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U.S. DEPARTMENT OF JUSTICE LAW ENFORCEMENT ASSISTANCE ADMINISTRATION NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE WASHINGTON, D.C. 20531



Los Angeles County Sheriff's Department Peter J. Pitchess Sheriff

A search warrant is an order in writing, in the name of the People, signed by a magistrate, directed to a peace officer, commanding him to search for personal property, and bring it before the magistrate (1523 P.C.). In lieu of the written affidavit, the magistrate may take an oral statement under oath which shall be recorded and transcribed (1526 b P.C.).

Telephonic search warrants are available through the District Attorney's Command Post when field conditions necessitate a warrant during non-business hours, and when circumstances preclude delaying the request until the next court day. Since courts generally disfavor warrantless searches, unless excused by the necessities of the situation, it is recommended that Deputies attempt to obtain a telephonic search warrant whenever doubt exists as to the legality of the contemplated search,

Search warrants may be issued to seize property which is STOLEN OR EMBEZZLED, or USED TO COMMIT A FELONY, or INTENDED TO BE USED FOR THE COMMISSION OF A PUBLIC OFFENSE, or to seize any evidence which TENDS TO SHOW A FELONY OR WHO COMMITTED IT (1524 P.C. and People v. Thayer (1965) 47 Cal. Rptr. 780).

BACKGROUND INFORMATION REGARDING SEARCH WARRANTS

Experience has shown that officers who appear otherwise prepared to recite adequate probable cause, are less fluent in doing so in the presence of a magistrate and an activated tape recorder. This lack of fluency frequently results in the omission of critical facts which are noted only after the conversation is transcribed and is later reviewed. As a result of these unfortunate omissions, the District Attorney's attitude toward telephonic search warrants is such that he makes them available only when insufficient time exists for the on-call Deputy D.A. to respond to the station and assist the requesting officers and their secretarial staff in the preparation of a written affidavit and search warrant.

In order to raise the level of "fluency" and thereby assure the expanded use of oral (telephonic) search warrants during the non-court hours, a Search Warrant Check List has been reproduced below, which should be useful in assuring that critical omissions are not made in the affidavit petitioning the issuance of a search warrant.

METHOD TO BE USED WHEN SEEKING A SEARCH WARRANT AFTER NORMAL COURT HOURS

Complete the Search Warrant Check List. First: Call the District Attorney's Command Post (974-3607), advise the on-duty D.A. Investigator that you wish Second: to secure a search warrant, and request that he have his on-call Deputy D.A. call you at once.

Third: Advise the Deputy D.A. of the circumstances, the probable cause, other pertinent data as requested from the Search Warrant Check List, and of the reasons why a telephonic affidavit is required.

If the Deputy D.A. concurs that the telephonic search warrant is desirable, and that the officer is sufficiently "fluent" to deliver a cogent oral affidavit without omissions or oversights, the Deputy D.A. will arrange a conference call between the officer, the Command Post recording equipment, himself, and a magistrate.

DURING THE CONFERENCE CALL, THE ENTIRE CONVERSATION WILL BE RECORDED. This oral affidavit will later be transcribed, and may become available to the defense. Although CONFIDENTIAL INFORMANTS NEED NOT BE IDENTIFIED, they must satisfy the "Aguilar Two Prong Test," i.e., there must be a showing of how the informant acquired his information, and the Deputy's reason for believing the informant's information to be reliable.

TELEPHONIC SEARCH WARRANTS

If the magistrate authorizes the warrant, he will direct the officer to complete the attached warrant, and affix the Judge's name to it -- and will simultaneously complete and sign his own duplicate original copy. Although the warrant will remain valid for ten days, it would probably never be issued during non-court hours unless immediate service was contemplated.



GENERAL INFORMATION

If any items are seized pursuant to the warrant, a receipt for their seizure must be left at the location. Only specified items, and/or contraband may be taken. The seized evidence must be delivered to the issuing magistrate, along with the completed warrant return form (see page 8) during the first available court day following the warrant service.

If the search is contemplated between 2200 hours and 0700 hours, the warrant must be specifically ENDORSED FOR NIGHT SERVICE and must be supported by probable cause as to need in the affidavit. (See "Attachment No. 7" on page 6.)

The presence of a search warrant shifts the burden of proof to the suspect to show that the search was illegally conducted, <u>Williams v. Justice Court (1964)</u> 40 Cal. Rptr. 724. Without the warrant, the burden is on the officers to show that the search was legal.

Generally, before making a forcible entry, police officers must knock or employ some other means reasonably calculated to notify the occupants of their presence, make some statement of their authority, and state the purpose for demanding admittance (1531 P.C. and <u>People v. Sad</u> (1971) 98 Cal. Rptr. 439). Exceptions to the requirement that officers announce their authority and purpose, and be refused admittance prior to breaking open a door or window in the execution of a search warrant pertain only to emergency situations existing at the time of the entry. <u>Parsley v. Superior Court</u> <u>of Riverside County</u> (1973) 109 Cal. Rptr. 563. Noncompliance with "KNOCK AND NOTICE" may be excused when the officer acts on a reasonable and good faith belief that compliance would increase his peril, frustrate an arrest, or permit destruction of evidence, <u>People v. Clay</u> (1969) 78 Cal. Rptr. 56.

SEARCH WARRANT CHECK LIST



Item 1: Description of PERSON to be searched

Name		Age
Address		Sex
Height Color Hair _	Weight Color eyes	
	person believed to l	

Item 2: Description of PLACE to be searched

House () Apartment (
Other structure (i.e., garage,	carport)
Address Neare Side of street Neare If no address, describe locatio	st intersection
Name of business or building	
Location	
General description of buildin	ng •
Number of floors Primary type of construction .	
Primary color	

Item 3: Description of VEHICLE to be searched

Make	Year	-No. of	door	
License number an				
Registered to:			· · ·	
Primary color	Secondary	y color_	-	
Location of dents .				
Other marks of ide	ntification			

Item 4: Description of PROPERTY

Enter description of property to be seized a. Narcotics (example)

1) HEROIN

"Heroin, a narcotic, and narcotic paraphernalia including, but not limited to: hypodermic syringes, spoons, cotton, milk sugar, weighing devices, measuring devices; containers of various types commonly associated with the storage or use of said narcotic; and articles of personal property tending to establish the identity of persons in control of areas where narcotics are found. "



2) MARIJUANA

"Marijuana, and paraphernalia includi but not limited to: pipes, alligator cli and other devices used to assist in the smoking of marijuana; containers of various types commonly associated wit the storage or use of said contraband and articles of personal property tendir to establish the identity of persons in control of areas where contraband is found."

b. Drugs (example)

"Amphetamine and barbituric acid, LSD, and derivatives of same, consisting in part of and including, but not limited to: benzedrine, seconal, and drug paraphernalia, including, but not limited to: containers of various types, commonly associated with the storage, use, or manufacture of said drugs; and articles of personal property tend to establish the identity of persons in control of areas where restricted dangerous drugs are found. "

c. Bookmaking (example)

"Papers, pencils, racing information, bets registrations, and all other bookmaking proerty and paraphernalia used or capable of being used for the purpose of recording or registering bets and wagers upon race horses and sporting events, and other property tend to establish the identity of persons in contro of areas where bookmaking paraphernalia are found, "

d. Other (describe) .----

b.

Item 5: Grounds for search warrant (check one or m

- a. () Stolen or embezzled property
 - () Property used to commit a felony
- c. () Property in possession of a person who intends to use it to commit a felony, or Property in the possession of another to whom it has been given by the felon for the purpose of concealment.
- d. () Property tending to show that a felony was committed, or
 - Property which tends to show a particul person committed a felony.

Item 6.	Facts establishing probable cause for issuance		
<u>a.</u>	Observations of affiant		
ing,	Give specific facts, including reliable hear-		
ips	say, which standing alone or in conjunction		
	with other information establish probable		
th	cause to believe that the property to be seized is at the location to be searched. Give time		
ng	and date observations made.		
	· · · · · · · · · · · · · · · · · · ·		
h			
b.	Opinion of affiant		
	Give specific facts upon which affiant bases		
	his opinion which standing alone or in con-		
	junction with other information establishes		
	probable cause to believe that the property		
	to be seized is at the location to be searched.		
	Describe expert qualifications.		
с.	Information received from reliable informant		
	1) Date information received		
ling	Approximate time		
51	 Name of informant 		
e	3) If confidential:		
	() ^D isclosure endangers safety		
	() Disclosure impairs future useful-		
	ness		
· · · ·			
p-	· · · · · · · · · · · · · · · · · · ·		
 A second provide states A second provide states 	 Reliability based on information given by him in the past 		
	a) Which resulted in the arrest of		
S	persons (s) under circumstances		
ding	which verified the information		
)1	received in that		
	received in that		
	Libish negative person (s)		
	b) Which resulted in person (s)		
the second s	being held to answer at preliminary		
	hearing		
and the second states of the second	c) Which resulted in person (s)		
	being convicted		
a de la companya de La companya de la comp	d) Which resulted in no arrest but		
	verified the information given in		
	that		
nore)			
na an an taon an an taon an tao Taon an taon an t			
	5) Observations of informant		
	Give specific facts, including reliable		
	hearsay, which standing alone or in		
	conjunction with other information		
ı	establish probable cause to believe that		
	the property to be seized is at the location		
and the second	to be searched. Give time and date obser		
	vations made. Informant must express		
an dha shekara			
lar			
lar	his personal kno. ledge.		

- d. Information received from untested informant
 - 1) Date information received ______ Approximate time ______
 - 2) Name of informant
 - 3) If confidential
 - () Disclosure endangers safety
 - () Disclosure impairs future usefulness
 - 4) Obversations of informant Give specific facts, including reliable hearsay, which in conjunction with corroborating information establish probable cause to believe that the property to be seized is at the location to be searched. Give time and date observations made.
 - 5) Where corroboration not required
 - a) In case of emergency, no corroborative facts are required.
 Detail the existence of an emergency
 - b) Observations of informant who gives information while not in custody to affiant and is unaware of affiant's official position need not be corroborated. Give specific facts, including reliable hearsay, which standing alone or in conjunction with other information establish probable cause to believe that the property to be seized is at the location to be searched. Establish informant speaks from personal knowledge, implicates himself and statement made under circumstances when he had no opportunity or apparent reason to fabricate a false story. Ming v. Superior Court, 13 Cal. App. 3d 206.
- e. Information received from citizen informant
 - Date information received ______
 Approximate time ______
 - 2) Name of informant
 - 3) Status of informant
 - () Citizen informant is a victim of a crime
 - () Citizen informant has no personal interest in the matter and is openly acting to assist law enforcement in that
 - 4) Employment of informant

Observations of informant

5)

- Give specific facts, including reliable hearsay, which standing alone or in conjunction with other information establish probable cause to believe that the property to be seized is located at the place to be searched. Give time and date observations made. Information must be based on citizen's personal knowledge.
- f. Information received through official channels
 - Describe with particularity the official sources which affiant used to gain the information and the content of what he learned.
 - State the underlying source which gave information to the "official channel".



Describe reasons for good faith belief that property to be seized may be destroyed or taken from the jurisdiction if search is delayed until daytime.

Use "Attachment No. 7" on page 6.

This form is patterned after the District Attorney's Search Warrant Check List, and is intended to be used as an aid by field Deputies in the preparation of requests for telephonic search warrants. In attempting to keep this Bulletin brief, it has been necessary to limit the space available for writing in responses, particularly for those areas requiring lengthy statements of affiant's observations. It may be necessary to suppliment this material with additional writing paper.

Items one through six of the Search Warrant Check List must be completed in every case. These must be supported by details of how the officer, reliable informant, or untested informant acquired his information, and the affiants reason for believing the information to be true. This information may be added adjacent to attachment No. 7," on page 6 of this material.

The AFFIDAVIT is shown in two parts on page FIVE. The SEARCH WARRANT is shown in two parts on page SEVEN. The RETURN to search warrant is shown in two parts on page EIGHT.



PREPARED BY THE LEGAL SECTION RESEARCH AND DEVELOPMENT BUREAU MARCH 1975

		76 A	289C Da39E 1-73
76,	Search Warrant No.		
1	STATE OF CALIFORNIA		
2			for the following property:
~	COUNTY OF LOS ANGELES	2	
3	AFFIDAVIT FOR SEARCH WARRANT	3	
4	On the basis of his personal knowledge, as set forth in the	4	
5	attachments hereto, and on the basis of the information contained	- 5	
6	in those attachments,	6	
7	being duly sworn deposes and (name)	7	
8	says, that the property described hereinafter falls within those	. 8	
9	grounds indicated below by "x"(s) in that it:	9	
10		10	The following attachments are incorporated by reference as
11	was stolen or embezzled	11	though set forth herein haec verba:
12	was used as the means of committing a felony	1.2	Probable cause for search (see Attachment(s) No(s))
13	is possessed by a person with the intent to use it as a	13	Nighttime service request (see Attachment No)
14	means of committing a public offense or is possessed by	14	Request that compliance with Penal Code Section 1531 be excused
15	another to whom he may have delivered it for the purpose	15	(see Attachment No)
16	of concealing it or preventing its discovery	16	
17	is evidence which tends to show that a felony has been	17	Subscribed and sworn to before me
18	committed or a particular person has committed a felony;	18	this day of , 197 .
19	and requests the issuance of a warrant to SEARCH	19	Magistrate
20		20	Judge of the Court
21		21	Superior/Municipal Judicial District
22	이 같은 것 같은	22	WHEREFORE, it is prayed that a Search Warrant be issued.
23		23	JOSEPH P. BUSCH District Attorney
24		24	By
25		25	an ann an
26		26	Deputy District Attorney
	A-1 PA.E 3		A-2
	CAVE 3		

1 i

764 758-043944 10-12

Attachment No.

Attachment No. 7

, 1	Based on the information contained in Attachment(s) No(s).	. 1	
2		2	
3	· · · · · · · · · · · · · · · · · · ·	3	Your affiant requests that this warrant contain a direction
		4	that it may be served at any time of the day or night, good cause
4			appearing therefore in that:
5			
6		6	
7		7	
8		8	
9		9	
		10	
10		11	
11		12	
12			
13		13	
14		14	
15		15	
16		16	이 제가 잘 하는 것 같아. 것 같아. 것 같아요. 물건 것 것
		17	
17		18	
18		19.	
19			
20		20	
21		21	
22		22	
23		23	
		24	
24		25	
25		26	
26		20	
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765	284-DA84E-7 73	765284	-DA84E-7/73			
	Search Warrant No.					
. 1	, STATE OF CALIFOPNIA	l f	or the following property:			
2	COUNTY OF LOS ANGELES	2				
3	SEARCH WARRANT	3				
4	PECPLE OF THE STATE OF CALIFORNIA to any sheriff,	4				
5	policeman or peace officer in the County of Los Angeles:	5				
6	PROOF by affidavit having been made before me by	6				
7	that there is probable cause	7				
8	(name) to believe that the property described herein may be found at	8				
9	the locations set forth herein and that it falls within those	9				
10	grounds indicated below by "x" (s) in that it:	10 a	nd to SEIZE it if found and	i bring it forth	with before me, or this	s
11	was stolen or embezzled	11 c	ourt, at the courthouse of	this court.		
12	was used as the means of committing a felony	12	Good cause having been s	shown by affidav	it, you may do such of	
13	is possessed by a person with the intent to use it as a	13 t	he following as bear my ini	tials.		
14	means of committing a public offense or is possessed by	14	You may serve this War	crant at any time	of the day or night,	
15	another to whom he may have delivered it for the purpose	15	according to Penal Cod	le Section 1533.		
]r	of concealing it or preventing its discovery	16 _	You need not comply wi	th Penal Code Se	ection 1531.	
17	is evidence which tends to show that a felony has been	17 G	IVEN under my hand and date	ad		
18	committed or a particular person has committed a felony;	18 t	his day of	197 .		
19	you are therefore COMMANDED to SEARCH	19				
20		20 J	udge of the	Court	Magistrate	
21		21	Superior/Mun:	lcipal	Judicial District	
22		22			n an	
23		23	(a) A set of the se			
24		24				
25		25	n an an Artista an Artista an Artista. An gu taon an Artista an Artista an Artista	a a secondaria A secondaria de la companya A secondaria de la companya de la companya de la companya de la companya de la comp		
26		25				
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PAGE.7

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The personal property listed below (listed on the inventory attached hereto) was taken from the promises located and described as the vehicle(s) of the person(s) of the person(s) of the person(s) of the below-entitled court of the day of the below-entitled court the day of the below-entitled court the the day of the day of the below-entitled court the day of the day of the day of the below-entitled court the day of the below-entitled court the day of the below-entitled court the day of the below day of	1	COUNTY OF LOS ANGELES	
3 The personal property listed below (listed on the inventory 3 4 attached hereto) was taken from the pression located and descrited 4 5 5 6 5 7 6 8 and from the vehicle(s) described as 9 0 11 and from the person(s) of 12 10 13 11 14 10 15 by virtue of a search warrant dated the day of 16 107 17 of the below-entitled courts 18 107 197 ad executed by Judge 197 of the below-entitled courts 19 10 19 of the below-entitled courts 19 10 10 10 110 10 111 10 111 10 112 10 113 11 114 10.7 115 11 116 10 117 of the property takon by reduct by code to col	2	RETURN TO SEARCH WARRANT	2
5 as 5 6 6 7 and from the vehicle(s) described as 9 9 10 17, 11 and from the person(s) of 11 by whom this Karrant was executed, do mean that the above 12 13 all the property contains a true and detailed account of 13 14 14 15 by virtue of a search warrant dated the day of 15 All of the property taken by me under the varrant will 16 197, and executed by Judge 14 to retained in my control will be order of this court 17 of the below-antitled court: 17 or of any other secution is driven to be order of this court 19 or of any other secut in which the offense in respect to which 18 the property or things taken, is trialle. 19 20 21 20 22 5 Wateribed and suborn to before tw 23 6 his day of 14 Ministrate 24 25 Judge of the Ministrate 25 Judge of the Ministrate 26 16 17 18 18 18 18 18 18 18 18 18 18 18 18 18	3.	The personal property listed below (listed on the inventory	3
6 7 8 and from the vehicle(s) described as 9 10 1, 11 and from the person(s) of 12 14 by whon this Warnant was executed, do event that the above 15 (attached) inventory contains a true and dotailed account of 13 14 , 197 15 by virtue of a search warnant dated the day of 16 by virtue of a search warnant dated the day of 17 of the below-entitled court: 18 do retained in my custody subject to the order of this event 19 or of any other court in which the offense in respect to which 19 20 21 22 dubscribed and anorm to before us 23 24 dusc of the day of the day of the gradent to be retained in the day of 25 dudge of the gradent to be retained in the day of the gradent to be retained in the day of the form the day of the day are the day of the form the day of the day of the form the day of the form the day of the day of the day of the form the day of the	4	attached hereto) was taken from the premises located and described	4
<pre>7 8 and from the vehicle(s) described as 9 10 11 and from the person(s) of 12 13 14 15 by virtue of a search warrant dated the day of 15 All of the property taken by thrue of a search warrant dated the day of 16 by virtue of a search warrant dated the day of 17 of the below-entitled court: 18 19 20 21 20 20 20 20 20 20 20 20 20 20 20 20 20</pre>	5	as	5
8 and from the vehicle(s) described as 9 9 10 I, 11 and from the person(s) of 10 I, 12 11 by whom this Warrant was executed, do twear that the above. 12 (attached) inventory contains a true and detailed account of 13 11 by whom this Warrant was executed, do twear that the above. 14 .197 . 15 by virtue of a search warrant dated the day of 16 197 , and executed by Judge 17 of the below-entitled court: 15 18 the property token by subject to the order of this event 19 . 20	6		6
9 10 1, 11 and from the person(s) of 10 1, 12 11 by whom this Farant was executed, do execut that the above 13 14 15 14 16 17 15 by virtue of a search warrant dated the day of 16 197 . 16 197 . 17 of the below-antitled court: 15 18 . . 19 . . 19 . . 19 . . 19 . . 19 . . 19 . . 19 . . 19 . . 10 . . 11 . . 12 . . 13 . . 14 . . 15 . . 16 . . 17 . . <tr< th=""><td> 7</td><td></td><td>7</td></tr<>	7		7
10 I, 11 and from the person(s) of 12 13 14 15 16 17 18 19 19 10 11 12 13 14 15 16 17 18 19 19 11 12 13 14 15 16 17 18 19 10 11 19 10 11 19 19 10 19 10 10 11 12 13 14 15 16 17 18 19 10 10 10	8	and from the vehicle(s) described as	8
<pre>11 and from the person(s) of 12 13 14 15 by whom this Warrant was executed, do twear that the above. 16 (attached) inventory contains a true and detailed account of 17 all the property taken by me under the warrant will 18 197 , and executed by Judge 19 10 the below-entitled court: 19 10 the below-entitled court: 19 10 the below-entitled court: 19 10 the property taken is triable. 19 20 20 20 20 20 20 20 20 20 20 20 20 20</pre>	9		9
12 12 (attached) inventory contains a true and detailed account of 13 14 13 all the property taken by re-under the variant, on 14 , 197 . 15 by virtue of a search warrant dated the day of 16 197 , and executed by Judge 15 17 of the below-entitled court: 16 be retained in my custody subject to the order of this court 18 19 . . . 18 19 20 21 22 23 24 25 26 25 26 . .	. 10		10 I,
13 14 15 interface i	11	and from the person(s) of	11 by whom this Warrant was executed, do swear that the above
14 14 , 197 15 by virtue of a search warrant dated the day of 16 197 , and executed by Judge 17 of the below-entitled court: 15 18 16 be retained in my custody subject to the order of this court 19 17 or of any other court in which the offense in respect to which 18 19 20 20 20 20 21 20 20 22 23 24 23 24 25 24 25 Judge of the starte Court 26 30 197 27 31 31 61 28 41 19 20 29 20 21 22 20 23 197 24 25 30 197 197 26 27 31 31 197 26 28 Judge of the started and sworn to before me 23 26 30 197 10 26 30 <th>12</th> <th></th> <th>12 (attached) inventory contains a true and detailed account of</th>	12		12 (attached) inventory contains a true and detailed account of
15 by virtue of a search warrant dated the day of 16 197 , and executed by Judge 15 All of the property taken by virtue of said warrant will 16 197 , and executed by Judge 15 All of the property taken by virtue of said warrant will 16 be retained in my custody subject to the order of this court 16 be retained in my custody subject to the order of this court 18 19 0 or of any other court in which the offense in respect to which 19 20 20 21 20 20 22 23 24 23 24 25 24 25 Judge of the 26 National point for family counted point 27 28 National sworn to before me 23 24 24 25 Judge of the Magistrate 26 10 10 8-1 10 10			13 all the property taken by me under the warrant, on
<pre>16 197 , and executed by Judge 17 of the below-entitled court: 18 19 19 20 20 21 20 20 21 20 20 21 20 20 20 20 21 21 22 22 23 this day of , 197 . 24 25 26 26 26 27 26 27 26 28 29 29 20 20 20 20 20 20 20 20 20 20 20 20 20</pre>			14 , 197 .
17 of the below-entitled court: 17 or of any other court in which the offense in respect to which 18 17 or of any other court in which the offense in respect to which 19 18 20 20 21 20 22 20 23 21 24 22 25 3udge of the Martin difficient 26 24 27 3udge of the Martin difficient 26 8 18 19 22 20 23 23 24 24 25 3udge of the Martin difficient 26 8 18 10 19 10 10 10 11 10 12 10 13 10 14 10 15 10 16 10 17 10 18 10 19 10 10 10 11 10 12			15 All of the property taken by virtue of said warrant will
<pre>18 18 19 19 20 20 21 21 22 23 24 25 26 R-1</pre>			
19 19 20 21 22 23 24 25 26 R-1 19 20 20 21 22 23 24 24 25 R-1 19 20 20 21 22 23 24 25 24 25 25 26 27 27 28 29 20 20 20 20 20 21 22 23 24 25 25 25 25 25 25 25 25 25 25		of the below-entitled court:	17 or of any other court in which the offense in respect to which
20 21 22 23 24 25 26 R-1 20 20 20 20 20 20 21 22 23 24 25 25 R-1 25 R-1 25 R-1 26 27 26 27 26 27 26 27 26 27 26 27 27 28 28 29 20 20 20 20 20 20 20 20 20 20			18 the property or things taken, is triable.
21 21 22 23 24 25 26 R-1			그는 것 같은 것 같
22 22 Subscribed and sworn to before me 23 this day of , 197 . 24 25 26 R-1 R-1			Affiant
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