

Criminal procedure essay



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Arrest warrant is an order issued by a judge directing a law enforcement officer to arrest an individual identified as one who has committed identified as one who has committed a specific criminal offense. Search warrant is an order issued by a judge directing a law enforcement officer to search a particular location for evidence connected with a specific criminal offense.

The three essential components of an arrest warrant or a search warrant are: First, it must be issued by a neutral and detached magistrate. Second, a showing of probable cause is required. Finally, it must conform to the Fourth Amendment's particularity requirement. The first requirement a neutral and detached magistrate is the same regardless of the type of warrant.

Probable cause in an arrest warrant is not particularly complex. The officer applying for an arrest warrant must simply show probable cause that the person to be arrested committed the crime in question. When applying for an arrest warrant, the officer is not required to show probable cause that the suspect will be found at a particular location. Probable cause in a search warrant is twofold. First, the officer applying for the search warrant must show probable cause that the items to be seized are connected with criminal activity. Second, the officer must show probable cause that the items to be seized are in the location to be searched.

There are many instances where a search warrant is not required. Common situations in which police are allowed to search without a warrant include: when they have consent from the person in charge of the premises (although who that person is can be a tricky legal question); when conducting certain searches connected to a lawful arrest; and in emergency situations which threaten public safety or the loss of evidence. I think a search warrant

requires probable cause that the items to be seized are in the location to be searched but an arrest warrant does not have the same requirements because when you have a search warrant you search a particular area provided the basis for a reasonable person to believe that a crime was committed at the place needed to be search.