



# Location Searches

You have your strongest right to privacy when you are at home. Police need a very good reason to search where someone lives. Most of the time, police cannot search your house, apartment or trailer without a search *warrant*. A search warrant is a written document, signed by a Judge or *Justice of the Peace* that allows the police to search a specific place.

## Location Searches Without a Warrant

Police can only search your home if they don't have a warrant in five situations:

1. They ask if they can search, and you say: "Yes."
2. They are chasing a person who has run into your home. The police must tell you the purpose of their search and ask you to let them in. They can come in even if you say no.
3. Someone is in immediate danger (for example, police have received a 911 call from the house).
4. The police have a reason to believe that evidence of a crime is being destroyed.
5. You or someone else is arrested in your home. Police can search the area around where the arrested person was found. They may search a house for other people if a person is arrested in the house to keep evidence secure until they get a search warrant.

## Location Searches with a Warrant

Generally speaking, the police must knock before entering a house and must show you the search warrant in order to enter your home. They may not knock if they think there are weapons at your house, or if they believe that you would destroy evidence before they could get in. If you get a chance to read the warrant, read it carefully. A search warrant must include:

- a general description of what the police are searching for;
- a signature by a Judge or Justice of the Peace;
- a deadline that limits the length of time the police can use the warrant; and
- the correct address of where the search is to be located.

If a search warrant is missing any of these four things, or if the warrant is out of date, you can tell the police they can't search your house. Your name or the name of the person who owns the property does not have to be on the warrant.

### Illegal Searches

If the police search your home without a *warrant*, and none of the situations on page 27 apply, the search is probably illegal. Do not physically resist the search – you will be arrested or restrained. Say “I do not consent to this search,” ask for badge numbers or names, and call a lawyer for assistance.



Unless the warrant says otherwise, or there are “unusual circumstances,” the police must do their search during the day. You do not have to be home for the search. If you are not home, the warrant must be posted in an obvious place. After the search is complete, the warrant is expired. In

that case, the police cannot stay on your property or return to your property to search again later without another, different warrant.

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If you refuse the police entry to your home, they may force their way in legally if they have a valid search warrant or reason to search (see pages 27-28 for when the police can search your house legally). If the information on the warrant is incorrect, a police officer may wait outside of your house until the police get a warrant with the correct information.

If the police have searched your house, and you think it was an illegal search, call a lawyer. A lawyer can tell you if a police search was illegal.

Remember, you must be *detained* or arrested before police can search you legally (see pages 8, 9, 10 and 32 for details). If you are not under arrest, but you are detained, police can only do a *pat-down search*.



### **Answering Police Questions**

Just because police have permission to search your house doesn't mean that you or other people in the house must answer their questions. You still have the right to silence and the right to talk to a lawyer.