff documented the business logic of the current process and both committees came together to discuss and provide input to

develop the expedited warrant process. A preliminary system was developed, and the AOC Warrants Management Team demonstrated the system to stakeholders in Walker County, including several judges, the circuit clerk, district attorney, sheriff and their staffs, as well as State Troopers and local police department officers. Ultimately, key stakeholders in Walker County approved the warrant management system, and it was implemented in April 2014. Following successful implementation in Walker County, AOC staff worked with six other counties that expressed interest in a similar system (Bureau of Justice Assistance, 2014).

Other common court-related issues stem from the business processes and practices of court judges. Initially in both Minnesota and Kansas, some judges did not fully embrace the program. For example, in Kansas some judges have different preferences (e.g., they do not like to approve search warrants populated by an electronic template) and there is little that can be done to force a judge to use the system. Conversely, while the original intent of the Minnesota system was for use outside of regular business hours, many Minnesota judges find the system useful enough that they also use it during regular business hours instead of the traditional search warrant process.

### ***Coordinating With the Medical Community***

There is also a need to coordinate with the local medical community to ensure they are aware that the implementation of an expedited warrant system may result in the need for more frequent blood draws at hospitals and medical centers. Occasionally, medical professionals are hesitant or even refuse to draw blood for impaired driving cases due to concerns about the suspect being uncooperative or violent, or the possibility that they may be called to court as a witness. This hesitation or refusal can introduce delays in the blood draw process, thereby reducing the effectiveness of an expedited warrant.

As more States and jurisdictions introduce law enforcement phlebotomy programs, the need for blood draws at hospitals and other medical facilities will be reduced. However, due to both expedited warrants and law enforcement phlebotomy programs, there will also likely be an increase in submissions of blood samples to laboratories for testing and an expanded caseload for toxicologists. Therefore, it is important that the courts, law enforcement, public safety offices, and others speak with the laboratories and toxicologists to help them prepare for the additional work and understand how the benefits of both expedited warrant and law enforcement phlebotomy programs outweigh the burden of the additional work.

### **Determining Costs and Identifying Funding Opportunities**

The cost of implementing an expedited warrant program will vary, depending on the type of system implemented, the jurisdiction where it is implemented, and whether it will be added on to an existing criminal justice system. This section discusses examples of potential costs and funding mechanisms; however, it is important to understand the costs and funding available, specific to each individual State or agency, prior to implementing a program.

#### **Costs**

Once needs and requirements have been determined and components of the expedited warrant program have been identified (further discussed in the next section on Technology and Operations), it is important to develop high-level estimate of costs for development and implementation, including contingencies (Holmes, 2018). The type of costs will vary, from hardware and software costs to personnel costs for programming. There may also be costs



associated with hiring consultants to conduct business process analyses (Borakove & Banks, 2018). Furthermore, in cases where the expedited warrant component is added on to an existing criminal justice system or the expedited warrant process is simple, involving only e-mail or fax, there may be little to no cost involved. Some areas have found cost savings by purchasing used or very basic laptops for use only in obtaining expedited search warrants.

When determining costs of an expedited warrant program it is also important to look at the cost of not implementing such a program. For example, expedited warrants can reduce or eliminate the need for overtime pay for officers who previously would have had to work beyond their scheduled shift end time to complete the warrant and blood draw process. They can also reduce time needed for records management when part of an online system that automatically stores all the warrant information.

### ***Funding***

States and localities with expedited warrants have used a variety of means to obtain funding for the program. This includes NHTSA Section 402 and 405 grants; grants from other sources; funds from the State legislature; as well as funding from impound fees, tickets, and other collected fines. Furthermore, there may be opportunities for cost sharing among the various agencies involved with the program (Holmes, 2018). In Kankakee County, Illinois, the State's Attorney's Office made an agreement with Mothers Against Drunk Driving that for every attendee to the Victim Impact Panel, the State's Attorney's Office would get half of the \$100 fee charged to the attendee. They then used the money from this fund to pay for their expedited warrant system. The Law Enforcement DUI Equipment Fund is used by other counties in Illinois. This fund was established per State statute and is paid into every time someone is sentenced for an impaired driving offense in Illinois.

### **Technology and Operations**

Implementing an expedited warrant program requires determining how the existing warrant process can be expedited and then identifying the technology and operational processes that will serve to expedite the process. It is important to note however, that the use of technology does not necessarily mean a costly or complex system. Technology, processes, and procedures vary, with some States and jurisdictions using more complex systems that are built from scratch or part of their existing court information systems. Other areas use more simple methods of secure e-mail or fax, sign and scan, PDF forms, and/or tablets to transmit warrant requests and obtain signatures. In some areas, the warrant process may be expedited solely through the use of telephone or video conferencing. The Resources section of this report provides a sample script for an affidavit in support of a telephonic search warrant.

The level of automation also varies. Some systems are completely electronic, with the entire warrant process occurring online from start to finish. Others use a combination of online, telephone, and handwritten processes. For example, some systems may require that the officer call the judge to notify them that a warrant request has been submitted for their review. Similarly, some systems may still require a handwritten signature and forms can then be scanned and faxed, e-mailed, or uploaded to a web-based system. The Case Studies section of this report provides more details about the technology and operating procedures used for several different expedited warrant programs.

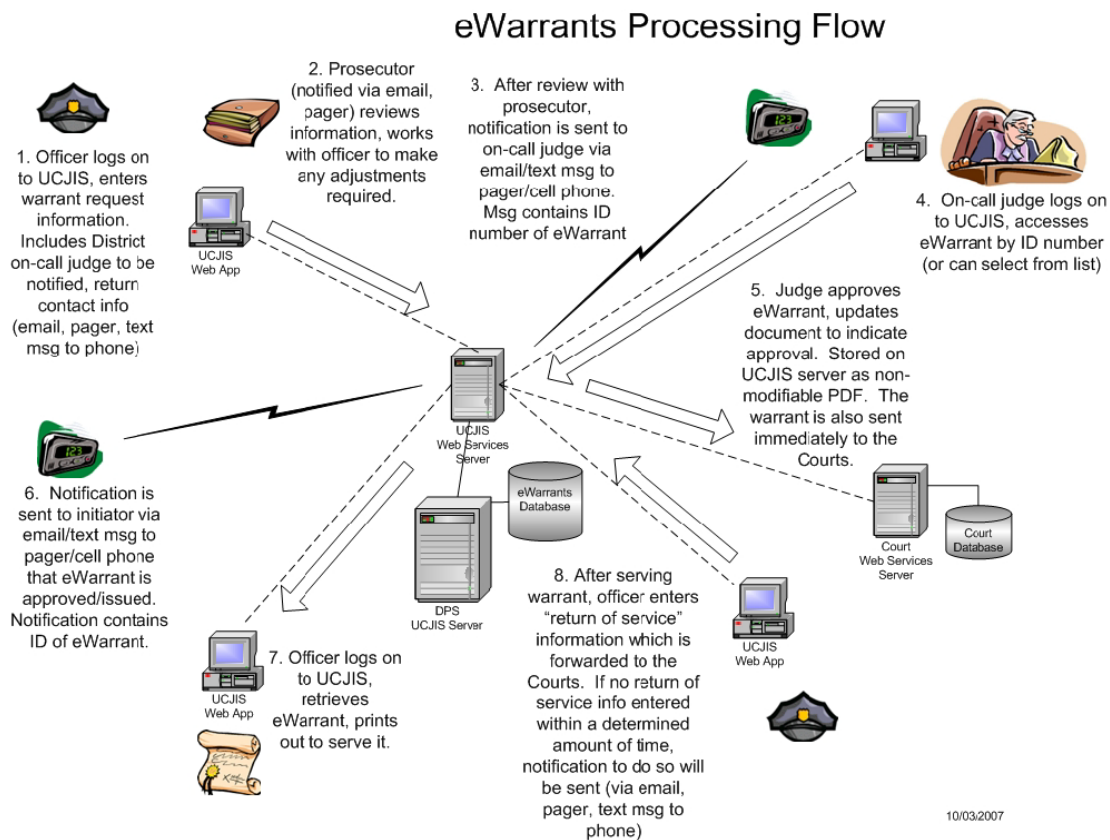
Borakove & Banks' *Guide to Implementing Electronic Warrants* (2018) describes in detail the process for selecting the technology to be used, identifying business needs, and building the system. Determining what type of system to use will depend on budget, the goals and objectives of the system, the availability of an existing web-based criminal justice system, and the comfort level of key stakeholders in using technology. In cases where the expedited warrant system is built into an existing system, the needs and requirements should be discussed with the IT support team that maintains the system. In cases where equipment such as tablets or computers need to be purchased, it will need to be determined who will purchase and maintain the equipment, whether it be the court system or law enforcement.

### **Business Process Analysis and Design**

Designing an expedited warrant system requires first understanding the existing process of obtaining a search warrant and where the pitfalls are in the process. The next step is to define how the expedited warrant process will serve to overcome these pitfalls. Many of the programs studied determined that one area of improvement is to auto-populate warrant request forms with information whenever possible. For example, Arizona, Utah, and Minnesota systems use drop-down boxes, checkboxes, and pre-populated information fields in their web-based systems. The Maryland State Police developed a warrant template in Microsoft Word with the mindset that the template should be standardized (so that it will work in numerous jurisdictions) and user friendly (for people who may not be proficient with typing).

### **Standard Operating Procedures**

Once the business processes have been determined for the expedited warrant system, it is important to develop standard operating procedures that govern the use and working of the system. These procedures can then be given to developers (in cases where expedited warrants will be part of a web-based system) to develop the expedited warrant functionality. Figure 1 depicts Utah's expedited warrant process flow and operating procedures. Diagrams such as that shown in Figure 1 can help system users better understand the expedited warrant process.



*Figure 1. The Expedited Warrant Process in the Utah Criminal Justice Information System (Utah, 2018)*

## Security

Security is an extremely important factor in determining the technology and processes to be used for expedited warrants. This includes network security, as well as authentication of the user. Demonstrating that the system is secure is important to addressing concerns that may prevent decision-makers from approving the use of expedited warrants. Data-sharing agreements should be developed and maintained in cases where multiple agencies are accessing the expedited warrant system to ensure all data shared through the system is securely stored. In addition, all security protocols should be documented in the expedited warrant standard operating procedures and/or policy.

## Piloting the System

It may be desirable to test and pilot the expedited warrant system prior to full implementation. This may occur with a small group representing the various types of users to ensure they can access the system, it works as it should, and that the process does in fact save time over the typical search warrant process. Revisions may be made to the system after the pilot test if needed, based on the test users' comments.

## Training

While most existing programs have some type of training available to acclimate users to the expedited warrant system and gain buy-in from those who are hesitant to use the system, the research conducted for this report found that expedited warrant programs and processes are typically user friendly with very little training needed. Training ranges from in-person courses, to presentation slides, user manuals, web conferencing, and video. Perhaps one of the most significant benefits of training is that it demonstrates to skeptical users the simplicity of the system and the ability to quickly obtain a search warrant. Also important is providing regularly scheduled training opportunities to inform users about system or process updates and train new users that arise as a result of new hires or staff turnover.

The “train the trainer” approach is one potential method to continuously train officers and other system users. The Arizona Governor’s Office of Highway Safety sets aside funding for regular training on the expedited warrants program. Trained officers, deputies, and troopers can then train others to become certified to participate in the program.

Many existing programs find it useful to have separate training opportunities for law enforcement and judges.

In Minnesota, they found that the program was so intuitive that in-person training was not necessary, instead 20-minute training videos were developed and made available 24/7 to judges and peace officers. Modules were customized for peace officers and for judges. Additionally, judges and peace officers have access to test user accounts, allowing them the option of applying for and approving a mock search warrant. In Maryland, State Trooper candidates in the police academy are trained on the use of expedited warrants. All judges in the State are trained on using the expedited warrant system as part of mandatory continuing education. In addition, hands-on and lecture-based training is given on a regular basis at conferences and meetings attended by law enforcement, judges, and state’s attorneys.

### Training Tips

- Offer refresher training for both existing and new employees.
- Use the “train the trainer” method to enable experienced users to train others.
- Set up test accounts to allow users to become familiar with the system.
- Develop user guides with step by step instructions and screen shots for using the system.
- Hold separate but coordinated training for law enforcement, judges, and attorneys.
- Use a combination of in-person training, virtual training, and self-study.

### **Utah Expedited Warrant Training (Utah, 2018)**

Utah's training on their expedited warrant system is an ongoing, coordinated statewide effort by the AOC, Salt Lake County District Attorney's Office, and Bureau of Criminal Investigations (BCI). After the pilot of the system in the Third District Court, the AOC introduced the system to all judges at AOC conferences. They then trained judges from each judicial district in coordination with the training of law enforcement agencies within the same district. BCI has introduced the e-Warrants system at the yearly Terminal Agency Coordinator conference and has gone on-site to the law enforcement agencies to train officers. As the law enforcement agencies are trained, the SLCODA trains all State prosecutors.

### **User Guides/Instructions**

All users should also be provided with or given access to a user guide or instruction documentation to assist with use of the system or process. In some cases, a user guide or instructions may be used in place of training when a system is simple enough that it can be learned fairly quickly. Effective user guides for web-based systems contain screen shots, demonstrating each step of the process. User guides or instruction documentation for programs that use primarily e-mail and completion of PDF forms should include step by step instructions describing each step in the process of obtaining a warrant. User guides and instructions should also provide phone number and/or e-mail addresses for support and any other pertinent information to assist with use of the system.

Minnesota's *How to Use eSearch Warrant* user guide provides a quick reference on the basics of working with search warrants in their eCharging system. It has one section for law enforcement officers and one section for judges, with relevant screen shots in each section.

### **Arizona Electronic Warrant Video**

The Arizona Governor's Office of Highway Safety produced a video that describes the background of the expedited warrant program and walks through the process of obtaining an expedited warrant. While this video was developed for the media to demonstrate how the program works, it also serves as a user guide and training tool for users of the system. The video is available at <https://gohs.az.gov/impaired-driver-programs/eseach-warrant-training>.

### **Outreach Efforts**

Some States and jurisdictions have found it useful to conduct outreach to share information about the expedited warrant program. These outreach efforts are undertaken to make not only those involved with obtaining search warrants aware of the expedited warrant program and its benefits, but also the general public. Building awareness within the general public ensures that motorists are aware that if they are arrested for impaired driving and they refuse to have their blood drawn, law enforcement can quickly obtain a search warrant to draw the blood and obtain evidence that will assist with successful prosecution. Outreach to other States and jurisdictions that do not currently have expedited warrant programs, to share information about the benefits and the processes involved, is also useful to broadly expanding the usage of expedited warrants.

States and jurisdictions that conduct outreach to inform about expedited warrant programs typically do so in the format of press releases, interviews with the media, and authoring articles in trade publications. In some cases, contact with the media is done at the State level, while in others it is left up to the individual jurisdictions implementing expedited warrants to connect and share information with the media.

### **Using the Media to Share Information About Expedited Warrant Programs**

Promoting the use of expedited warrants through the media on a regular basis and being transparent about the whole process helps to gain traction and support for the program and helps reduce resistance. Examples of expedited warrants in the news include the following.

#### Press Releases

- Minnesota Department of Public Safety Press Release - <https://dps.mn.gov/divisions/ooc/news-releases/Pages/Minnesota-Law-Enforcement-and-Courts-Transition-to-Electronic-Search-Warrants.aspx>
- Superior Court of California, County of Santa Clara Press Release - [www.sccscourt.org/general\\_info/news\\_media/newspdfs/NR\\_ElectronicSearchWarrants.pdf](http://www.sccscourt.org/general_info/news_media/newspdfs/NR_ElectronicSearchWarrants.pdf)

#### Media Coverage

- Washington County search warrants catch up with digital age - [www.arkansasonline.com/news/2017/jul/31/washington-county-search-warrants-catch/](http://www.arkansasonline.com/news/2017/jul/31/washington-county-search-warrants-catch/)
- “Electronic search warrants” becoming more common in Minnesota. Interview with Minnesota Bureau of Criminal Apprehension Superintendent Drew Evan discussing the benefits of expedited warrants - <https://minnesotanewsnetwork.com/electronic-search-warrants-becoming-more-common-in-minnesota-with-audio/>

#### Trade Publications

- DUI Search Warrants: Prosecuting DUI Refusals. Article in the Kansas Prosecutor - [www.kcdaa.org/resources/Documents/KSProsecutorMagazine/KSProsecutor-Spring12.pdf](http://www.kcdaa.org/resources/Documents/KSProsecutorMagazine/KSProsecutor-Spring12.pdf)

Instant Warrants Save Officer Travel Time. Article in the National Association of Counties CountyNews - [www.naco.org/sites/default/files/documents/CNSSA09072015\\_LO\\_v4.pdf](http://www.naco.org/sites/default/files/documents/CNSSA09072015_LO_v4.pdf)

#### Demonstration Video

- Video produced by the Arizona GOHS and shared with local media that provides a comprehensive overview and demonstration of the expedited warrant program - <https://gohs.az.gov/impaired-driver-programs/eseach-warrant-training>

Outreach to internal stakeholders, such as law enforcement and judges, in order to gain buy-in for expedited warrants typically takes place through meetings and presentations. In San Bernardino, California, the TSRP holds quarterly roundtables for law enforcement stakeholders and the expedited warrant program is routinely discussed. In addition, the TSRP periodically

sends out e-mail briefings to relevant stakeholders in the county to provide updates on the program and its successes. In Maryland, the State Trooper who has spearheaded the expedited warrant effort gives presentations about the program on a regular basis at forums such as law enforcement and state's attorney training symposiums, meetings of the Maryland Association of Police Planners, meetings of the Maryland States' Attorneys' Association, and planning meetings with judges in various Maryland counties.

## **Challenges and How They Were Overcome**

In most States and jurisdictions that have implemented expedited warrants, the challenges have been minimal. However, there were some challenges that were noted. In most cases, these challenges can be overcome by thorough outreach and training that presents data showing the benefits of expedited warrants and how they outweigh the costs and concerns. Data can be collected from existing programs or by pilot testing expedited warrant systems during certain time frames, such as No Refusal Weekends, sobriety checkpoints, or national impaired driving prevention month. In addition, being flexible and understanding that it will take time for everyone to adjust to a new search warrant process is important. The noted challenges include:

- **Security.** There is concern about sending sensitive information over the Internet. This can be overcome by describing during training and in user manuals how security is incorporated throughout the entire warrant process. For example, Maryland's Administrative Order on the Implementation of Electronic Warrants lays out step-by-step instructions to ensure the judge feels comfortable accepting the electronic warrant request, with layers of security incorporated.
- **Unfamiliarity/discomfort with information technology.** There may be errors when filling out the form or it may take longer for law enforcement officers who are not proficient typists to fill out the form. This can be overcome by ensuring the request process allows adequate time to complete and submit the form, as well as using checkboxes, drop-down fields, and auto-complete as much as possible to reduce the amount of typing needed. In other cases, some users may not feel comfortable using a new, unfamiliar system. This can be overcome with training and starting simple with an e-mail-based system.
- **Belief that expedited warrants don't work in larger jurisdictions.** Larger jurisdictions may fear that there are too many impaired driving arrests; therefore, the number of warrant requests would overwhelm the courts and cause judges to be constantly woken up during the night to review warrant requests, as well as overwhelm emergency rooms with blood draws. Larger jurisdictions should be encouraged to start small by using expedited warrants during No Refusal Weekends in order to test the process and collect data to determine benefits. Furthermore, the implementation of a law enforcement phlebotomy program would reduce the burden to hospitals and medical centers.
- **Judges worry that they will be woken up at all hours of the night.** This is why some programs start small with only No Refusal Weekends or only using expedited warrants for repeat or serious offenders so that judges become aware of the benefits of expedited warrants and will become more likely to accept the process. In some locations, judges rotate who is on-call each week during non-working hours.

- **Rural or economically depressed areas may lack wireless Internet, technology, or funding for system development.** This can be overcome by obtaining used computers or tablets, hot-spotting through cell phones, and/or having a designated computer within the law enforcement department for completing and submitting the warrant. Furthermore, it is important to understand that expedited warrants don't require complicated technology systems. They can be as simple as obtaining signatures through fax or scanning and e-mailing forms.
- **Law enforcement and judges do not want to change the process.** Some jurisdictions found that initially law enforcement and judges were hesitant to adapt to a new way to obtain search warrants. However, after extensive training on use of the expedited warrant system, constant reminders of the benefits of expedited warrants, and using the system and seeing the benefits themselves, they typically adjusted to the new process. In Minnesota judges quickly embraced the efficiencies of the eSearch Warrant process, in part, because it was much less intrusive and time consuming than the peace officer driving to the judge's residence, often with the in-custody DWI suspect still inside the peace officer's squad car. In some cases, however, judges or law enforcement refuse to adapt to expedited warrants. Therefore, it is also important for jurisdictions to be flexible and allow users to become comfortable with the process in their own time, rather than forcing them into using expedited warrants.
- **Consistency is difficult in jurisdictions with multiple agencies and staff involved with the program.** For example, one locality with an existing program has 10 judges, 22 law enforcement agencies all with different technological capabilities, and historically high turnover in the district attorney's office. By putting a heavy focus on training and outreach and taking the time to get users accustomed to the system, as well as consistently offering refresher training and training for new staff, this locality was able to successfully implement their expedited warrant program.

## **Tips for States/Localities to Expedite the Warrant Process Without Having a Formal System in Place**

States or localities without any type of expedited program currently in place have options for expediting the search warrant for chemical testing process without having to implement a costly system or change existing laws. Minnesota and Illinois both provided examples of earlier search warrant processes that were more efficient than standard warrant processes yet were not as efficient as sophisticated expedited warrant systems. In both cases these processes involved e-mailing the warrant to the judge. The current Orange County, California, process is similar in that it involves e-mailing the warrant and having the officer swear and affirm the affidavit via telephone.

In Minnesota, before search warrants could be processed through their eCharging system, there were select jurisdictions in the State that created their own local, on-line system where search warrants were created as a Word or PDF document and e-mailed to the judge. Officers contacted the judge via telephone to provide their affidavit under oath and then the judge e-mailed back the signed warrant. Minnesota's eSearch Warrant system was also made more efficient by a court rule change allowing peace officers to sign under penalty of perjury instead of being administered an oath.



In Illinois, before the advent of their expedited warrant system, the TSRP implemented a process where she would receive the search warrant via e-mail after it was prepared by the officer. her. The TSRP would review it and work with the officer to make any necessary changes. The TSRP would then call a judge and e-mail him/her the warrant and while the judge was reviewing the warrant, the officer would drive over to the judge's house to obtain a signature.

Kentucky has adopted a new Criminal Rule, 13.10, that allows officers to submit the affidavit for a search warrant to the judge by "reliable electronic means" in lieu of actual presence, but requires the official administering the oath to be in oral communication with the officer.

## **Case Studies**

The following case studies were developed through interviews with the NHTSA Regional Office representative for each State and one State or jurisdictional representative. The locations for these case studies were selected to represent a range of locations, including both State and jurisdictional programs; the use of different types of technologies; and varying laws on the recreational use of marijuana. Table 1 summarizes information about each location.

Table 1. Case Study Summary

State	Program Name	Geographic Location	Area Type (Urban, Rural, Suburban)	Technology Type	Used existing systems/technology (yes/no)
Arizona	eSearch Warrant	Southwest	All (Statewide)	Web-based application	A new system was designed and programmed for expedited warrants and incorporated into the existing court information system.
California, San Bernardino County and Orange County	San Bernardino – Electronic On-Call Warrants Orange – Probable Clause Declaration Portal	West	San Bernardino – Urban and Suburban Orange – Urban and Suburban	San Bernardino – Web-based form, e-mail, telephone Orange – PDF form, e-mail, telephone	San Bernardino – A new portal was built for electronic search warrants, but it is part of the existing San Bernardino Superior Court’s website. Orange – Existing technology is used but a new form was developed for search warrants.
Colorado, 12th District (includes Alamosa County, Conejos County, Costilla County, Rio Grande County, Saguache County, and Mineral County)	n/a	West	Mostly rural	PDF, e-mail, and telephone	Existing technology is used but a new form was developed for search warrants.
Illinois	Electronic Search Warrant System	Midwest	All (Statewide)	Web-based application, telephone, video conference or PDF, e-mail, telephone, video conference	A new application was developed for electronic search warrants, but it is part of the existing Illinois Court Services web portal.
Kansas, Wyandotte County	n/a	Midwest	Urban and Suburban	E-mail, tablets, portable printers, web portal	The portal that is used to submit the search warrant documentation was already in place for other types of warrants.
Maryland	n/a	East	All (Statewide)	PDF, fax, e-mail, and telephone	The warrant form and process are new, but it works through the existing ShareFile platform.
Minnesota	eCharging Service	North	All (Statewide)	Web-based application, e-mail	The search warrant module was developed as an add-on to the existing eCharging system.

## Arizona

### **Supreme Court of Arizona, Administrative Order 2018-51**

“IT IS ORDERED, effective August 1, 2018, that the Superior Court in Maricopa County may issue electronic search warrants statewide to all law enforcement agencies in the State under Rule 4.10, Local Rules of Practice – Maricopa County, for blood draws for the offenses of driving under the influence and vehicle-related homicide and aggravated assault. The program shall be conducted pursuant to the policies and procedures established by the Presiding Superior Court Judge in Maricopa County.”

Arizona’s expedited warrant system, called eSearch Warrant, was first piloted in Maricopa County in 2012 with the Maricopa County Superior Court and the Phoenix Police Department. The program then expanded to other counties, using the same system that was initially used in the pilot. As the system expanded, support for expedited warrants by judges and other key stakeholders grew and in 2016 authorization from the Arizona Supreme Court allowed the State Department of Public Safety to use the system statewide. In August 2018 an updated order stated that the Supreme Court of Maricopa County could issue expedited warrants statewide to all law enforcement agencies in the State for searches of blood, breath, urine, and other bodily substances. However, as of the writing of this report, the expedited warrant system is only used for blood draws.

One of the key activities leading to the implementation of an expedited warrant program was the start of the Arizona Officer Phlebotomy Program. This program was started in 1995 in an effort to streamline the blood draw process for impaired driving cases. Another key step was purchasing fax machines for justices of the peace so that officers could fax in requests for search warrants during nighttime hours. Over time, the Arizona Governor’s Office of Highway Safety (AZGOHS), the Maricopa County Superior Court, and the Phoenix Police Department collaborated to identify opportunities to continue expediting the warrant process, and the idea for an electronic system was developed.

The eSearch Warrant pilot program started small in 2012 with the Maricopa County Superior Court and the Phoenix Police Department and after a few years it grew to include more than two dozen agencies. As of 2018 the program is available statewide through the Maricopa County Superior Court.

The main stakeholders involved with Arizona’s system are law enforcement officers, the courts, and Maricopa County Superior Court’s Search Warrant Center.

The eSearch Warrant was designed and programmed in-house by the Maricopa County court information technology department as part of the court’s existing information system. It is primarily an Internet-based system.

Only authorized users can access the system. The users have to be certified and provided credentials by Maricopa County. Once authorized, users are assigned a serial number to access the application via the Internet. The application includes a series of checkboxes and pull-down menus that allow the officer to indicate the type of offense, qualifications and training, probable cause for the stop, roadside tests administered, suspect behavior, and refusals. Judges receive notice of a pending request and can log onto the system into their “work queue,” which shows

affidavits they have received and their status (i.e., new, in progress, completed). Once a warrant is granted, the driver's blood is taken by an officer trained in phlebotomy.

It is estimated that the initial design and implementation of eSearch Warrant application cost approximately \$300,000, to include staff, equipment, and software. In addition to these upfront costs, there are additional costs for maintenance and upgrades. AZGOHS also sets aside funding for training. Trained officers, deputies, and troopers can train others to become certified to participate in the program.

Two major funding sources were used to fund the start of the system. These sources were NHTSA Section 402 funding and fines levied on DUI offenders. Maricopa County also received \$30,756 in funding from the AZGOHS to cover the costs for the court's information technology department to create the eSearch Warrant application. An additional \$87,838 was received from the State Administrative Office of the Courts to enhance the application for use by the Department of Public Safety and to hire additional judicial officers and judicial assistants to handle the eSearch Warrant workload. AZGOHS provides approximately \$30,000 to \$40,000 a year for maintenance and upgrades.

Feedback has been positive, with law enforcement, courts, and other stakeholders agreeing that the program is more efficient than the previous process to obtain a search warrant. Previously, it could take several hours to obtain a search warrant, especially in rural areas where courts aren't open 24 hours a day. With the eSearch Warrant system, the average time to secure an expedited warrant is now 15 to 20 minutes, and sometimes a warrant is provided electronically in as little as 5 minutes. The quicker processing time allows officers to spend more time in the field.

Since implementation of eSearch Warrant, there has been a 13 percent increase in DUI search warrants, while refusal rates have decreased to as low as 5 percent. In 2011, prior to implementation of eSearch Warrant, Arizona had a refusal rate of 17 percent (Namuswe et al., 2014). While it is not proven that the decrease in refusals is directly related to the expedited warrants, it is assumed that the expedited warrants have contributed to the decrease as drivers realize that even if they refuse, their blood will still be drawn and it can be done quickly.

AZGOHS has conducted outreach about the eSearch Warrant program for judges, both prosecution and defense attorneys, law enforcement, and the general public. Much of this outreach was in the early years of the program to build support and expand the program. Staff conducted outreach through presentations and during judicial and law enforcement conferences and other similar events. In addition, Arizona's program has been covered extensively in the media. The AZGOHS produced a video about the program and shared the video with the media (<https://gohs.az.gov/impaired-driver-programs/esearch-warrant-training>).

One of the biggest challenges in implementing the eSearch Warrant program was proving the benefits of the program. Outreach, along with data compiled through the pilot program, helped to overcome these challenges. Another challenge was having a judge in Maricopa County issue a warrant in another county; this challenge was overcome through the Arizona Supreme Court's judicial order authorizing statewide coverage of the program.

## California

### California Penal Code § 1526

(a) . . . If the affiant transmits the proposed search warrant and all affidavits and supporting documents to the magistrate using facsimile transmission equipment, e-mail, or computer server, the conditions in subdivision (c) apply.

. . .

(c) (1) The affiant shall sign under penalty of perjury his or her affidavit in support of probable cause for issuance of a search warrant. The affiant's signature may be in the form of a digital signature or electronic signature if email or computer server is used for transmission to the magistrate.

(2) The magistrate shall verify that all the pages sent have been received, that all the pages are legible, and that the declarant's signature, digital signature, or electronic signature is genuine.

(3) If the magistrate decides to issue the search warrant, he or she shall do both of the following:

(A) Sign the warrant. The magistrate's signature may be in the form of a digital signature or electronic signature if email or computer server is used for transmission by the magistrate.

(B) Note on the warrant the date and time of the issuance of the warrant.

(4) The magistrate shall transmit via facsimile transmission equipment, email, or computer server the signed search warrant to the affiant. The search warrant signed by the magistrate

California Penal Code § 1526, in conjunction with California Penal Code § 1528, permits the use of telephone, facsimile, e-mail, and computer servers to request and issue a warrant. As such, officers routinely use electronic documents (e.g., PDFs) and transmit the files via e-mail to the prosecutor's office and the judge. However, there is no statewide system for expedited warrants. Rather, it is left up to the counties to decide if they want to use expedited warrants and to develop their own system for doing so. San Bernardino and Orange counties are examples of California counties that use different processes.

### **San Bernardino County**

The development of San Bernardino County's expedited warrant program was a joint effort between the San Bernardino County Sheriff's Department and the San Bernardino County Superior Court. Initial funding for the program was obtained through a grant that aimed to reduce vehicle emissions.

The program includes a secure portal as part of the San Bernardino Superior Court's website. The San Bernardino County Superior Court operates and maintains the portal. This portal is not limited to search warrants related to DUI traffic stops; however, warrants related to DUI traffic stops were used as an example to justify the need for the program.

The program currently operates during non-court hours. Law enforcement agencies in the county have voiced interest in expanding the program to a 24/7 service; however, funding and availability of judges currently limit the service.

To gain access to the system, users must be credentialed through the San Bernardino County Superior Court. Specialized equipment is not necessary, as the portal can be accessed via both stationary (e.g., desktop) and mobile (e.g., tablet, smartphone) equipment. The following process is used for obtaining an expedited search warrant.

- A law enforcement officer logs into the system using their credentials.
- An electronic form is completed which includes both the officer's information (e.g., name, badge number, phone number) as well as the details needed for the search warrant.
- The officer submits the completed form electronically to an on-call judge.
- After submittal, the law enforcement officer receives an e-mail confirmation of the submittal. Once an on-call judge accesses the request, the officer receives another notification indicating that the request is being reviewed.
- If the on-call judge believes there is sufficient evidence for a search warrant, the judge will call the officer and have the officer swear and affirm the affidavit over the phone. Phone calls are not recorded due to the fact that the officer has already written a probable cause declaration that details the basis for the judge to sign off on the warrant.
- Once approved, the officer will receive a code through the system that will allow access to the search warrant and any related materials.
- If the request is denied, the officer will receive an explanation of why the request is denied.

Training on use of the system is handled by the individual law enforcement agencies in San Bernardino County.

The main benefit from San Bernardino County's program is the reduction in time needed to secure search warrants. Since implementation of the expedited warrant system, warrants can be obtained in as little as 30 minutes. Previously it could take up to two hours. Related benefits include a reduction in vehicle miles traveled by law enforcement officers to secure a warrant and corresponding vehicle emissions and an electronic data trail for all expedited warrant requests. These benefits have led other law enforcement agencies within California to express interest in San Bernardino's system.

A challenge in the initial stages of program development was obtaining buy-in from law enforcement agencies. However, this was not especially challenging because it was clear to the law enforcement agencies that the upfront time needed to train and credential their officers for the system was outweighed by the time the officers would save requesting and executing the search warrants. Much time has been spent describing the benefits of the program to stakeholders and continuously informing them about updates and successes. The Office of Traffic Safety deputy district attorney in San Bernardino County regularly holds roundtables for law enforcement stakeholders within the county and the expedited warrant program is routinely publicized during these meetings. In addition, e-mail briefs discussing the program are sent periodically to relevant stakeholders.

### **Orange County**

Orange County does not have a web-based system for expediting warrants. However, the Orange County District Attorney's Office has developed what they call a "short form" that speeds up the time needed to request a search warrant. This form, shown in Figure 2, is set up with fill in the

blanks and checkboxes to decrease the time needed to fill out the document when compared to the traditional methods of requesting a search warrant. The form was developed out of the notion that impaired driving traffic stops typically have similar patterns (e.g., stopping a vehicle for weaving, driver with slurred speech) that can be described with boilerplate text and options in the search warrant request form.

**SEARCH WARRANT** No. \_\_\_\_\_

COUNTY OF ORANGE  
THE PEOPLE OF THE STATE OF CALIFORNIA TO ANY PEACE OFFICER IN ORANGE COUNTY:

Proof having been made before me this day by the below incorporated affidavit that there is probable cause for believing that a sample of the blood of \_\_\_\_\_, named and described below, will furnish evidence of the commission of a public offense, you are therefore commanded to promptly, at any time of the day or night to preclude dissipation of alcohol and/or drugs and/or prescription medications, pursuant to Penal Code section 1533 and the guidelines issued by the United States Supreme Court in *Missouri v. McNeely* (2013) [2013 WL 1628934], to make search of the person of \_\_\_\_\_ by extracting, in a medically-approved manner, a blood sample to be submitted by you for laboratory analysis and to be retained by you, subject to order of the court.

Given under my hand, and dated this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Printed name: \_\_\_\_\_ Signature: \_\_\_\_\_  
(Signature of Magistrate)

Judge of the Superior Court of California, County of Orange, \_\_\_\_\_ Justice Center, Dept. \_\_\_\_

**AFFIDAVIT IN SUPPORT OF SEARCH WARRANT**

1. I, \_\_\_\_\_, am a peace officer, employed by the \_\_\_\_\_ Department.

2. I have been employed as a Peace Officer for the past \_\_\_\_\_ years and during that period of time I have conducted and/or assisted in approximately \_\_\_\_\_ traffic investigations involving suspicions that the driver was under the influence of alcohol, drugs, or prescription medications.

3. On \_\_\_\_\_ at approximately \_\_\_\_\_ in Orange County, California, while working in my capacity as a peace officer, I made the following observations which caused me to conduct an investigatory traffic stop:  
I saw \_\_\_\_\_  driving  stopped  outside of vehicle \_\_\_\_\_ at the following location \_\_\_\_\_  
While driven by \_\_\_\_\_, the vehicle was  speeding  weaving  going slow.  
The following additional observations led me and/or my fellow officer \_\_\_\_\_ to conduct the traffic stop: \_\_\_\_\_

4. I  stopped the vehicle  contacted \_\_\_\_\_ and noticed the following objective symptoms of driving under the influence exhibited by him / her:  fumbling with vehicle controls  fumbling with documents  slurred speech  rapid speech  reddened eyes  watery eyes  dilated pupils  odor of alcohol or drug about the person  unsteady  admitted drinking  admitted taking drugs  signs of drug use  admitted taking prescription medications  did not perform field sobriety tests as directed  BAC measured \_\_\_\_\_% on preliminary alcohol screening test (PAS)  refused PAS  refused to submit to breath or blood test after implied-consent admonition. I also made the following relevant observations: \_\_\_\_\_

5. Based on my training and my experience of \_\_\_\_\_ years as a peace officer, it is my professional opinion that \_\_\_\_\_ operated a vehicle while under the influence of alcohol and/or drugs and/or prescription medications and I arrested him / her.

6. \_\_\_\_\_ is a \_\_\_\_\_ now detained at \_\_\_\_\_

7. Unless a blood sample is obtained promptly, at any time of the day or the night, dissipation of alcohol and/or drugs and/or prescription medications may result in the destruction of relevant material evidence.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: \_\_\_\_\_, in Orange County, California. Signed: \_\_\_\_\_  
Affiant's Signature

Reviewed by DDA: \_\_\_\_\_, \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_  
Name & Signature of Reviewing OC Deputy District Attorney

Figure 2. Orange County Search Warrant Short Form

Existing tools (e.g., PDF maker) and systems (e.g., e-mail) are used to obtain an expedited warrant in Orange County and therefore, there was no cost associated with implementing the program. No additional security protocols have been put in governing the transmission of the search warrant request form. If an officer determines a search warrant is needed, the officer fills out the form, PDFs it, and e-mails it to the on-call district attorney. The district attorney will review the document for completeness. Once approved by the district attorney, the form will be transmitted via e-mail to the on-call judge for review. If the judge believes there is sufficient evidence for a search warrant, the judge will call the officer and have the officer swear and affirm the affidavit over the phone. The judge then issues the warrant.

There is no specific training related to expediting the process to secure a search warrant at a DUI stop. However, officers and prosecutors become familiar with this process in two primary ways. Officers typically complete general training on obtaining search warrants. Through this process, the different mechanisms for transmittal (e.g., e-mail) are covered. In addition, the Orange County District Attorney's Office has been designated as the State lead for all training on impaired driving-related investigations. As such, they train law enforcement agencies and prosecutors around the State on the topic of expedited warrants. The search warrant request form is discussed during these training events.

Feedback from the law enforcement community has been very positive. The use of the form and electronic transmittal decreases the time to complete paperwork and helps officers collect evidence more quickly. The Orange County District Attorney's Office continually reviews their practices and has modified content on the form in the past to improve effectiveness.



## Colorado, 12<sup>th</sup> District

### **2016 Colorado Revised Statute § 16-1-106. Electronic transmission of documents required for arrest and search warrants under code authorized - definitions**

(1) Whenever a written application for a warrant is required, it shall include both a written application and a sworn or affirmed affidavit. A peace officer may submit an application and affidavit for a warrant and the court may issue the warrant by an electronically or electromagnetically transmitted facsimile or by an electronic transfer that may include an electronic signature. Whenever a sworn or affirmed affidavit is required, the court may orally administer the oath or affirmation to the affiant and the affiant may then electronically transmit back to the court a written affidavit of the oath or affirmation.

...

(3) (a) Any electronically or electromagnetically transmitted facsimile of a document authorized to be made by this section shall be treated as an original document.

(b) A warrant, signed affidavit, and accompanying documents may be transmitted by electronic facsimile transmission or by electronic transfer with electronic signatures to the judge, who may act upon the transmitted documents as if they were originals. A warrant affidavit may be sworn to or affirmed by administration of the oath over the telephone by the judge. The affidavit with electronic signature received by the judge or magistrate and the warrant approved by the judge or magistrate, signed with electronic signature, shall be deemed originals. The judge or magistrate shall facilitate the filing of the original affidavit and original warrant with the clerk of the court and shall take reasonable steps to prevent tampering with the affidavit and warrant. The issuing judge or magistrate shall also forward a copy of the warrant and affidavit, with electronic signatures, to the affiant. This subsection (3) does not authorize the court to issue warrants without having in its possession either a faxed copy of the signed affidavit and warrant or an electronic copy of the affidavit and warrant with electronic signatures.

Since 2007, Colorado Revised Statutes section 16-1-106 has authorized the use of electronic signatures in obtaining search warrants and arrest warrants in general. Additionally, section 42-4-1301.1(8) authorizes chemical testing where a suspect is unconscious or dead

In 2012, the 12<sup>th</sup> District Court Judge Martin Gonzales worked with the Colorado State Patrol and the Office of the District Attorney to develop a protocol for expedited warrants. There were several protocol development meetings and then the various agencies throughout the District were trained on using that protocol to obtain an expedited search warrant.

- First, a law enforcement officer determines that a search warrant for a chemical test is necessary in the course of the investigation. However, in Colorado, unless there is a situation involving certain crimes (usually more serious crimes involving serious injuries), law enforcement generally does not seek a warrant for a blood draw. They will, however, seek a warrant for a blood draw where the driver is unconscious and taken to a hospital.
- The officer then calls the on-call district attorney to let that person know there will be a warrant request forthcoming.

- The officer prepares the warrant request and the warrant, saves it as a PDF file, and sends it to the on-call e-mail address for the Office of the District Attorney for the 12th Judicial District. Some areas in the district do not have a strong Internet or phone signal, preventing officers from submitting warrant requests from their vehicle. In this case, officers simply go back to the station to use computers there.
- The on-call DA reviews the warrant and affidavit. If there is probable cause, the on-call DA signs and approves the warrant and e-mails it on to the on-call judge, copying the officer and providing the officer's cell phone number. (DA approval in Colorado is based on a decade old chief judge directive.) The 12th District has set up an on-call judge e-mail address and phone number so that the same e-mail address and phone number is always used regardless of who is on call.
- The officer then calls the on-call judge to let them know that there is a warrant awaiting approval. The on-call judge reviews the warrant and, if there is probable cause, calls the officer and has the officer swear and affirm the affidavit over the phone. After that, the judge signs and issues the warrant, e-mailing the signed warrant back to the officer. The officer then executes the warrant.

Each respective party manages its own technology. However, everyone involved must have working e-mail and a phone number where he or she can be reached. A program that allows for the conversion of a Word document to a PDF is sometimes required, as is a program which allows for signing of a PDF (which may be as simple as a scanned image of a signature). Some officers are not as comfortable using technology, so rather than electronically signing the documents, they print, sign, and scan documents as a PDF image. Free programs have been located to meet the various needs and facilitate the creation, editing, signing, and securing of files. As a result, there was no cost involved with implementing the expedited warrant program.

Getting buy-in for the expedited warrant process was fairly easy. The 12th District is a very rural, economically depressed area. Stakeholders like that the expedited warrant protocol saves time and money and makes investigating suspected impaired driving cases more efficient. Previously, an officer would prepare the warrant and drive to the judge's house to obtain the warrant. This could be time consuming, taking up to two hours, as the district is close to the size of the entire State of Connecticut. The process is much more efficient now and can take as little as one hour to obtain the warrant. In addition, judges now have an assigned on-call week instead of the prior situation where they could be awakened randomly in the middle of the night by officers knocking at their door seeking a search warrant.

There have been some challenges involved with training all stakeholders who use the system. The 12th District has 10 judges, 22 law enforcement agencies all with different technological capabilities, and historically high turnover in the DA's office. Training on the protocol was initially provided to law enforcement by the captain of the Colorado State Patrol and to the DA's office by the deputy district attorney. It took significant time to get everyone trained and there are still people who do not currently follow protocol because they were hired after training took place. The DA's office is aware that there is a need for refresher training and continuous training for new users.

## Illinois

### **725 Illinois Compiled Statutes 5/108-4. Issuance of Search Warrant**

(a) . . . The search warrant upon written complaint may be issued electronically or electromagnetically by use of electronic mail or a facsimile transmission machine and this warrant shall have the same validity as a written search warrant.

. . .

(1) General rule. When a search warrant is sought and the request is made by electronic means that has a simultaneous video and audio transmission between the requestor and a judge, the judge may issue a search warrant based upon sworn testimony communicated in the transmission.

(2) Application. The requestor shall prepare a document to be known as a duplicate original warrant, and

(A) if circumstances allow, the requestor shall transmit a copy of the warrant together with a complaint for search warrant to the judge by facsimile, email, or other reliable electronic means.

While State law allowing for electronic search warrants did not take effect until 2015, the Illinois TSRP, while serving as an assistant state's attorney for Adams County, Illinois, designed a rudimentary electronic search warrant system in Adams County in 2007 out of frustration with repeat offenders getting away without consequences for impaired driving. This initial system involved e-mailing a PDF of the warrant to the judge and then the police officer driving to the judge's house to obtain a signature on the warrant. The current expedited warrant program was developed by the Illinois Court Services in 2015 after the electronic search warrant statute took effect. Stakeholders for the program include prosecutors, law enforcement, judges, hospitals, and phlebotomists.

Illinois' expedited warrant system is maintained by [IllinoisCourtServices.org](http://IllinoisCourtServices.org). Jurisdictions that want to use the system must subscribe to the program and pay a yearly fee according to the size of the jurisdiction. The price ranges from roughly \$8,000 per year on the low end for smaller counties to \$125,000+ per year for the largest counties. These are all-encompassing costs that include every agency, State's Attorney, judge, and circuit clerk for a county. On average, most counties in Illinois fall in the \$10,000- to \$40,000 per year range. Funding to cover this cost comes out of the State's Attorney's Office budget in some counties. Other counties use the Law Enforcement DUI Equipment Fund, which is established per statute and is paid into every time someone is sentenced for an impaired driving offense in Illinois. In Kankakee County the State's Attorney's Office made an agreement with Mothers Against Drunk Driving that for every attendee to the Victim Impact Panel, the State's Attorney's Office would get half of the \$100 fee charged to the attendee and place it in a fund. They use the money from this fund to pay for access to the expedited warrant system.

Using a web interface, an officer can initiate the search warrant process from any Internet connected computer, tablet, or smart phone. It is important to note that the system does not send automatic notifications by e-mail and the officer must call the State's Attorney screener to notify them that a search warrant is waiting for review. Upon review, the State's Attorney screener or

officer must call the judge to notify them of the warrant. The judge then has the officer swear to the content of the warrant through video conference. Figure 3 shows the warrant application screen.

The screenshot displays the 'Illinois Court Services' interface for a 'COMPLAINT FOR SEARCH WARRANT'. The header includes the agency name and user role '[ AGENCY ADMIN ]'. The main content area is divided into three sections: 'STATE OF ILLINOIS', 'UNITED STATES OF AMERICA IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT', and 'COUNTY OF DUPAGE'. The application form includes the following fields and options:

- NAPERVILLE** (Location)
- COMPLAINT FOR SEARCH WARRANT** (Title)
- 2020SW000044** (Case Number)
- Search Warrant Type**: DUI ALCOHOL ONLY
- Approval Agency**: STATES ATTORNEY
- Now appears**: [Redacted] Badge: 1086
- Complainant**: before the undersigned Judge of the Eighteenth Judicial Circuit, and requests the issuance of a Search Warrant to search the person of and/or the place of and/or the item of
- PERSON/PREMISES/ITEM INFORMATION :**
- Rich Text Editor**: Includes a toolbar with bold, italic, underline, bulleted list, numbered list, link, unlink, insert link, insert image, undo, redo, search, and print icons. The text area contains the placeholder: `[[NAME OF DEFENDANT, GENDER/RACE, Date of Birth, Height, Weight, Hair, Eyes,]]`.
- and therefrom seize the following instruments, articles and things which have been used in the commission of, or which constitute evidence of, the offense of**
- LIST OFFENSES HERE :**
- Navigation**: NEXT and CANCEL buttons.

Figure 3. Illinois Search Warrant System Warrant Application Screen

The search warrant system can run on any computer that has a webcam, Internet connection, and can access the website. However, some Illinois counties prefer not to use the statewide system and instead e-mail the warrant and complaint to the judge, following the State’s Attorney’s approval. As with the statewide system, the officer then calls the judge and uses a Skype or FaceTime application to have a video chat with the judge. The judge swears the officer by oath over the video and then can either electronically sign the warrant or authorize the officer to sign the judge’s name to the warrant. At that point, the officer can execute the warrant. Figure 4 shows a screen shot of what judges see when they log into the system.

**Illinois Court Services** Jeff Davies [ADMINISTRATOR] Home

**Warrant List**

Search Warrant #  County  Agency

Status  Issue time

Total Search Warrants : 3739

Case # / Complaint #	County	Officer Details	Warrant	Proof of Service	Inventory	Warrant Signed By
<a href="#">2020SW000001</a>	KANE	KANSO - Test Officer	Assigned to SA	-	-	-
<a href="#">2020SW000004</a>	WILL	SH - Jason Barten	Assigned to Judge	-	-	-
<a href="#">2020SW000044</a>	DUPAGE	NA - M KOKOCINSKI	Incomplete	-	-	-
<a href="#">2020SW000002</a>	MCHENRY	12 - Pat Kenneally	Incomplete	-	-	-
<a href="#">2020SW000003</a>	WILL	SH - Jason Barten	Executed	Complete	Complete	Jeff Davies
<a href="#">2019SW000027</a>	LAKE	FL - John Hoyne	Active	-	-	-
<a href="#">2020SW000001</a>	KENDALL	KCSO - TEST OFFICER	Incomplete	-	-	-
<a href="#">2020SW000002</a>	WILL	SH - Jason Barten	Incomplete	-	-	-

<< < 1 2 3 4 5.. > >>

*Figure 4. Illinois Search Warrant System Judge’s Initial Login Screen*

Many Illinois counties started by requesting search warrants for blood draws only for repeat offenders or felony impaired driving cases. This allowed them to slowly gain buy-in from judges on the use of the expedited warrant system. Once judges recognize the ease of use of the system and the time savings it brings, they are then more likely to want to use search warrants to obtain blood for all impaired driving cases where a blood draw is necessary.

The Illinois TSRP has trained localities and jurisdictions on the implementation of an expedited warrant program. However, once users subscribe to IllinoisCourtServices.org, use of the program is self-explanatory.

In Adams County, impaired driving offenses went from nearly 500 per year down to close to 150 per year over the several years after the rudimentary expedited warrant program was implemented in 2007, although the reduction in impaired driving offenses cannot be directly correlated to the expedited warrant program. The conviction rate went from approximately 60 percent to 98.6 percent, although it is also not known if this is a direct result of expedited warrants. Court time was drastically reduced. When an officer obtains a search warrant for an impaired driving case, a judge has already made a probable cause finding. This means that traditional challenges in the courtroom that commonly relate to probable cause findings are eliminated at the front end, reducing the need for hearings like Motions to Suppress/Quash and Petitions to Rescind the Summary Suspensions. Additionally, following the implementation of the program, Adams County impaired driving cases rarely went to trial, as there was nothing to contest since there were chemical test results available for every case. Furthermore, while not confirmed, it is likely that as the public becomes aware of the expedited warrant process,

impaired drivers tend to consent to blood draws because they know that it will happen regardless of whether or not they give consent.

**Kansas Statute 22-2502. Search warrants; issuance; proceedings authorized; availability of affidavits and testimony in support of probable cause requirement; use of electronic communications and tracking devices**

a) A search warrant shall be issued only upon the oral or written statement, including those conveyed or received by electronic communication, of any person under oath or affirmation which states facts sufficient to show probable cause that a crime has been, is being or is about to be committed and which particularly describes a person, place or means of conveyance to be searched and things to be seized. Any statement which is made orally shall be either taken down by a certified shorthand reporter, sworn to under oath and made part of the application for a search warrant, or recorded before the magistrate from whom the search warrant is requested and sworn to under oath. Any statement orally made shall be reduced to writing as soon thereafter as possible.

### **Wyandotte County, Kansas**

While Kansas Statute 2-2502 allows search warrants to be issued electronically, there is no statewide program for expedited warrants. Counties have chosen to implement their own programs, often mirroring Kansas's first expedited warrant program in Douglas County. The Douglas County program involved purchasing iPads for judges, officers e-mailing judges a search warrant request in PDF format, judges signing the warrant directly on the iPad, and then e-mailing the signed search warrant back to the officer.

In Wyandotte County the district attorney called for the implementation of expedited warrants using an existing system that had been used for other types of warrants. Tablets were readily available for mobile access to the system. When initially implementing the system, there was concern about how the system would work when Kansas required a notary to sign a sworn statement. The district attorney undertook a review of Kansas law and determined that sworn statements could be verified under penalty of perjury rather than notarized. After consultation with judges and their review of the law, it was determined that this understanding was correct, paving the way for the expedited warrant system.

Aside from the portal for submitting the information, the necessary technology for Wyandotte County's expedited warrant system includes tablets and portable printers for printing out the warrants at the hospital when needed. Funding for this equipment comes out of the DA's budget. The county refers to their search warrant form as a "checkbox search warrant." This form was originally developed by the assistant DA in Douglas County. It primarily contains checkboxes and requires little narrative to keep things simple and easy to read so that judges can quickly find the information they need and process the warrants faster. The expedited warrant process in Wyandotte County includes the following.

- If breath or blood testing refusal occurs, the officer calls the on-call DA.
- The DA can go to the hospital and completes a checkbox search warrant by hand, OR the officer can complete the checkbox search warrant online and post it to the secure portal for review by the DA.

- The DA reviews the warrant for content and errors and then calls the judge.
- The judge logs into the portal and reviews and signs the warrant if probable cause exists. The judge then notifies the DA that it is signed. If the judge or DA is faced with any glitches with the portal, the DA will then e-mail the judge the application.
- The judge can sign and send back the warrant OR the judge can talk with the officer directly and give permission telephonically. The officer records who the judge is and at what time the warrant was approved and the next business day the judge is presented with the warrant and physically signs.

The response to the various expedited warrant programs in Kansas has been positive. Citizens have indicated that they are happy to see increased enforcement for impaired driving. In addition, although there is no definitive data, it is believed that cases are resolved much more quickly, as defense attorneys are more likely to ask for plea agreement rather than go to trial due the fact that they are aware that expedited warrants facilitate the collection of more timely and accurate evidence. In Wyandotte County, for example, there has been an increase in plea agreements and a decrease in trials for drug-impaired driving cases since the expedited warrant program began (although no analysis has been done to definitively correlate the increase in pleas to the use of expedited warrants). In addition, the program has held drivers accountable. One defense attorney said he thought he had a good case to “win” until he saw that a search warrant was obtained; he instead asked for a plea agreement, in which the defendant plead guilty to a lesser charge in exchange for a more lenient sentence or an agreement to drop other charges.

In Wyandotte County technical difficulties have been the hardest challenge. Judges tend to prefer using secure e-mail or telephone because they are familiar with this technology but less comfortable with the online portal. Wireless connectivity issues have also hindered the process. For example, there may be limited conductivity in certain places in the hospital setting. Officers and prosecutors have overcome this by connecting their computers to their cell phones (hot-spotting) to obtain wireless connectivity.

In 2013 the Kansas TSRP and a representative from the Kansas Highway Patrol conducted a survey to study the status of court cases for impaired driving after one year of having expedited warrants in Douglas and Rice Counties. In Douglas County there were 50 cases and in Rice County there were 10 cases. While data has not been studied for the time prior to the implementation of expedited warrants, after the implementation in Douglas County 50 percent of cases (25) ended with a plea agreement and no cases went to trial. In Rice County, 90 percent (9) ended with a plea agreement, and one person went to trial, who was found guilty. The deputy district attorney of Wyandotte County plans to collect similar data for Wyandotte County in the near future.

## Maryland

### **Chapter 107 of the 2014 Laws of Maryland (Codified at MD Code, Criminal Procedure §1-203)**

(II) An application for a search warrant may be submitted to a judge: 1. By in-person delivery of the application, the affidavit, and a proposed search warrant; 2. By secure fax, if a complete and printable image of the application, the affidavit, and a proposed search warrant are submitted; or 3. By secure electronic mail, if a complete and printable image of the application, the affidavit, and a proposed search warrant are submitted.

(III) The applicant and the judge may converse about the search warrant application: 1. In person; 2. Via telephone; or 3. Via video.

### **Administrative Order on the Implementation of Electronic Search Warrants**

WHEREAS, Chapter 107 of the 2014 Laws of Maryland (Chapter 107) provides for the electronic submission of an application for a search warrant, the electronic issuance of a search warrant, and the electronic submission of the search warrant return; and

WHEREAS, Chapter 107 further provides that the electronic submission and issuance can be done either through secure facsimile (fax) or secure electronic mail.

WHEREAS, Amended Maryland Rule 4-601 requires the State Court Administrator to designate the electronic text format for the submission of search warrant documents from law enforcement officers; and WHEREAS, The State Court Administrator has designated the secured PDF as the electronic text format for submission of electronic search warrant documents by law enforcement officers; and

WHEREAS, The Court Technology Committee proposed a uniform procedure to the Judicial Council that would assist judges in ensuring that they maintain an acceptable level of security when receiving and approving search warrants through the electronic medium;

and WHEREAS, The Judicial Council expressed the need to establish standards of security related to the processing of electronic search warrants;

NOW, THEREFORE, I, Mary Ellen Barbera, Chief Judge of the Court of Appeals and administrative head of the Judicial Branch, pursuant to the authority conferred by Article IV, § 18 of the Maryland Constitution, do hereby order this 26th day of June 2015, that

1. The administrative judges in the respective Circuit and District Courts in each jurisdiction meet to develop a protocol for the implementation of electronic search warrants, giving consideration to the procedures drafted by the Court Technology Committee, attached hereto, regarding appropriate security standards for the receipt and issuance of electronic search warrant documents; and
2. In particular, any established protocols that provide for the use of electronic mail as a means for transmission of search warrant documents shall require a written certification from the law enforcement agency indicating that the domain from which the documents are sent is secured by a Secure Sockets Layer (SSL) certificate; and
3. Any established protocols that provide for transmission via fax, shall require all search warrant documents to be sent from a fax machine controlled by the law enforcement agency directly to the judge's fax machine or to a fax machine that, for the purposes of receiving and sending documents related to the search warrant, is controlled by the judge; and
4. Administrative judges shall adopt the secured PDF as the electronic text format for search warrant documents as designated by the State Court Administrator pursuant to Rule 4-601.



Maryland's expedited warrant program was developed in the wake of the U.S. Supreme Court decision in *Missouri v. McNeely* (2013); the State's Judicial Council Court Technology Committee conceptualized the idea to develop a means for patrol troopers to easily compile an application/affidavit for a search warrant. The Maryland State Police (MSP) felt expedited warrants were necessary to potentially address refusals to submit to chemical testing (blood or breath) or for those unable to consent to the execution of a blood draw and worked closely with the Court Technology Committee to get the idea off the ground.

The idea gained traction in 2014, after the State Legislature amended the existing Criminal Procedure law (Section 1–203(a) of the Annotated Code of Maryland, Criminal Procedure) to allow for the electronic transmission of warrants. In October 2015, the Maryland State Police Criminal Enforcement Division initiated an expedited warrant program, developing standard operating procedures to govern the program. Several program champions from MSP created numerous templates, trying a plethora of styles/platforms/document-creation programs (Microsoft Word, Adobe, etc.). In trying to devise the perfect template, they reviewed other templates from around the State and found that there were multiple forms being used and there was little to no coordination among different jurisdictions when creating new application/affidavit forms. For example, an application/affidavit being drafted in Maryland counties near the Pennsylvania–Delaware line was not done in coordination with those being drafted in other areas of the State. Therefore, between 2015 and 2018, the MSP team created nearly half a dozen templates to suit the needs of various judges.

While trying to draft the perfect template, the MSP team spoke with several judges interested in the expedited warrant concept, who expressed a desire to abbreviate or reduce the amount of affiant expertise/background information. They were told by several judges that law enforcement officers did not have to describe in detail their background and qualifications every time they presented an application/affidavit for a search warrant. The judges instructed the MSP team to include enough expertise to cover the subject matter related to the application.

In March 2018, after much vetting by the Office of Planning and Research and the Office of Legal Counsel as well as several State's attorneys and judges, the Maryland State Police adopted and published its Application and Affidavit for Search and Seizure Warrant. The single template is in Microsoft Word and includes fill-in-the-blank areas for the trooper/investigator to insert the needed information. The mindset behind the template was to make the template standardized (so it will work in numerous jurisdictions and venues) and user-friendly (for people who may not be overly efficient using Microsoft Word, etc.). The template, included as an appendix to this report, is designed to cover all laws (criminal, traffic, natural resources, etc.).

Maryland's expedited warrant program stakeholders include:

- Various Maryland State Police specialty investigative personnel/units;
- Various State's attorneys;
- Several judges from the both the District and Circuit courts in Maryland;
- The State's Judicial Council Court Technology Committee;
- The Judiciary Review Committee for Baltimore County;
- The Maryland State Police Office of Planning and Research; and
- The Office of Legal Counsel.

The MSP team met with stakeholders through the following efforts in order to gain buy-in:

- Several meetings (in-person and teleconferences);
- Training sessions; and
- Demonstrations/presentations.

Maryland's expedited warrant law (Maryland Code, Criminal Procedure § 1-203) requires that there must be written certification from the law enforcement agency, and e-mails used for the submission and receipt of expedited warrants are from a secure domain. The law also requires any established protocols that allow for submission of warrant documents by fax must require that all search warrant documents are sent from a fax machine controlled by the law enforcement agency directly to the judge's fax machine or a fax machine controlled by the judge.

Free-standing and vehicle-mounted laptops are primarily used by law enforcement personnel to draft the applications/affidavits. Tablets have been used in some instances. The Word template works best with computers; the automatically populating form fields tend to have issues working on tablets such as iPads.

The reviewing judges use laptops, desktops, Android tablets, and cell phones to review warrants and sign them for return transmittal. There have been no reported issues with forwarding or receiving the warrants.

The Judicial Council Court Technology Committee devised the guidelines to use the State-operated, court-controlled "ShareFile" system for submitting and reviewing warrants. The courts manage the ShareFile system. This tool allows for secure file sharing. All judges in the State are trained on using the court's ShareFile system as part of mandatory continuing education. The updates to the warrant templates and protocol are distributed on a shared drive through the MSP Office of Planning and Research.

The following expedited warrant process is used by MSP. Other law enforcement agencies within Maryland may use different procedures, but they have all been provided with the same warrant template and guidance.

- The trooper completes the application and affidavit in Microsoft Word, either using a court-approved template or similar format.
- Before submitting the application and affidavit for judicial review, the trooper has the application and affidavit reviewed by the trooper's supervisor.
- When preparing a warrant, a trooper or supervisor may ask for guidance or a review by the State's Attorney's Office.
- When the application and affidavit are ready for electronic submission to the judge, the trooper conducts the following steps.
  - Contact the judge to determine if the judge will accept an electronically transmitted application and affidavit.
  - Convert a Microsoft Word document to a PDF.
  - Electronically sign the application and affidavit.
  - Upon receipt of the Maryland court's (mdcourts.gov) ShareFile link from the judge, upload or insert the application, affidavit, and search warrant for the judge's retrieval.

- Send the file back to the judge.
- Contact the judge to ensure the judge received the document and is able to access and review it.
- The judge may discuss the warrant with the trooper in person, by phone, video conferencing, or other electronic means. Upon approval, the judge signs and dates the warrant using electronic signature.
- Upon the electronic return of a judge-approved application, affidavit, and search warrant, the trooper:
  - Prints a copy and apply inked initials to the application and affidavit in the appropriate location on the document; b) Makes the appropriate copies for filing and distribution; and c) Retains the copy with the original inked initials for return of service before the signing/authorizing judge.
  - Makes the appropriate copies for filing and distribution; and
  - Retains the copy with the original inked initials for return of service before the signing/authorizing judge.
- After execution, the trooper returns the copy of the application/affidavit with the original inked signature, executed warrant, and inventory to the issuing judge within 10 days of execution.

A user manual in the format of a presentation is available on the shared drive for use at any time and includes step-by-step instructions and screenshots.

In addition, MSP troopers have conducted training classes and made various presentations to stakeholders, including hands-on demonstrations of the system. Training on the expedited warrants is given to MSP candidates in the police academy. Training, both lecture and hands-on, has also been provided at the following venues: police commanders for the Maryland Association of Police Planners during a symposium, students during Basic Criminal Investigator's School, the Maryland State Police Pro-Active Criminal Enforcement Team's drug interdiction schools (attended by MSP and allied agencies and taught around the State), the Maryland Highway Safety Office Supervisor Traffic Safety Conference, and the Police Command Symposium for Cecil County Law Enforcement Agencies. Presentations have also been made to judges in Baltimore, Cecil, and Harford counties, as well as to attorneys through the Maryland State's Attorneys Association.

MSP has found the primary benefits of the expedited warrant system are savings in time and money. Previously, troopers had to drive to a barrack or office, draft the application, have it reviewed, have it printed for presentation, and then either drive to the courthouse or a judge's residence (after normal court hours). This process could take upwards of three or more hours. Using the template and ShareFile system allows a trooper to draft an application in 15 to 45 minutes, depending on experience and readily available information/facts. Once the warrant is reviewed by a supervisor and a judge is contacted, it is e-mailed/uploaded via ShareFile. Upon review and return/authorization (which usually takes 10 to 30 minutes), the warrant is ready for service.

The two most significant challenges faced by MSP were getting certain judges to embrace technology and accept warrants via the court's ShareFile system and getting law enforcement personnel to change the manner in which they were preparing applications and affidavits. A

significant number of troopers continue to rely on using templates and formats of warrants from the past. However, continuous training and outreach are slowly changing the manner in which applications are being prepared and reviewed.

## Minnesota

### Minnesota Court Rules of Criminal Procedure Regarding Electronic Warrants

- Minn. R. Crim. P. 33.05: warrants and other documents may be sent via electronic submission and such documents are “valid and enforceable.”
- Minn. R. Crim. P. 36.01: “request for search warrant may be made, in whole or in part, on sworn oral testimony . . . via telephone, radio, or other similar means of communication. Written submissions may be presented by facsimile or electronic transmission, or by other appropriate means.”
- Minn. R. Crim. P. 36.03: the officer prepares a duplicate original warrant and reads it to the judge, who records, verbatim, what has been read (unless the judge permits the document to be transmitted to the judge); the proceeding must be recorded by the judge or, if the judge permits, by the officer requesting the warrant (who then must submit the recording to the judge as soon as practical);
- Minn. R. Crim. P. 36.05: the judge may sign the warrant and transmit it to the officer or may direct that the officer sign the judge’s name to the duplicate warrant;
- Minn. R. Crim. P. 36.06: all documents (including transcripts or a longhand verbatim record) to be filed; also, the judge may direct modifications, “which must be included on the original and any duplicate original warrant.”
- Minn. R. Crim. P. 37.01: “search warrant applications must be supported by written affidavit signed under oath, a signed statement attested to under oath, or by a written statement signed under penalty of perjury”
- Minn. R. Crim. P. 37.02: “if a judge administers an oath via telephone, radio, or similar means of communication and the applicant does no more than attest to the contents of a signed statement that was transmitted electronically, a verbatim recording of the oath is not required.”

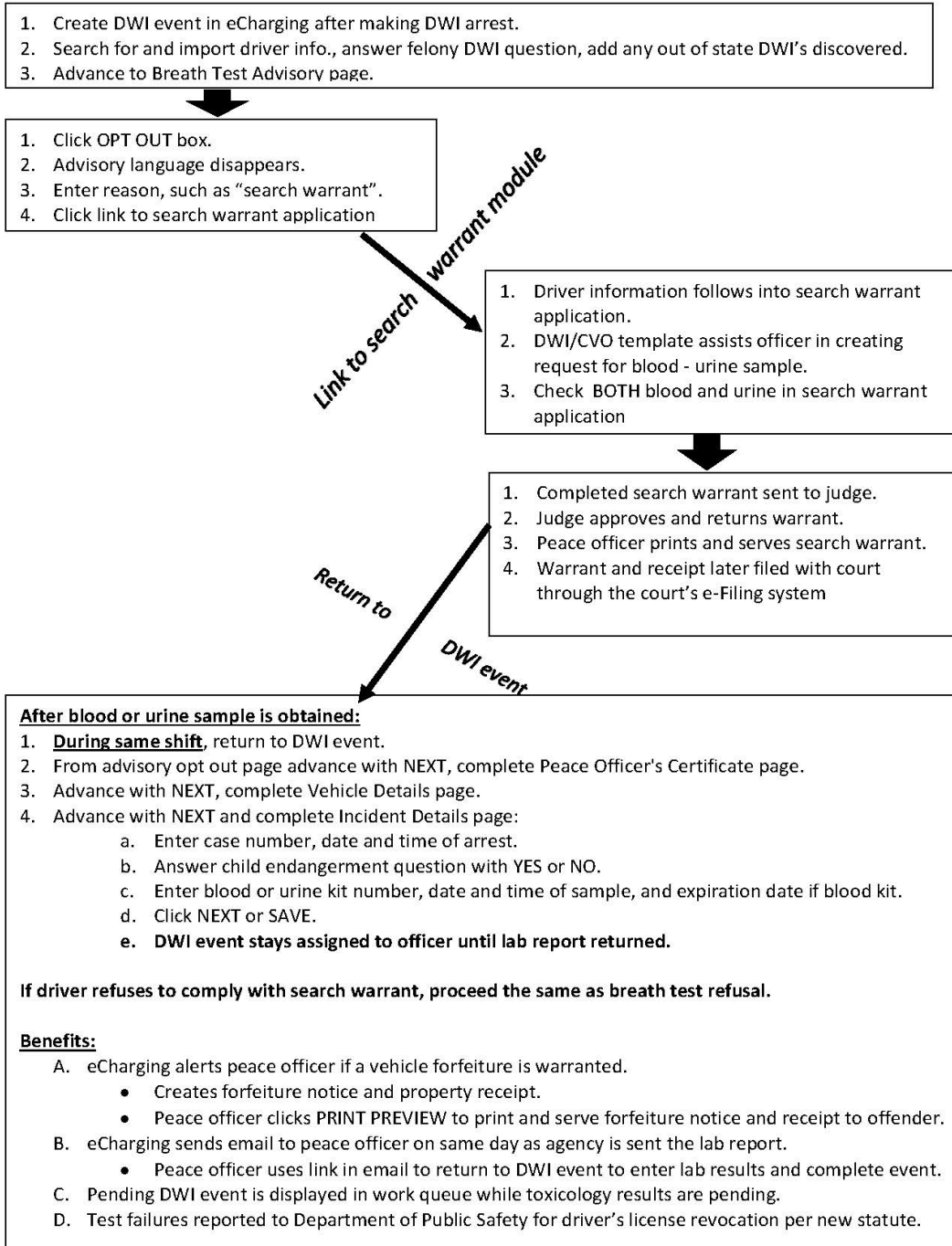
The Minnesota Court of Appeals case, *Minnesota v. Trahan* (2015), ruled that under the U.S. Constitution and Minnesota law, a warrant is required to obtain blood or urine for impaired driving chemical testing. This case triggered the development of a search warrant module, eSearch Warrant, in Minnesota’s existing eCharging system. eCharging was initially developed to facilitate the movement of information between individual data systems in law enforcement, prosecution, courts and the State.

The Minnesota Bureau of Criminal Apprehension (BCA) led the development of eSearch Warrant. It took approximately 18 months to develop and implement the search warrant part of the eCharging system, including pilot testing and sequential implementation of the system. Because the eCharging system already existed, BCA was able to reuse much of the infrastructure, especially the infrastructure connecting users and defining relationships between the different agencies needed to assign workflows. Initial programming of the eSearch Warrant module was approximately \$300,000. Maintenance and addition of new features has been

approximately \$350,000 per year. The original costs of programming were funded internally. A \$350,000 grant from the Department of Public Safety's Office of Traffic Safety, which receives funding from NHTSA, was used to support the business process analysis and quality assurance processes.

The program was first piloted in Hennepin County in October 2016, using the Minnesota State Patrol's (MSP) West Metro District. Later, additional local Hennepin County agencies were added to the pilot. The sequential implementation of the program was done to avoid overloading the system. After the 3-month pilot, the State added one judicial court district at a time over a 4-month period, until all the courts were in the system by April 2017.

Figure 5 depicts the eSearch Warrant workflow.



Linking between eDWI event and eSearch Warrant application.  
 Effective 7/1/2017 MLA



*Figure 5. Minnesota eSearch Warrant Workflow*

Officers log into a secure portal to complete and submit an electronic search warrant application to a judge. eCharging workstations are located within all Minnesota jails and most law enforcement agencies. Most Minnesota peace officers are also able to access the 24-hour eCharging site through their squad car's mobile data computer. Search warrant applications are often created at the location of the DWI arrest or the DWI crash. There was an effort during system development to simplify the system as much as possible. As a result, much of the standard language is pre-populated in the system to minimize how much the officers need to enter.

The officer must telephone the on-call judge to alert them that an eSearch Warrant is about to be assigned to them. Judges have access to the eCharging system in their court chambers; for afterhours access, all judges are equipped with remote wireless devices that can access eCharging from any location with a Wi-Fi service. When a search warrant is approved by the judge, an issued search warrant is displayed in the officer's eCharging work queue. An e-mail alert is also sent to the officer informing them that their search warrant has been approved by the judge.

MSP personnel felt that the program was so simple that no in-person training was required. However, two versions of a 20-minute online training module were created and customized for peace officers or judges. Test accounts are also available to judges and peace officers that wish to practice applying for or approving a mock search warrant. The BCA also provides to judges and peace officers a training document entitled "How to Use eSearch Warrant," which provides a quick reference on the basics of working with search warrants in eCharging. The document has one section for law enforcement officers and one section for judges. Figure 6 depicts a screenshot of the law enforcement side of the module and Figure 7 shows a screenshot of the judge's side.

**Draft** (click for history)

Document Type: DWI Search Warrant      Case Numbers:  
 Defendant: AL EDWARD TWO      Law Enforcement: 18051801  
 eCharging Id: 87290      Prosecution:  
 Document Id: 1515      Court:

Print Preview      help

Currently Assigned to: Pete Malloy, at the New Ulm Police Dept

**Sign and Submit to Judge**

I declare under penalty of perjury that everything stated in this document is true and correct.

**Place of Signature**  
 County:       State:

**Officer's Call back phone#**  (This phone number will only be visible to the assigned Judge.)

**Select Judge**  
 Courthouse:       Judge:

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Application Page 1 - 3

STATE OF MINNESOTA, COUNTY OF BROWN      DISTRICT COURT

**APPLICATION FOR SEARCH WARRANT**

I, Pete Malloy, a licensed peace officer in the State of Minnesota, make an application to this Court for a warrant to search the person(s) described below, for the property and thing(s) described below.

Enter county

Enter call back number

Contact then select judge

Click Sign and Submit

Figure 6. Law Enforcement View in eSearch Warrant



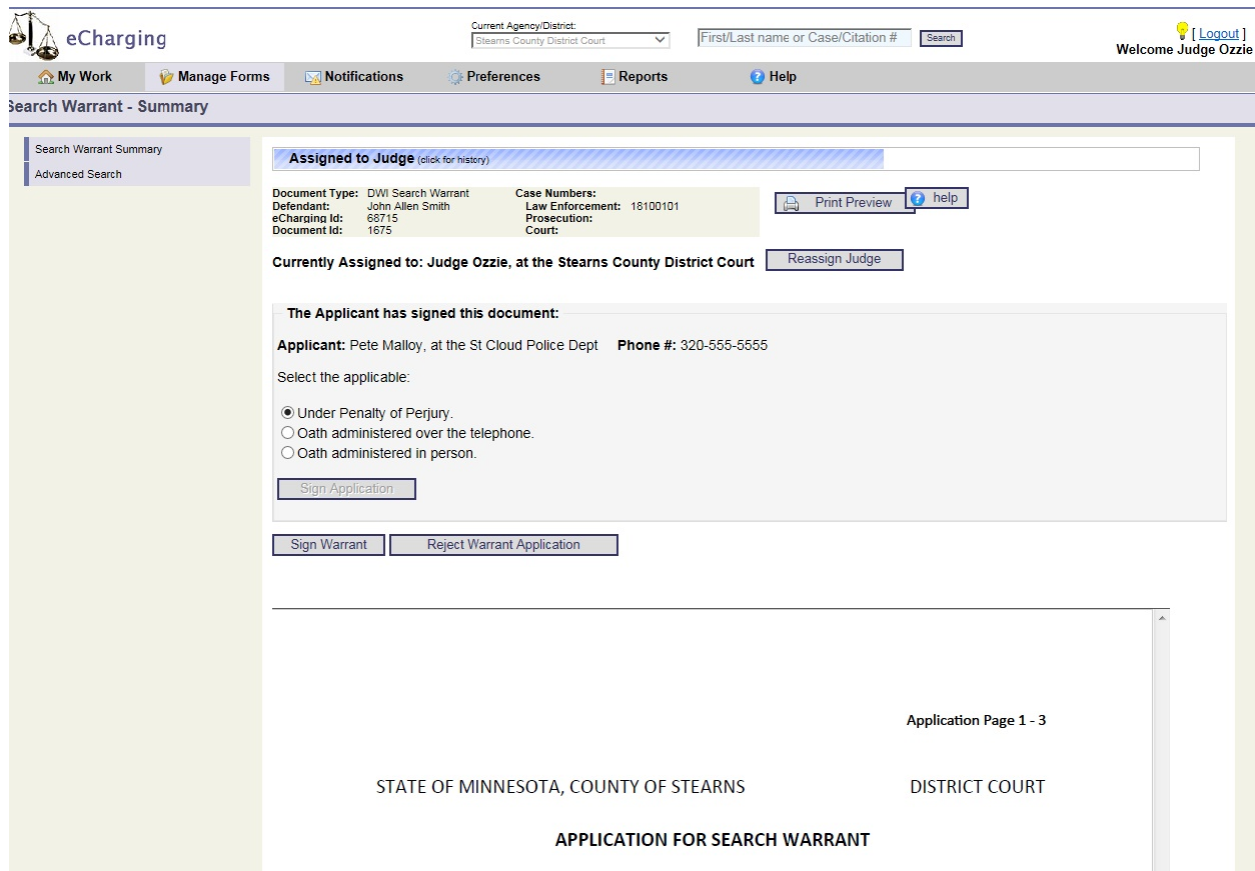


Figure 7. Judge's View in eSearch Warrant

Articles and press releases announced the implementation of electronic search warrants and provided information on why they are important to getting impaired drivers off the road. Examples include the following.

- Audio from interview with Minnesota Bureau of Criminal Apprehension Superintendent Drew Evan discussing the benefits of expedited warrants - <https://minnesotanewsnetwork.com/electronic-search-warrants-becoming-more-common-in-minnesota-with-audio/>
- Press release from Minnesota Office of Public Safety - <https://dps.mn.gov/divisions/ooc/news-releases/Pages/Minnesota-Law-Enforcement-and-Courts-Transition-to-Electronic-Search-Warrants.aspx>

The primary benefit of eSearch Warrant is time-savings. It currently takes Minnesota officers an average of 10 to 15 minutes to apply for an eSearch Warrant and receive approval from a judge. Officers report that the search warrant process often took 2 or more hours before the implementation of eSearch Warrant, when they would have to travel long distances to the courthouse or judge's home to obtain an approved search warrant.

Since the eSearch warrant became available in October 2016, Minnesota law enforcement officers have submitted over 32,500 eSearch Warrant applications, of which 49 percent involved impaired driving-related arrests.

Judges have provided positive reviews of the system to the BCA because, among other things, it allows the judge to approve warrants in chambers during breaks and avoids the necessity of peace officers travelling to the judge's home outside of normal court hours.

The Office of Traffic Safety recognizes officers who make three or more impaired driving arrests in a single shift. Officers from neighboring States that do not have expedited warrant programs have noted that it would be impossible for them to achieve this recognition because of how long it takes for them to get through just one impaired driving arrest.

There have been very few challenges in implementing the eSearch Warrant program. While the BCA led the eSearch Warrant project, it would not have been possible without the support and cooperation of the court. While initially many judges were opposed to change, the judges appear to have fully embraced the eSearch Warrant processes.

## **Frequently Asked Questions**

This section summarizes the information found throughout this report in the format of questions and answers. Please refer to the relevant report section for more detailed information to support each answer.

### **Q: What is the difference between an electronic warrant and an expedited warrant?**

A: An electronic warrant is a type of expedited warrant. Expedited warrants typically, but not always, use electronic technology to expedite the process. For example, some programs process warrants telephonically, which still expedites the process, but does not make use of web-based or e-mail systems as other expedited warrant programs often do. For the purposes of this report, the term "expedited warrant" is used to cover the various ways that can be used to expedite the process.

### **Q: Who are the stakeholders involved with implementing an expedited warrant program?**

A: Effective expedited warrant systems require input from a variety of stakeholders, both traditional and non-traditional. It is imperative that law enforcement, prosecutors, and judges be involved in the development of the implementation of the system. Other stakeholders that may be involved depending on the system and process include information technology personnel at the State or county levels, legislators, medical personnel and laboratory technicians involved in the analysis of blood tests, defense attorneys, county or State government representatives for the procurement process, State Department of Transportation, Governor's Office of Highway Safety, TSRPs, sheriffs and police chief associations, and the State driver licensing authority (Borakove & Banks, 2018).

### **Q: Who typically leads the implementation of an expedited warrant program?**

A: Most expedited warrant programs begin with a champion or champions who desire to implement such a program, lead the planning, and sell the benefits of expedited warrants to decision makers. In places with existing programs, this person is commonly someone from the Governor's Office of Highway Safety, a district attorney or Assistant district attorney, a TSRP, the Administrative Office of the Courts, or State or local law enforcement.

**Q: What are the most important factors in implementing an expedited warrant program?**

A: Most champions of existing expedited warrant programs agree that starting small and expanding over time and identifying and including the right stakeholders are the most important aspects of implementing a successful expedited warrant program. Starting small may mean initiating a program in one jurisdiction before expanding to others or using expedited warrants only at certain times, such as No Refusal Weekends or for the most serious offenders. Doing so allows for the identification of stakeholders who can champion implementation of expedited warrants in other jurisdictions, as well as data to be collected to support the use of expedited warrants and provide justification for other areas that may be hesitant to implement a program. It also allows for process improvement prior to wider implementation.

Identifying the correct stakeholders and involving them in the planning and implementation is important to ensuring that the expedited warrant program is accepted by those who will be using it and that it meets all users' needs.

**Q: What type of law must be in place to allow the use of expedited warrants?**

A: State laws should allow for transmission, oral testimony, and signature of the warrant using electronic means. It is also important that the law is not overly prescriptive; rather it leaves the door open as to what type of technology is used for the expedited warrant system.

**Q: What are the benefits of expedited warrants?**

A: States and jurisdictions that have implemented expedited warrant programs have found numerous benefits, both measurable, as well as perceived. The primary benefits of expedited warrants are time savings and associated efficiency in obtaining a warrant to obtain chemical evidence for impaired driving cases. Another important benefit is the ability to quickly obtain evidence from suspected impaired drivers, removing them from the road and increasing safety for other drivers. Other benefits include the following.

- Allows officers to quickly return to service.
- Reduces chemical testing refusals.
- Eliminates errors on search warrant applications.
- Improves records management.
- Reduces disruption to judges.

**Q: Does the entire process have to occur electronically in order for a warrant to be considered an expedited warrant?**

A: No. Some systems are completely electronic, with the entire warrant process occurring online from start to finish. Others use a combination of electronic and manual entry. For example, some systems may require that the officer call the judge to notify them that a warrant request has been submitted for their review. Similarly, some systems may still require a handwritten signature and forms can then be scanned and faxed, e-mailed, or uploaded to a web-based system.

**Q: What technology is necessary for an expedited warrant program?**

A: Technology, processes, and procedures vary depending on budget and needs. Some States and jurisdictions use complex systems that are built from scratch or as part of their existing court information systems, and others use simpler methods of secure e-mail or fax, sign and scan, PDF forms, and/or tablets to transmit warrant requests and obtain signatures. In some areas, the warrant process may be expedited solely through the use of telephone or video conferencing. Identifying the goals of the system and the anticipated business processes will assist a State or jurisdiction with determining the type of technology to incorporate into their system.

**Q: What is the first step an agency or locality should take when interested in implementing an expedited warrant program?**

A: The first step is determining the legality of the system that will be used to expedite the warrant. This includes ensuring that State law allows for transmission, oral testimony, and signature of the warrant using electronic means.

**Q: What are the associated costs of an expedited warrant program?**

A: The type of costs will vary depending on the needs being addressed and the type of system being developed, from hardware and software costs to personnel costs for programming. There may also be costs associated with hiring consultants to conduct business process analyses (Borakove & Banks, 2018). In cases where the expedited warrant component is added on to an existing criminal justice system or the expedited warrant process is simple, costs may be minimal.

**Q: What training is needed for users of an expedited warrant program?**

A: Training needs will vary depending on the complexity of the system. Training ranges from in-person courses to presentations, demonstrations, user manuals, web conferencing, and video. Most systems have a user guide with screenshots to either supplement training or be used as self-study training program. Effective training can demonstrate to skeptical users the simplicity of the system and the ability to quickly obtain a search warrant. In addition, providing regularly scheduled training opportunities help inform users about system or process updates and train new users that may arise as a result of new hires or staff turnover.

## References

- 725 Illinois Compiled Statutes. 5/108-4. Issuance of Search Warrant.  
[www.ilga.gov/legislation/ilcs/ilcs4.asp?ActID=1966&ChapterID=54&SeqStart=8200000&SeqEnd=14900000](http://www.ilga.gov/legislation/ilcs/ilcs4.asp?ActID=1966&ChapterID=54&SeqStart=8200000&SeqEnd=14900000)
- 2016 Colorado Revised Statutes - CO Rev Stat § 16-1-106 (2016).  
<https://law.justia.com/codes/colorado/2016/title-16/code-of-criminal-procedure/article-1/section-16-1-106/>
- Arizona Supreme Court Administrative Order 2018-51 (2018).  
[www.azcourts.gov/Portals/22/admorder/Orders18/2018-51.pdf](http://www.azcourts.gov/Portals/22/admorder/Orders18/2018-51.pdf)
- Benefiel, G. T. (2012). DUI search warrants: Prosecuting DUI refusals. *The Kansas Prosecutor*, 9(1). [www.kcdaa.org/Resources/Documents/KSProsecutor-Spring12.pdf](http://www.kcdaa.org/Resources/Documents/KSProsecutor-Spring12.pdf)
- Berning, A., Beirness, D., Hedlund, J., & Jones, R. (2007). *Breath test refusals* (Traffic Safety Facts Research Note. Report No. DOT HS 810 871. National Highway Traffic Safety Administration. Available at [www.nhtsa.gov/sites/nhtsa.dot.gov/files/810871.pdf](http://www.nhtsa.gov/sites/nhtsa.dot.gov/files/810871.pdf)
- Berning, A., Compton, R., Vegega, M., Beirness, D., Hedlund, J., Jones, R., & Nichols, J. (2008). *Refusal of intoxication testing: A Report to Congress* (Report No. DOT HS 811 098). National Highway Traffic Safety Administration. Available at [www.nhtsa.gov/sites/nhtsa.dot.gov/files/811098\\_1.pdf](http://www.nhtsa.gov/sites/nhtsa.dot.gov/files/811098_1.pdf)
- Birchfield v. North Dakota*, 136 S.Ct. 2160 (2016).  
<https://supreme.justia.com/cases/federal/us/579/14-1468/>
- Borakove, E., & Banks, R. (2018). *A guide to implementing electronic warrants*. Justice Management Institute. [www.responsibility.org/wp-content/uploads/2018/04/FAAR\\_3715-eWarrants-Interactive-PDF\\_V-4.pdf?pdf=eWarrants\\_Implementation\\_Guide](http://www.responsibility.org/wp-content/uploads/2018/04/FAAR_3715-eWarrants-Interactive-PDF_V-4.pdf?pdf=eWarrants_Implementation_Guide)
- Bureau of Justice Assistance (2014). Warrant & Disposition Toolkit. Alabama Warrant Management Project.  
[www.wdmtoolkit.org/~/.media/Microsites/Files/Warrants%20and%20Dispositions/State%20Implementations/Alabama/AL%20-%20Results%20and%20Lessons%20Learned%207-8-2015.ashx](http://www.wdmtoolkit.org/~/.media/Microsites/Files/Warrants%20and%20Dispositions/State%20Implementations/Alabama/AL%20-%20Results%20and%20Lessons%20Learned%207-8-2015.ashx)
- California Code, Penal Code - PEN CA PENAL § 1526.  
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=1526.&lawCode=PEN](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1526.&lawCode=PEN)
- California Courts. (n.d.). Electronic On-Call Warrants - San Bernardino Superior Court.  
[www.courts.ca.gov/27655.htm](http://www.courts.ca.gov/27655.htm)

- Chapter 107 of the 2014 Laws of Maryland – Criminal Procedure – Search Warrants – Procedures. [www.mgaleg.maryland.gov/Pubs/LegisLegal/2014rs-laws-maryland-Vol-002.pdf](http://www.mgaleg.maryland.gov/Pubs/LegisLegal/2014rs-laws-maryland-Vol-002.pdf)
- Court of Appeals of Maryland Administrative Order on the Implementation of Electronic Search Warrants (2015). <https://mdcourts.gov/sites/default/files/admin-orders/20150629electronicsearchwarrants.pdf>
- Gutier, A. (2016, April). “Law enforcement phlebotomy for safer roads” [online article]. The LEL. [https://gohs.az.gov/sites/default/files/LEL\\_042016\\_PhlebotomyNewsArticle.pdf](https://gohs.az.gov/sites/default/files/LEL_042016_PhlebotomyNewsArticle.pdf)
- Hedlund, J., & Beirness, D. (2007, October). *Use of warrants for breath test refusal: Case studies* (Report No. DOT HS 810 852). National Highway Traffic Safety Administration. Available at [www.nhtsa.gov/sites/nhtsa.dot.gov/files/810852.pdf](http://www.nhtsa.gov/sites/nhtsa.dot.gov/files/810852.pdf)
- Holmes, E. (2018, April 22-24). *Improving DUI system efficiency: Electronic warrant systems* [PowerPoint]. Lifesavers Conference 2018, San Antonio, TX. <https://lifesaversconference.org/wp-content/uploads/2018/04/Holmes-ID-04-1.pdf>
- Holewa, S. (2016). Final Report – Electronic Search Warrant Workgroup. North Dakota Court System.
- International Association of Chiefs of Police. (2018, November). 2018 resolutions. [www.theiacp.org/sites/default/files/View%20the%20recently%20adopted%202018%20Resolutions.pdf?utm\\_source=Informz&utm\\_medium=email&utm\\_campaign=Informz%20E-mail](http://www.theiacp.org/sites/default/files/View%20the%20recently%20adopted%202018%20Resolutions.pdf?utm_source=Informz&utm_medium=email&utm_campaign=Informz%20E-mail)
- Jacobson, M. (2013). Kentucky E-warrants Case Study. [www.wdmtoolkit.org/~/.media/Microsites/Files/Warrants%20and%20Dispositions/State%20Implementations/Kentucky/Kentucky%20eWarrant%20Case%20Study.ashx](http://www.wdmtoolkit.org/~/.media/Microsites/Files/Warrants%20and%20Dispositions/State%20Implementations/Kentucky/Kentucky%20eWarrant%20Case%20Study.ashx)
- Kansas Statute 22-2502. Search warrants; issuance; proceedings authorized; availability of affidavits and testimony in support of probable cause requirement; use of electronic communications and tracking devices. <http://rvpolicy.kdor.ks.gov/Pilots/Ntrntpil/IPILv1x0.NSF/23d6cf461dc0d3f58625656e005c41cd/08121b70179ff9f286258067005c2b03?OpenDocument>
- Maryland Code, Criminal Procedure 1-203. Article – Criminal Procedure. <https://law.justia.com/codes/maryland/2005/gcp/1-203.html>
- Minnesota Court Rules of Criminal Procedure. [www.revisor.mn.gov/court\\_rules/rule/cr-toh/](http://www.revisor.mn.gov/court_rules/rule/cr-toh/)
- Minnesota v. Trahan* 870 N.W.2d 396(Minn. App. 2015). <https://cases.justia.com/minnesota/court-of-appeals/2015-a13-931.pdf?ts=1444759769>
- Missouri v. McNeely*, 569 U.S. 141 (2013). <https://supreme.justia.com/cases/federal/us/569/11-1425/>

- Mitchell v. Wisconsin*, 588 U. S. \_\_\_\_, 139 S.Ct 2525 (2019).  
[www.supremecourt.gov/opinions/18pdf/18-6210\\_2co3.pdf](http://www.supremecourt.gov/opinions/18pdf/18-6210_2co3.pdf)
- Namuswe, E., Coleman, H., & Berning, A. (2014). *Breath test refusal rates in the United States – 2011 update* (Report No. DOT HS 811 881). National Highway Traffic Safety Administration. Available at [www.nhtsa.gov/sites/nhtsa.dot.gov/files/breath\\_test\\_refusal\\_rates-811881.pdf](http://www.nhtsa.gov/sites/nhtsa.dot.gov/files/breath_test_refusal_rates-811881.pdf)
- National Highway Traffic Safety Administration. (2019). *Law enforcement phlebotomy toolkit: A guide to assist law enforcement agencies with planning and implementing a phlebotomy program* (Report DOT HS 812 705). National Highway Traffic Safety Administration. Available at [www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/14222-phlebotomy\\_toolkit\\_final-032819-v1a\\_tag\\_0.pdf](http://www.nhtsa.gov/sites/nhtsa.dot.gov/files/documents/14222-phlebotomy_toolkit_final-032819-v1a_tag_0.pdf)
- Schmerber v. California*, 384 U.S. 757 (1966).  
<https://supreme.justia.com/cases/federal/us/384/757/case.html>
- State of Utah. (2008). *E-Warrants: Cross Boundary Collaboration. National Association of State Chief Information Officers 2008 State IT Recognition Awards*. [www.nascio.org/awards/](http://www.nascio.org/awards/)
- Vanlaar, W., Brown, S., Ireland, L., & Robertson, R. (2016, August). *Driving while impaired arrest process improvement: Six case studies of strategies used by law enforcement to reduce the cost and time of processing a DWI arrest* (Report No. DOT HS 812 308). National Highway Traffic Safety Administration. Available at [www.nhtsa.gov/staticfiles/nti/pdf/812308-DWI-Arrest-Process-Improvement.pdf](http://www.nhtsa.gov/staticfiles/nti/pdf/812308-DWI-Arrest-Process-Improvement.pdf)
- Zwicker, T. J., Hedlund, J., & Northrup, V. S. (2005, August). *Breath test refusals in DWI enforcement: An interim report* (Report No. DOT HS 809 876). National Highway Traffic Safety Administration. Available at <https://one.nhtsa.gov/people/injury/research/breathtestrefusal/images/BreathTestText.pdf>

## **Appendix: Maryland Search Warrant Template**



**SELECT COURT OF MARYLAND  
FOR SELECT COUNTY**

**APPLICATION AND AFFIDAVIT FOR SEARCH AND SEIZURE**  
**WARRANT**

To the Honorable Judge of the **SELECT COURT** for **SELECT COUNTY**, **YOUR AFFIANT**, Trooper/Deputy/Officer rank & name, sworn member of the Agency's Complete Name, states that he has reason to believe that:

**IN THE PERSON KNOWN AS:**

<p><b>Name:</b>Suspect's Name</p> <p><b>Date of Birth:</b>##/##/####</p> <p><b>Description:</b> Detailed description (Race/Gender/Height/Weight/etc.)</p> <p><b>Soundex:</b> State &amp; Operator's License Number(s)</p> <p><b>Address:</b> Street, Town/City, Zip</p>
---

there is presently concealed certain property/evidence/contraband, **NAMELY:**

- |  |
|--|
| <ul style="list-style-type: none"><li>• Sufficient samples of breath and blood of that individual for alcohol or drug testing.</li></ul> |
|--|

which is evidence relating to the commission of a crime of (**Insert Brief Overview of Crime/Offenses**), in violation of Maryland **SELECT ARTICLE**; to wit: **SELECT**;The facts tending to establish grounds for the issuance of a Search and Seizure Warrant are set forth in the below Affidavit.

**AFFIDAVIT:**

**YOUR AFFIANT**,Trooper/Deputy/Officer rank & name, has been a sworn law enforcement officer with the Agency's Complete Name for more than **## Years**; and is empowered to search for and seize evidence pursuant to a warrant issued under Courts & Judicial Proceedings §6-101. In addition to prior knowledge and experiences, Your Affiant has received training in the detection and apprehension of impaired drivers.

The following information is given in support of this application:

On or about the ## day of **SELECT MONTH**, **YEAR**, at approximately ##:## **HOURS**, the above-named person drove/operated or attempted to drive/operate a vehicle, to wit: **Description of Vehicle/Vessel** in **Location**, **SELECT COUNTY**, Maryland.

Probable cause for driving or attempting to drive/operate:

**YOUR AFFIANT:**

**SELECT: Observed the following;**

**Description of Observations for Above,**

**Check if related to a collision:**

On the above listed date and time, **YOUR AFFIANT** responded to a report of a vehicle collision and ascertained that the above-named person drove/operated or attempted to drive/operate the described vehicle/vessel at the time and place stated from the following facts:

**Description of Observations Related to the Collision.**

**Check all that apply:**

The above-named person admitted to driving or attempting to drive/operate the vehicle/vessel.

On or about the date and time stated previously, **YOUR AFFIANT** detected the following:

Strong;  Moderate;  Faint; or  No

odor of an alcoholic beverage coming from the breath of the above-named person,

at the scene;

at (other location) **Description (Hospital/Medical Facility);**

Upon making personal contact with the above-named individual, **YOUR AFFIANT** made the following observations of impairment:

**Observations**

**Check all that apply:**

The above-named individual stated to **YOUR AFFIANT** that before or while operating the described vehicle/vessel, he/she:

had consumed alcohol, to wit: Description:

had consumed controlled dangerous substance(s), to wit: Description:

had consumed non-controlled dangerous substance(s), to wit: Description:

**Check all that apply:**

The above-named individual:

- Refused the Standardized Field Sobriety Tests;
- Could not perform the Standardized Field Sobriety Tests;
- Agreed to perform the Standardized Field Sobriety Tests (SFST's):
  - The above-named individual satisfactorily performed the SFST's;
  - The above-named individual did not satisfactorily perform the SFST's; or
  - The above-named individual was unable to complete the SFST's.

**YOUR AFFIANT** noted the following additional observations (*optional*):

**Observations**

Other reliable persons stated to **YOUR AFFIANT** the following facts: (Note: Name officers and/or witnesses; list facts related to impairment, vehicle operation, etc.)

Based on all the foregoing, and on **YOUR AFFIANT'S** training in detecting impaired driving violations and my experience as a law enforcement officer, I have formed a professional opinion the above-named person consumed a sufficient quantity of some impairing substance(s) as to cause impairment of that person's ability to operate a vehicle safely, and that the person drove/operated or attempted to drive/operate the above-described vehicle/vessel in the State of Maryland while impaired by or under the influence of impairing substance(s). It is **YOUR AFFIANT'S** further opinion that evidence of impairing substance(s) is at this time present in the body or bodily fluids of the above-named person, and that unless a warrant is issued and executed without delay, the evidence may dissipate and be lost.

Wherefore, your Affiant requests that a Search and Seizure Warrant be issued for said **PERSON** known as Suspect's Name.

**Pursuant to Maryland Rule 1-304:** I solemnly affirm under the penalties of perjury and upon personal knowledge that the contents of the foregoing Application and Affidavit are true. For any portion of the Application and Affidavit that relies upon information provided by someone other than the applicant, and only for such portion(s), I solemnly affirm under the penalties of perjury that the contents of the foregoing Application and Affidavit are true to the best of my knowledge, information and belief.

Affiant(s): \_\_\_\_\_

Trooper/Deputy/Officer rank & name

Date & Time

Date and Time

**SELECT COURT OF MARYLAND  
FOR SELECT COUNTY**

**SEARCH AND SEIZURE WARRANT**

**TO:** Any Police Officer of **SELECT COUNTY**, Maryland

**GREETINGS:**

**WHEREAS:**

An application and affidavit were made and delivered to me by Trooper/Deputy/Officer rank & name, sworn member(s) of the Agency's Complete Name, who has reason to believe that:

**IN THE PERSON KNOWN AS:**

<p><b>Name:</b> Suspect's Name</p> <p><b>Date of Birth:</b> ##/##/####</p> <p><b>Description:</b> Detailed description (Race/Gender/Height/Weight/etc.)</p> <p><b>Soundex:</b> State &amp; Operator's License Number(s)</p> <p><b>Address:</b> Street, Town/City, Zip</p>
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There is presently concealed certain property/evidence/contraband, **NAMELY:**

- |  |
|--|
| <ul style="list-style-type: none"><li>• Sufficient samples of breath and blood of that individual for alcohol or drug testing.</li></ul> |
|--|

which is evidence relating to the commission of a crime of **(Insert Brief Overview of Crime/Offenses)**, in violation of Maryland **SELECT ARTICLE** to wit: **SELECT**, and I am satisfied that there is probable cause to believe that the property described is in the location above described and that probable cause for issuance of the Search and Seizure Warrant exists, as stated on the Application and Affidavit attached to this warrant.

You are, therefore, commanded, with the necessary and proper assistance, to **(1)** Search the **PERSON** herein above specified; **(2)** If the property/contraband named in the Application and Affidavit is found there, to seize it; **(3)** Seize any evidence of the commission of a misdemeanor or felony by a **PERSON** therein; **(4)** Seize any evidence of the commission of a misdemeanor or felony which is found in the **PERSON** covered by this warrant; **(5)** Seize, view and/or examine by persons qualified to conduct said examinations in a laboratory setting, at later point if needed, all evidence recovered from the above-described as deemed appropriate by investigative personnel, which may relate to the crimes listed herein; **(6)** Leave a copy of this Warrant and Application/Affidavit with an inventory of the property seized pursuant to applicable law and **(7)** return a copy of this Warrant, Application/Affidavit, and inventory, if any, to me within 10 days after execution of this Warrant; or, if not served, to return this Warrant and Application/Affidavit to me promptly, per **Maryland Rules, Rule 4-601(h)**.

Personally presented to me, a SELECT COURT Judge of the State of Maryland in SELECT COUNTY and Subscribed and Sworn to on this DAY-NUMERALS day of SELECT MONTH YEAR, by Trooper/Deputy/Officer rank & name as authorized in Criminal Procedure § 1-203, and made oath the content of this affidavit and application are true and correct.

Subscribed and sworn to before me this DAY-NUMERALS day of SELECT MONTH, YEAR.

SIGNED: \_\_\_\_\_

JUDGE\_

\_\_\_\_\_

Date and Time

DOT HS 812 949  
April 2021



U.S. Department  
of Transportation  
**National Highway  
Traffic Safety  
Administration**

