

What to expect when IBAC executes a search warrant



Information sheet

What is a search warrant executed by IBAC?

A search warrant is a written authority issued by a court, directing an authorised person, in this case an IBAC authorised officer (who has specific investigation training and skills), to enter and search a premises, vehicle, vessel, or aircraft named in the warrant.

- IBAC officers are not permitted to search a premises without a warrant.
- An authorised IBAC officer must go through a series of steps to apply for and be issued with a search warrant. This includes processes at IBAC and the Magistrates' or Supreme Court of Victoria.
- An authorised IBAC officer may only make an application for a search warrant if they believe on reasonable grounds that entry to the premises, vehicle, vessel, or aircraft is necessary for the purposes of an investigation.

What is authorised entry?

If a search warrant has been issued by a court, IBAC authorised officers will attend your premises and gain entry in an unforced manner. If this is not possible, forced entry may be considered.

An IBAC authorised officer must announce their attendance at your premises, identify themselves, and advise they have a search warrant – unless it is being executed in a public place. They must also:

- provide you with a copy of the warrant or leave one onsite if you are not present
- explain the warrant and the process for the search
- advise you that the search will be filmed or recorded and the penalties for hindering or obstructing an IBAC authorised officer during the search, which includes getting in their way or trying to prevent them from conducting the search.

Taking possession of items

During the execution of a search warrant, IBAC officers are permitted to inspect and take possession of any item considered relevant to

the investigation, including documents, phones, and computer equipment. IBAC officers may also make a copy of any document that is relevant to the investigation.

You will be provided with a receipt, which identifies all items IBAC has taken possession of during the execution of the search warrant at your premises.

IBAC officers will report back to the court that issued the warrant and inform it of any documents or items IBAC has taken possession of. The court will then decide what will be kept for evidence, returned, or destroyed.

Returned items

IBAC must take all reasonable steps to immediately return documents or things which it has taken possession of when it is no longer satisfied that holding the items is necessary for an investigation, a report on an investigation, or any legal proceedings.

Sometimes, items will be copied and then returned. The process for returning electronic devices and equipment may take some time, depending on IBAC resource availability.

Arrests or personal searches

IBAC officers **do not** have the power:

- to arrest you under a search warrant.
- to perform any personal body searches on you, including pat-down, body, or internal search.

Making a privilege claim

If during the execution of a search warrant, you object to IBAC taking possession of a document or thing because it is the subject of privileged confidentiality, the IBAC officer must stop exercising the search warrant, or require you to immediately seal the document or thing in a secure envelope and hand it to the IBAC officer.

The IBAC officer will then take the document or thing to the court, which is part of the 'return of search' process where the IBAC officer demonstrates how the search was conducted and what items were seized.

If you and IBAC cannot agree about how to deal with the document or thing over which privilege is claimed, it will be determined by the court.

Legal advice and legal representation

You may want to seek legal advice. If you do not have your own legal practitioner, you may consider the following resources:

- **The Law Institute of Victoria** has a legal referral service with a list of private lawyers you can access. All law firms included in the legal referral service provide a free, 30-minute interview. You can use this interview to understand more about the legal issue and discuss the available options and how much they will cost.

To find a lawyer via the legal referral service, please call (03) 9607 9550 or visit www.liv.asn.au/referral

- **Victoria Legal Aid** can help people in criminal and some civil law matters. Some services are available for everyone, while other services are offered only to people who are eligible.

If you would like more information about Victoria Legal Aid, please call 1300 792 387 or visit www.legalaid.vic.gov.au

- **The Victorian Aboriginal Legal Service Co-operative Limited (VALS)** plays an important role in providing referrals, advice and information, duty work or case work assistance to Aboriginal and Torres Strait Islander peoples in Victoria.

Solicitors at VALS specialising in criminal or civil law may be able to assist you. Contact VALS on 1800 064 865 or visit www.vals.org.au

Supporting witness wellbeing

At IBAC, we take our responsibility to support the wellbeing of a witness seriously and recognise that the nature of an IBAC operation may be stressful.

Our dedicated witness liaison team stay in contact with witnesses, provide access to wellbeing support, and information about potential IBAC pathways and processes throughout an operation.

Witness liaison officers can also provide information about, or referrals to, external wellbeing services and resources but they cannot provide counselling to witnesses themselves.

A witness can be any person involved in an IBAC operation. This includes those who are the subject of the investigation, but can also include persons of interest required to provide information or persons impacted by the exercise of IBAC's duties, functions, and powers.

If you are concerned about your wellbeing and would like counselling support, you can call IBAC's independent, free, and confidential witness wellbeing provider, Converge International, on 1300 687 327.

Converge answer calls 24 hours a day, seven days a week. When using this service, it is helpful to let Converge know that you are a witness involved in an IBAC operation.

Counselling services can provide you with an opportunity to discuss your feelings in a safe and supported environment.

If you need support in relation to an IBAC operation, you are permitted to discuss with a registered health practitioner anything to do with your mental health and wellbeing and the matters in your confidentiality notice.

If you require an interpreter, mobility assistance, or modifications made to the examination environment, or if you would like further information about the wellbeing support available to you, please email our witness liaison team at witnessliaison@ibac.vic.gov.au or refer to our witness wellbeing information sheet.

Making a complaint

If you wish to make a complaint about IBAC or the conduct of its officers, please call the Victorian Inspectorate 1800 518 197 or visit www.vicinspectorate.vic.gov.au

If you would like more information, please:



Call IBAC on **1300 735 135**
(10am – 4pm, Monday to Friday,
excluding public holidays)



Email IBAC at
info@ibac.vic.gov.au
or visit our website at
www.ibac.vic.gov.au



If you need help with translation, call Translating and Interpreting Service on **13 14 50** or visit www.ibac.vic.gov.au/mylanguage

