

NEW CANAAN POLICE DEPARTMENT

SUBJECT: WARRANT SERVICE / LEGAL PROCESS

GENERAL ORDER NUMBER: 90-8-84

FILE: OPS 7-4 LAW ENFORCEMENT

I PURPOSE/POLICY

It is the policy of the New Canaan Police Department to diligently attempt the arrest of all persons named in warrants held by the Department. This is best accomplished through a coordinated warrant service process that will ensure a timely and uniform warrant execution.

The purpose of this general order is to provide guidelines necessary to ensure that the warrant service function of the police department is performed effectively and efficiently. It also provides guidelines relating to agency discretion in performing and recording legal process functions to include records and property management.

II RESPONSIBILITY

It is the responsibility of all departmental personnel to adhere to this general order. It is the additional responsibility of the supervisory and command staff to ensure compliance.

III PROCEDURES (RECORDS)

A Local warrants received by the Police Department may be categorized into two major types. They include;

1. In House (applied for by NCPD personnel)
2. Failure to appear/pay or plea (Bench issued)
3. Violations of Probation (issue by Office of Adult Probation)

B Upon receipt of a Warrant from the Court, the records unit shall:

1. Notify the investigating officer (affiant), Shift Supervisor (jurat), or the day shift supervisor; whichever is applicable, of its return and the status of the Warrant.
 - a. When a Warrant is returned unsigned, it shall be the responsibility of the shift supervisor(jurat) to ensure that the investigating officer(s) make the necessary corrections and that it be resubmitted, if applicable.
2. Prepare and mail, first class, notification letters to:
 - a. The person named on the Warrant, unless shift supervisory personnel and/or the investigating officer(s) feel it would be inappropriate. In such cases, the records unit will be advised not to send a notification letter when receiving the warrant application. Circumstances that may preclude such notification may include:

- 1) Fear of Flight
 - 2) Seriousness of charges
 - 3) Violation of Probation
 - 4) Any other factor that could be detrimental to affecting an arrest.
- b. A copy of any correspondence will be included with the case file/warrant file.
3. Ensure that all active warrants received are promptly entered by the desk officer/dispatcher into the NCIC/COLLECT System. The teletype message documenting the warrant entry shall be forwarded to the records unit who will update the automated warrant file and attach the teletype message to the warrant in the Category "A" master warrant file.
- a. Warrants shall remain in the Category "A" master warrant file for a maximum of three (3) months.
 - b. When a Warrant has not been served within three (3) months, it will be placed in Category "B" of the master warrant file. Attempts to serve warrants in this file shall be made at least every six (6) months. A supervisor selected by the Chief of Police will coordinate this effort.
 - 1) Circumstances may preclude a warrant from being moved into the Category "B" file. Example: If during an attempt to serve a warrant, it is discovered that the suspect will return to the area on a specific date, the warrant should remain in the Category "A" file until the specified date, at which time an attempt shall be made to serve the warrant. If this is not possible, and circumstances do not dictate otherwise, the warrant will then be placed in the Category "B" master warrant file.
 - a) A supervisor selected by the Chief of police shall make this determination.
- C** The Master Warrant File will be located in the communications center and will be accessible on a twenty-four hour basis. Access to the file will be limited specifically to service and/or validity checks and file maintenance.
1. The Master Warrant File may also be accessed using the LEAS Warrant Tab.
- D** When a Warrant is served or recalled by the court, the records unit shall:
1. Ensure that the desk officer/dispatcher promptly cancels the NCIC/COLLECT system. As with the initial entry, the teletype message documenting the cancellation will be forwarded to the records unit. The automated warrant file will be updated and the necessary documentation sent to court.
- E** The following information will be available for each Warrant on file in the records unit:
1. Date and time received
 2. Type of legal process
 3. Nature of document

4. Source of document
5. Name of plaintiff/complainant or name of defendant/respondent
6. Officer assigned for service
7. Date of assignment
8. Court docket number, if available
9. Date service due

F Any attempt to serve a warrant shall be documented in LEAS.

1. The shift supervisor shall be responsible for ensuring that LEAS is updated each time an attempt is made to serve a warrant.
2. Information recorded for each attempt to serve a warrant will include:
 - a. Date and time of attempt
 - b. Officer(s) initiating attempt
 - c. Type of contact
 - d. Address, when appropriate
 - e. Comments, when appropriate
3. Upon service of a warrant, the LEAS Warrant Report will be placed in the case file.
4. Each attempt to serve a warrant and/or warrant service will be documented in Computer Aided Dispatch.

G Upon service of a warrant, the officer(s) responsible for its service will be required to complete an Incident/Arrest Report that details the facts and circumstances of the arrest.

1. Elements contained in the report shall include, but not be limited to:
 - a. Date and time served
 - b. Name of officer(s)
 - c. To whom warrant was served or on whom executed
 - d. Method of service
 - e. Location of service

IV **PROCEDURES (WARRANT SERVICE)**

- A** Whenever possible, the investigating officer(s) or affiant(s) should be responsible for serving a warrant once it is signed by the court. However, there are circumstances that may preclude an officer/investigator from attempting to serve the warrant including; scheduling, illness, vacation, need to utilize the Special Response Team, etc.

1. Only sworn officers may serve an arrest warrant.

B The officer(s) delegated with serving a warrant shall attempt to do so within a reasonable amount of time after the Records Unit has sent a notification of its existence to the defendant (if applicable). Subsequent to that time, officers shall make a reasonable effort to serve said warrant until it is served or placed in the Category "B" master warrant file.

C The Commander of Staff Services or designee will be responsible for periodically reviewing the Category "B" master warrant file. The purpose of said review shall be to determine the validity of and/or consult with the State's Attorney, concerning the continued validity of such warrants.

V PROCEDURES (WARRANT SERVICE-SUSPECTS LOCATED OUT OF STATE)

A When a Warrant is held for a suspect located outside the State, the Shift Supervisor shall determine, prior to serving a Warrant, if the State of Connecticut will extradite.

1. Such information will be documented in LEAS under the Warrants section.

2. This requirement does not apply when a suspect resides outside the state but is located within the State of Connecticut

VI PROCEDURES (WARRANT SERVICE-INFORMATION RECEIVED/OTHER AGENCIES)

A Information, pertaining to an active warrant may be received from other law enforcement agencies by telephone or through the NCIC/COLLECT Computer Systems. Information received by telephone will be verified by a teletype message from the agency providing the information before the police department will act upon the information.

1. Warrant information received by telephone may be verified by having the originating agency fax a copy of the Warrant face sheet to the police department.

VII PROCEDURES (WARRANT SERVICE-IN OUTSIDE JURISDICTION)

A If officers attempt to serve a warrant in another jurisdiction they will notify the appropriate law enforcement agency prior to attempting to serve the warrant.

VIII PROCEDURES (CRIMINAL PROCESS)

A The following guidelines will govern the service of an arrest warrant or the execution of a search warrant by officers in this department.

1. Arrest Warrant

a. The assignment of an officer to serve an arrest warrant will be in accordance with **Section IV, A** of this general order. However, such assignments should not preclude an officer from serving a warrant when he/she unexpectedly comes in contact with a subject for whom an arrest warrant has been issued.

b. Any attempt to serve an arrest warrant shall occur only after the validity of the warrant has been confirmed.

- 1) Whenever possible, a minimum of two sworn officers should be present when an attempt is made to serve a warrant.
- c. As a general policy, warrant service will be prioritized as follows:
 - 1) Felony Warrant - due to the serious nature of felony arrests, the service of these warrants will be considered a high priority and shall be served as expeditiously as possible.
 - 2) Misdemeanor Warrant - in the absence of any serviceable felony warrants, misdemeanor warrants will be served beginning with the most serious offenses.
 - 3) Traffic Warrants - these warrants are generally of less serious offenses and will therefore have the lowest priority.
- d. The level of force used to enter a structure in order to affect an arrest will be based upon the seriousness of the offenses committed, applicable court decisions and state statute, if any. The level of force to be used shall be discussed with the shift supervisor prior to any attempt to serve a warrant. Forcible entry shall only be used when absolutely necessary and for good cause.
- e. Unless approval is granted by the Commander of the Staff Services Division or Designate, only copies of the warrant face sheet/affidavit may be removed from the records unit.
 - 1) The subject served will be given a copy of the warrant face sheet/affidavit at the time of the service unless the requirement is waived by the Court, if requested by the officers upon initial application.
- f. Unsuccessful attempts to serve a warrant shall be documented.
- g. When an arrest is made on a warrant, officers are generally required to make an in-custody criminal arrest, and complete the proper documentation in accordance with General Order 88-4-48. Records. Circumstances that may preclude an officer from making an in-custody arrest include:
 - 1) When the subject is injured and transported to a medical facility.
 - 2) When directed by a shift supervisor to do otherwise.
- h. Any attempt to serve a warrant out of state that requires extradition, or serve a warrant based upon information received from other law enforcement agencies shall be verified as to its validity.

2. Search Warrant

- a. All applications for and executions of a search warrant by officers of this department shall be made pursuant to C.G.S. 54-2a and 54-33(a-1).
- b. In order to obtain a search warrant an officer is required to complete an affidavit, sworn by any two credible officers, which indicates that there is sufficient probable cause to believe that property associated with a crime is in

a place they wish to search. The affidavit must then be approved and signed by the proper judicial authority before it is valid.

- 1) When completing the affidavit, officers must establish probable cause by substantiating that:
 - a) A crime was, is about to be, or is being committed;
 - b) The property described in the search warrant is associated with the crime:
 - c) The property described in the search warrant affidavit is located in the place to be searched at the present time.
- 2) The affidavit must be specific when documenting the following information:
 - a) Date and Time - The date and time of the officers and/or witnesses observations must be very specific. Probable cause to issue a search warrant must be of a fact so closely related to the time of the issue of the warrant as to justify a finding of probable cause at that time.
 - b) Place - The place to be searched must be particularly described. In addition, it is critical that the affidavit explain why the officer believes the items sought are located in the area to be searched. Officers must establish a connection between property and place. Such a connection may be the result of direct observation, or inferred as a result of:
 - b1) The type of crime
 - b2) The nature of item sought
 - b3) Normal inferences as to where a criminal would secrete fruits and/or instruments of a crime.
 - c) Property Sought - The property sought must be particularly described. Items not named or described in the affidavit may not be seized unless readily recognizable as evidence of a crime or contraband.
- 3) It is important that officers support their credibility. This may be accomplished by describing the source or basis of the facts.

c. The following conditions must be met in order to properly execute a search warrant.

- 1) It must be executed within ten (10) days of issuance or within time period mandated by the court authority.
- 2) The warrant must be returned to the court in addition to an inventory of all property seized.

- 3) Copies of the warrant application and all affidavits must be given to the owner or occupant of the place searched or person named on the warrant within forty-eight (48) hours after execution.
 - a) This requirement may be waived by a judge, if requested by the officers upon the initial application.
- d. When executing a search warrant officers may, with supervisory approval, forcibly enter a structure when exigent circumstances exist or after complying with the *knock and announce rule*. This rule dictates that officers knock, wait a reasonable time, and announce their authority and their intention. Exigent circumstances shall include when:
 - 1) There is reason to believe someone will be harmed
 - 2) The suspect will escape if entry is delayed
 - 3) Evidence will be destroyed if immediate entry is not gained.
- e. The officer(s) executing a search warrant may search a person in or upon the place searched, if he/she believes that property described in the warrant is being concealed in their garments. When the person to be searched is a woman, a female Officer or other women assisting in the search will conduct the search.
- f. Officers responsible for the collection of property shall be responsible for:
 - 1) Ensuring that all property is properly packaged, sealed and labeled and that the chain of evidence is maintained in accordance with General Order 89-11-64, Collection and Preservation of Evidence.
 - 2) Completing an inventory of seized property
 - 3) Notifying or documenting an attempt to notify the owner of stolen property within ten (10) days of it's seizure or within ten (10) days of determining who the owner is.
 - 4) Advising the property owner of their rights concerning their property and ensure that they receive a request form for the return of property.
 - 5) Submitting all property to Property Management in accordance with General Order 87-8-43, Property Management.
 - 6) Ensuring that an inventory of property seized is attached to the warrant and submitted to court.

B It is the policy of the Police Department that any criminal arrests, with or without a warrant be made by sworn police officers in compliance with any legislation governing the laws of arrest. General guidelines to be observed when making a warrant less arrest shall include:

1. All arrests shall be made pursuant to C.G.S. 54-1f, which provides statutory guidelines for such arrests to include:
 - a. Warrantless Misdemeanor - An arrest may be made for offenses committed within this jurisdiction when there exists probable cause, based upon either speedy information or the on-sight observations by an officer. Speedy

information is information received and documented promptly after the commission of a crime, or where it can be demonstrated that there is a continuous investigation on a complaint. Said investigation should not exceed eight (8) hours.

- 1) Any person so arrested may, at the discretion of the officer and in accordance with General Order 89-15-68, Traffic Law Enforcement and 89-16-69, Law Enforcement Role & Authority, be issued a summons and released on a promise to appear on a date and time specified. (Reference C.G.S. 54-1h).
 - b. Warrantless Felony - An arrest may be made when an officer has reasonable grounds to believe the suspect has committed or is committing a felony.
 - c. An officer may immediately pursue a suspect into any part of the state to effect an arrest, in accordance with the procedures established in General Order 89-2-55, Pursuit Policy.
2. Forcible entry will be permissible only to affect the arrest of felony suspects and only when consideration has been given to the following conditions:
- a. The officer has reason to believe the suspect is on the premises
 - b. The officer is not allowed entry after complying with the *knock and announce rule*.
 - c. The officer believes that someone will be harmed, evidence will be destroyed or the suspect will escape if entry is not gained immediately.
 - d. When possible, prior supervisory approval is granted
3. When affecting an arrest, police personnel must weigh the circumstances of each situation and employ only that amount of force that is necessary and reasonable to control the situation. Under no circumstance shall unreasonable or excessive force be used against any person. (Refer to General Order, 89.17-70, Use of Force)
4. It is a basic principal of constitutional law that searches conducted outside the judicial process, without prior approval by judges or magistrates are per se, unreasonable under the Fourth Amendment, subject only to a few specifically established and well-delineated exceptions. Officers must be cognizant of these restrictions when conducting warrant less searches. Exceptions that may typically impact a warrant less arrest include:
- a. Search Incident to a Lawful Custodial Arrest - Allows an officer to conduct a search incident to a lawful custodial arrest. The scope of this search will be limited to areas within the arrestee's span of immediate control and although usually conducted at the time of arrest, may be delayed under certain circumstances.
 - 1) This search may not be used as a pretext to conduct a general search for all types of evidence. However, it need not be limited to a search for evidence connected to the crime for which the suspect was arrested.
 - 2) When a custodial arrest involves the occupant of a motor vehicle, officers are **only** permitted to search the passenger compartment of the

vehicle and any unlocked container within that area, including the hatchback when the officer has reason to believe there is evidence related to the crime in the vehicle or the arrestee is left unsecured. Officers may not search the trunk or other areas outside the passenger compartment without proper consent or a search warrant.

- a) Officers may secure the suspect at the scene when conducting the search. However if the suspect is removed from the scene, officers lose their right to conduct such a search.
- b. Plain View Doctrine - Allows for the seizing of property when:
 - 1) The officer is lawfully in a position to view the object
 - 2) The discovery of the object is inadvertent
 - 3) The officer upon seeing the object reasonably believes that the object is contraband, stolen property or useful as evidence of a crime.
 - 4) Plain feel – If an officer conducting a frisk of a suspect, feels or sees an object that he or she reasonably believes to be a weapon the officer may reach beyond the suspect's outer clothing and seize the object.
- c. Inventory Searches - Inventory of an arrestee's property will be lawful only when the arrestee is to be incarcerated. The scope of the search shall be limited to property within their exclusive control and anywhere where personal property can reasonably be found. This includes searching any article and/or unlocked containers in the possession of the arrestee.
 - 1) Inventory searches of vehicles ordered towed shall be in accordance with General Order 90-3-79, Traffic Ancillary Services. The goal of this inventory will be to safeguard the vehicle and it's contents and should be confined to places where personal property is expected to be located. However, if contraband is unexpectedly discovered during an inventory, and officers have probable cause to believe that contraband has been secreted in other parts of the vehicle, then it is permissible to expand the scope of the search.
- d. Caretaker Function – The purpose of a caretaker function is to protect property and to protect the public from potential harm. **Example 1**, the removal of valuable items from an unsecured vehicle in a location where they may be subject to theft. **Example 2**, taking control of a vehicle if an officer has reason to believe may contain a weapon, in order to search the vehicle and secure the weapon.
- e. Consent Searches - The search of any area or objects is permissible when consent is received by the proper authority. The consent must be given voluntarily and not as a result of duress. Once consent has been given it can be limited or withdrawn at any time by the consenting party.
- f. Exigent Circumstances - Allows officers to enter a premises and conduct searches when specific circumstances exist. This type of search must only be conducted when there is insufficient time to obtain a search warrant.
 - 1) Conditions in which such a search is permissible include when failure to do so would result in:

- a) The loss or concealment of evidence
 - b) Injury to the officer or others
 - c) Escape of a suspect
- 2) It is critical that officers evaluate its necessity prior to conducting this type of search. Factors that must be considered prior to initiating the search should include the seriousness of the crime committed, danger posed to the public, importance of the search and degree of intrusion.
 - 3) Supervisory approval is required for this type of search.
- g. Motor Vehicle Searches – A motor vehicle may be searched without a warrant when officers have probable cause to believe that it contains contraband. The scope of an officer's search is confined to those areas where he has probable cause to believe the contraband may be found. The search of the vehicle extends to any containers found within it that might conceal the object. The motor vehicle exception applies during the time that the officers are waiting to tow the vehicle they intend to impound. However, once impounded, the motor vehicle exception no longer applies and the officers must obtain a search warrant in order to search the vehicle.
5. In the event that a strip search is necessary, officers shall adhere to the procedures as stated in General Order 89-13-66, Booking Area & Holding Facility.
 6. Officers are required to advise a suspect of his/her constitutional rights (Miranda Warnings) when the suspect is in police custody and is being interrogated. When advising a person of their rights, officers should use a "Miranda" card or its equivalent and ensure that the individual reads, understands and signs the rights form/card.
 - a. If a suspect invokes his right to remain silent, all questioning must immediately cease. It would not however, be improper for officers to attempt to initiate questioning as long as such an attempt does not harass or intimidate the suspect.
 - b. If a suspect requests the presence of an attorney, all questioning will cease and an attempt made to honor the request.
 - c. A suspect may limit his/her waiver. In these instances, officers must strictly comply with the conditions established by the suspect.

WHEN IN DOUBT, READ A SUSPECT THEIR RIGHTS

7. Juvenile offenders shall be processed in accordance with the procedures established in General Order 88-6-50, Juvenile Operations.
8. All in custody - Warrant less arrests shall be documented by the arresting officer(s) in accordance with General Orders 88-4-48 Records and 89-15-68, Traffic Law Enforcement.

IX PROCEDURES (Property)

A All property obtained through the legal process (i.e., warrant less searches, search warrants, vehicle inventories or seized for safekeeping, shall be collected in accordance with General Order 89-11-64, Collection and Preservation of Evidence and submitted to Property Management.

1. The property custodian will be responsible for permanently securing and maintaining all manual records associated with said property. This process shall be in accordance with General Order 88-1-44, Property Management.

B All property acquired through the legal process shall be disposed of by the police department in accordance with applicable legal requirements and under the terms and conditions established in General Order 88-1-44, Property Management.

X **PROCEDURES (Special Circumstances, Arrests Made with Insufficient Probable Cause)**

A If a post-arrest situation occurs in which an Officer concludes reasonably and in good faith that there is substantial doubt as to correctness of the original probable cause determination of an arrest, He or She shall immediately notify the Shift Commander of that fact.

B If the Shift Commander also believes that there is substantial lack of probable cause to support the arrest, He or she shall:

1. Advise the arresting officer to release the person as soon as possible.
2. Inform the arrested person that he or she is not required to appear in court.
3. Insure that a Uniform Arrest Report (UAR) is not completed.
4. Insure that the person is not required to sign a written promise to appear form.
5. Insure that the arresting officer completes an Incident/Arrest report that states the facts and circumstances which lead to arrest and subsequent release. The Shift Commander will carefully review the report and forward a copy to records.
6. Insure that records is instructed to forward a copy of the report to the Assistant State's Attorney's Office at G.A. 20.

XI **DISTRIBUTION**

This general order will be reproduced in electronic and traditional media. All sworn personnel shall have access to Department general orders through a read-only file on their individual domain of the Department's computer network. Printed copies and/or CD's will also be placed in locations throughout headquarters so that they are easily accessible to all personnel.

XII **EFFECTIVE DATE**

This general order approved by the Police Commission on April 17, 1991 and is effective June 10, 1991.

Revised April 2000
Reviewed July 2006
Reviewed June 2009
Revised May 2013

Per Order

Edward J. Nadriczny
Chief of Police