



# AFFIDAVIT IN SUPPORT OF TELEPHONIC SEARCH WARRANT

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

Investigation Number: \_\_\_\_\_

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

Judge \_\_\_\_\_, this is Officer \_\_\_\_\_ Badge No. \_\_\_\_\_ of the

\_\_\_\_\_ Police Dept     \_\_\_\_\_ County Sheriff's Office     Montana Highway Patrol

\_\_\_\_\_

Other

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

- DUI Investigation (Second or Subsequent Offense, Refusal)
- Aggravated DUI Investigation
- Other: \_\_\_\_\_
- Vehicular Homicide
- Negligent Vehicular Assault

My testimony is being recorded (and Officer \_\_\_\_\_ Badge No. \_\_\_\_\_ is my witness.)

Will you swear me in, please?

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

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

\_\_\_\_\_ Date of birth \_\_\_\_\_  
Suspect's name

Located at: \_\_\_\_\_

The following substance and/or property, to wit:

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

As set forth in this affidavit, I, Officer \_\_\_\_\_, am a peace officer in the State of Montana, employed by

\_\_\_\_\_ Police Dept     \_\_\_\_\_ County Sheriff's Office     Montana Highway Patrol.

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

- DUI investigation and apprehension
- Drug recognition as a Drug Recognition Expert (D.R.E.), with certification on \_\_\_\_\_ date
- Crash investigation
- Other: \_\_\_\_\_

I am investigating the crime of:

- DUI
- Aggravated DUI
- Other: \_\_\_\_\_
- Vehicular Homicide
- Negligent Vehicular Assault

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

Crash (describe circumstances): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

As to the DUI investigation, the suspect has a:  
 prior conviction for DUI or substantially similar offense (or a  prior refusal) on \_\_\_\_\_

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

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

Other: \_\_\_\_\_

HGN \_\_\_\_\_ Walk/turn \_\_\_\_\_ One leg stand \_\_\_\_\_, indicating impairment

DRE Observations: \_\_\_\_\_

PBT results: \_\_\_\_\_  refused; Intoxilyzer results: \_\_\_\_\_  refused

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

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

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

Judge \_\_\_\_\_ by \_\_\_\_\_  
print full name initials of Affiant date

Affiant \_\_\_\_\_  
signature date time

Witness \_\_\_\_\_  
signature date

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



# SEARCH WARRANT

Investigation Number: \_\_\_\_\_ Date: \_\_\_\_\_

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

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

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

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

Judge \_\_\_\_\_ by \_\_\_\_\_  
print full name initials of Affiant date

Judge \_\_\_\_\_  
original signature date

### SERVICE OF SEARCH WARRANT

This search warrant (or duplicate) was served on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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

### KEEPER'S RECEIPT

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

Officer: \_\_\_\_\_ (Signature) \_\_\_\_\_ (Date)

