

FACULTY OF JURIDICAL SCIENCES

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Lecture-22



What is a warrant?

A warrant is a writ or authorization that is either issued by a judge, competent officer, or magistrate that authorizes for the performance of an otherwise unlawful act that would violate human rights while also providing the person executing the writ with security from injury in the event that the act is carried out. It is a written instrument that the court issues to demand the appearance, arrest, or search of any person or location as needed.

Objective of a warrant

First question that crosses the minds off the people is why warrants are issued? A warrant of arrest may need to be issued as a precautionary measure requiring the accused to appear in court. It is not in the public interest for someone to be permitted to move around without restriction if they have committed a cognizable offence, are a chronic offender, or have served their time in prison. It is issued to prove that someone's arrest is valid until it is carried out or revoked by the court that have issued it.

It was established in the case of King-Emperor v. Binda Ahir that a warrant would not become void merely due to the deadline set by the court for its return had passed.

Essentials of a warrant.

As per the section 70 of the Criminal Procedure Code, 1973 (“CrPC”), the essentials of a warrant are identified as follows:

- The warrant is to be in writing
- It is to be signed by a Magistrate.
- It must be embossed with the seal of the court.

The following is what a warrant allegedly contains, under CrPC:

- It must state the person's name and other pertinent information before they may be arrested.
- The offence for which the subject of the arrest must be specified.

- The warrant must expressly state the person's right to be arrested.
- It can also state that the detained individual will be freed provided they sign a bail and provide security.

How many kinds of warrant in CrPC?

There are majorly 4 types of warrants issued by the courts that are as follows:

Arrest warrant

An arrest warrant is issued by a judge or magistrate and must be accompanied by a signed and sworn document proving reasonable cause that the individual or persons specified in the warrant committed the specific offence. An arrest warrant is a written order from a public official authorising the arrest and custody of a person. For offences that take place away from a police officer's line of sight, an arrest warrant is often needed.

However, a warrant is often not required in order to detain someone accused of committing a criminal as long as authorities have the required reasonable cause.

Search Warrant

An order to search a specific location seeking proof of a specific offence is known as a search warrant. The court will grant the warrant if the information provided by the police in the form of a signed and sworn affidavit gives rise to probable cause to think that such evidence exists. Most of what technologists in the criminal justice profession perform does not often involve search warrants.

Bench Warrant

An alternative to an arrest warrant is a bench warrant. When a defendant misses a scheduled court appearance, it is often issued.

Execution Warrant

It is a writ that permits the execution of a death sentence against a person. The execution time and location are specified in the warrant, which functions similarly to an arrest warrant except that the intended outcome is lethal force rather than an arrest.

Execution & Procedure of a warrant.

Execution

Under the provision of section 72 of the CrPC, a police officer or any person may be directed to execute the warrant.

- As per section 74 of the CrPC, a warrant which is directed to a particular police officer may be executed by another police officer if their name is endorsed by the said police officer,
- As per section 78 of the CrPC, a warrant is executed outside of the local jurisdiction then the said warrant shall be directed to the Executive Magistrate, District Superintendent of Police or the Commissioner of Police within the limits of the local jurisdiction, the said warrant is to be executed. They may, additionally, endorse the name of a police officer.
- As per section 80 of the CrPC, when a person is arrested against a warrant, such a person should necessarily be taken before a Magistrate or District Superintendent or Commissioner in whose jurisdiction the arrest was made.

Procedure

- The terms of the warrant are to execute between 6 a.m. and 10 p.m. of the day, and, if the said warrant is executed outside of the given time, then the time period is extended by a judge and the police officer is to inform the appropriate authority.
- As per section 75 of the CrPC, the police officer or another person who is executing a warrant shall inform the person being arrested of the contents of the warrant.
- When a warrant of arrest is executed then the police officer is to undertake any of the following steps:
- Accept from the arrested individual (“defendant”) a signed guilty appeal and the full amount of the prescribed fine and costs if mentioned in the warrant.
- Accept from the defendant a signed not guilty appeal and the entire amount of collateral if mentioned in the warrant.

- If the instance is such that the defendant needs to immediately be presented before the issuing authority, then the fee need not be paid at the time of execution of warrant.
- As per section 76 of the CrPC, the arrested individual must be presented before a court without inordinate delay.

Subsequent, to the above-mentioned steps the police officer is to issue a receipt to the defendant stating the amount of the fine and costs, or if any guarantee received, then a return copy of receipt, that is signed by the defendant and the police officer.