

## **SAMPLE LANGUAGE AUTHORIZING USE OF BIOMETRICS**

1. I know from my training and experience, as well as from information found in publicly available materials, including those published by device manufacturers, that some device models offer their users the ability to unlock the device via the use of a fingerprint or thumbprint (collectively, “fingerprint”), or by facial recognition or iris scanning (collectively with fingerprints, “biometrics”) in lieu of a numeric or alphanumeric passcode or password.
2. If biometric unlocking is enabled on a given device, multiple fingerprints or eyes and/or faces can be registered to be used to unlock that device. The user can then use any of these registered biometric items to unlock the device. In my training and experience, users with devices that offer biometric unlocking functionality often enable it because it is considered to be a more convenient way to unlock the device than by entering a numeric or alphanumeric passcode or password, as well as a more secure way to protect the device’s contents.
3. In some circumstances, biometric unlocking cannot be used to unlock a device that has biometric unlocking functionality enabled, and a passcode or password must be used instead. These circumstances include as examples: (1) when more than a preset amount of time passed since the last time the device was unlocked and/or (2) when the device has not been unlocked via biometric unlocking in a preset amount of time and the passcode or password has not been entered in the last number of days. Thus, in the event law enforcement encounters a locked device, the opportunity to unlock the device via biometric unlocking exists only for a short time. Biometric unlocking also will not work to unlock the device if (1) the device has been turned off or restarted; (2) the device has received a remote lock command; or (3) a preset number of attempts to unlock the device via biometric unlocking are made.

4. The passcode or password that would unlock the device(s) found during the search of the Subject Premises is not known to law enforcement. Thus, it will likely be necessary to press the finger(s) of the user of the device(s) found during the search of the Subject Premises to the device's biometric unlocking sensor or have them look into the iris scanner or device camera in an attempt to unlock the device for the purpose of executing the search authorized by this warrant. Attempting to unlock the relevant device(s) via biometric unlocking of the user is necessary because the government may not otherwise be able to access the data contained on those devices for the purpose of executing the search authorized by this warrant.
  
5. [*Specify facts that are relevant to determining who may be the user of the device and thus whose fingerprints may be relevant for purposes of biometric unlocking.*] Based on these facts and my training and experience, it is likely that Suspect Name is the user of the Subject Device and thus that his/her fingerprints or irises or exposed face are among those that are able to unlock the device via biometric unlocking functionality.
  
6. Although I do not know which of a given user's fingerprints is capable of unlocking a particular device, based on my training and experience I know that it is common for a user to unlock a biometric unlocking enabled device via the fingerprints on thumbs or index fingers or irises or exposed face. In the event that law enforcement is unable to unlock the device(s) found in the Subject Premises as described above within the attempts permitted by biometric unlocking functionality, this will simply result in the device requiring the entry of a password or passcode before it can be unlocked.

7. Due to the foregoing, I request that the Court authorize law enforcement to press the index fingers and thumbs of [Suspect Name] to the biometric unlocking sensor of the device(s) found at the Subject Premises and/or hold the biometric unlocking sensor up to [Suspect's] irises or exposed face for the purpose of attempting to unlock the device via biometric unlocking functionality in order to search the contents as authorized by this warrant. I further request that law enforcement personnel be permitted to select which specific biometric feature(s) of the suspect to apply to the biometric unlocking sensor.

Additionally, I request permission to disable any auto-lock features associated with the target device to facilitate the search authorized by this warrant.

