

## Subtitle

December 23, 2022

I.C. 35-33-2-3

## Refresher

This News Letter is just to give everyone a refresher on arrest warrants. It's good to read statutes and case laws again so you can build confidence in yourself while performing your duties.

This is why it's important to know Indiana statutes, case laws, and our City Ordinances.

# Arrest Warrants

## Indiana Statute 35-33-2-3



Section 35-33-2-3 - Issuance; service or arrests; forcible entry; wrongful entry, recovery of damages

(a) The warrant is issued to the sheriff of the county where the indictment or information is filed. This warrant may be served or arrests on it made:

- (1) by any law enforcement officer;
- (2) on any day of the week; and
- (3) at any time of the day or night.

(b) A law enforcement officer may break open any outer or inner door or window in order to execute an arrest warrant, if the officer is not admitted following an announcement of the officer's authority and purpose.

(c) The accused person shall be delivered to the sheriff of the county in which the indictment or information was filed, and the sheriff shall commit the accused person to jail or hold the accused person to bail as provided in this article.

(d) A person or persons whose property is wrongfully damaged or whose person is wrongfully injured by any law enforcement officer or officers who wrongfully enter may recover such damage from the responsible authority and the law enforcement officer or officers as the court may determine. The action may be filed in the circuit court or superior court in the county where the wrongful entry took place.

*IC 35-33-2-3*

#### **Case Laws:**

Indiana follows the U.S. Supreme court Case laws set when it comes to serving Arrest Warrants. In simple terms, if a person has an arrest warrant and you know that person lives at the residence or its their primary address, and you have reason to believe that person is in the house right now then you can make entry to effectuate the arrest.

See: Payton V. New York

Aspects change when the person that has an arrest warrant is at a third parties home. Meaning that if John Doe who has an arrest warrant is at his friend Joe's house visiting, and you find out he is there. You need consent from the homeowner to enter to make an arrest on John Doe or a search warrant to enter his house. The friend, Joe has a right to refuse your entry into his house.

See: Steagald V. United States

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## Scenarios

**Question:** You find out that John Doe has a felony arrest warrant for Aggravated battery which you've already confirmed is valid. You know from Doe's license that he lives at 123 New Street and the address on Doe's warrant is listed at 123 New Street. You also know due to previous contact with Doe that his primary address is 123 New Street and he currently lives there. You arrive to the address and can observe Doe through an open window inside the house. You knock and announce your presence and who you are but he refuses to answer. Can you now make entry into the residence to arrest Doe?

**Answer:** Yes you can. You can make entry and search for Doe in any people sized places inside the house.

**Question:** You find out Ivan Doe has an arrest warrant for domestic battery and you've confirmed it's valid. You know that due to previous encounters with Doe that he lives at 456 Main Street and has lived there for two years, and it's his primary address. You go to 456 Main Street and see Doe's vehicle that is registered to him parked in the driveway. All the lights on the house are on and the neighbor tells you that they just saw him walk inside. A woman answers the door, and tells you that he's in the back bedroom. Can you make entry and arrest him inside the residence?

**Answer:** Yes you can.

**Question:** You find out that Ben Doe has an active arrest warrant for invasion of privacy and you've confirmed it's valid. You go to Ben's house where you know he lives. You knock on the door to the residence but his mother tells you that he just went to his friend's house across the street. You go to the friend's house and can see Ben Doe inside the house. You knock and Ben's friend answers the door who owns the home. You ask if you can come inside and arrest Ben for his warrant but the homeowner denies you entry. Can you make entry to arrest Ben at his friend's house?

**Answer:** No you cannot make entry into a third parties home to arrest Ben absent consent from the homeowner. You would have to obtain a search warrant to enter the home and search for Ben.

**Question:** You find out that John Apple has an active arrest warrant for Battery. You know that Apple lives at 111 Boyer Street due to his license and previous address information. You go to the residence to serve the warrant, there are no cars in the driveway and all the lights at the house are turned off. You can't see or hear anyone inside the house. The neighbor tells you that Apple left driving his vehicle an hour prior to you showing up. You knock on the door and announce yourself and get no answer. Can you make entry to search for Apple and try to arrest him?

**Answer:** In this scenario NO, because you have no reason to believe that Apple is currently inside the residence. You would have to have a reason to believe he is currently inside to go in and make an arrest.

*Tips: Never go to someone's house by yourself to search for a wanted person. Always collect information and data prior to going to a house and while you're there. It's important to know and find out where a wanted persons house is and if it's their primary address before you show up. Look for vehicles in the driveway, talk to neighbors, sit down the street and watch the house prior to arrival. When trying to determine if a suspect with an arrest warrant lives at a particular house you can ask another Police Officer that's involved in the investigation where the suspect lives going by the "Collective Knowledge Doctrine". Note: A separate newsletter will be put out in the future talking about the "Collective Knowledge Doctrine". These rules apply to all arrest warrants misdemeanor or felony. If you make entry into a home for someone with an arrest warrant and you see drugs in Plainview you can seize it, but if you want to search the rest of the house for drugs you will need to get an additional search warrant or consent.*

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<https://iga.in.gov/legislative/laws/2022/ic/titles/035/#35-33-2-3>

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