

<p style="text-align: center;">East Haven Police Department</p> 	Type of Directive: Policies & Procedures		No. 434.5
	Subject/Title: Search Warrants & Arrest Warrants		Issue Date: September 29, 2020
	Issuing Authority: Honorable Board of Police Commissioners		Effective Date: October 1, 2020
References/Attachments: Policies & Procedures #: 412 Connecticut General Statute § 54-33a, 54-2a		Review Date: Annually	Rescinds: 434.4
			Amends: N/A

I. PURPOSE

- A. The purpose of this directive is to set forth the policies and procedures of the East Haven Police Department regarding search warrants and arrest warrants.

II. POLICY

- A. It is the policy of the East Haven Police Department that the Fourth Amendment of the United States Constitution, the Constitution of the State of Connecticut, applicable state statutes, and the highest standards of personal honesty and professionalism shall guide officers when they are applying for and serving search warrants and arrest warrants. Deviations from these standards shall result in discipline up to and including termination.

III. DEFINITIONS

- A. Arrest: The power and authority of a police officer to apprehend and deprive persons of their liberty, as provided by law, in order that such persons may be brought before the court to answer to criminal charges.
- B. Arrest warrant: A warrant that authorizes a law enforcement officer to arrest a person. Section 54-2a of the Connecticut General Statutes authorizes the issuance of arrest warrants on the premise "...there is probable cause to believe that an offense has been committed and that the person complained against committed it". Police officers have the legal authority to effect an arrest based on an arrest warrant.
- C. Search Incident to a Lawful Arrest: A search is reasonable, and a search warrant is not required, if a search is conducted as an incident to a lawful arrest. Under this exception to

the search warrant requirement, an arresting officer may search only the person arrested and the area within which that person might gain possession of a weapon or might destroy or hide evidence.

- D. **Inventory Search:** An inventory search is the routine inventory of an impounded vehicle. The Supreme Court has ruled that evidence of a crime uncovered during such a search can be used for prosecution. A warrant is not required because the state, in legally impounding the vehicle, bears legal liability for the contents of the vehicle. Officers must submit a written list of these contents. Under the plain view doctrine, because police conducting the inventory have a legitimate reason to look inside the car, it is not reasonable for them to close their eyes to evidence of crime.
- E. **Consent:** Voluntary agreement to the proposal of another; the act or result of reaching an accord; a concurrence of minds; actual willingness that an act or an infringement of an interest shall occur.
- F. **Plain View:** The principle that provides that objects perceptible by an officer who is rightfully in a position to observe them can be seized without a Search Warrant and are admissible as evidence.
- G. **Community Caretaker Function:** The Courts have created a Caretaker exception under which local police officers are charged with community caretaking functions, totally divorced from the detection, investigation, or acquisition of evidence relating to violation of any criminal statute. An example is checking on motorists parked in rest areas, especially in winter,⁶ or opening an unlocked door of a parked vehicle when the officer is acting out of concern for the well-being of the person inside.
- H. **Exigent Circumstances:** An unusual and time-sensitive circumstance that justifies conduct that might not be permissible or lawful in other circumstances.
- I. **Motor Vehicle Exception:** Under the motor vehicle exception, officers may conduct a warrantless search of an automobile, except for the trunk, if the officers reasonably believe that the vehicle holds evidence of a crime.

IV. GENERAL GUIDELINES AND CONSIDERATIONS

- A. The Fourth Amendment of the U.S. Constitution safeguards the “right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures”.
- B. Section 54-33a of the Connecticut General Statutes provides the court with the authority to issue search warrants “commanding a proper officer to enter into or upon such place or thing, search the same or the person and take into their custody all such property named in the warrant.”
- C. Any search and/or seizure conducted without a warrant must fall within one of the following search warrant exceptions
 - 1. Search Incident to a Lawful Arrest.

2. Inventory Search.
3. Consent.
 - a. No officer may ask an operator of a motor vehicle to conduct a search of the motor vehicle or the contents of the motor vehicle that is stopped by an officer solely for a motor vehicle violation.
 - 1) Any search by an officer of a motor vehicle or the contents of the motor vehicle during a stop for a motor vehicle violation shall be:
 - a) Based on probable cause; or
 - b) After having received the unsolicited consent to perform such search from the operator of the motor vehicle in written form or recorded by a body-worn camera (BWC) or a mobile video recorder (MVR).
 - b. Absent the existence of probable cause, receiving the consent of a person to conduct a search of him/her does not constitute justification for the officer to conduct such search.
4. Plain View.
5. Caretaker Function.
6. Exigent Circumstances.
7. Motor Vehicle Exception.

V. PROCEDURES

A. Search Warrants

1. Applying for Search Warrants
 - a. Officers will familiarize themselves with Section 54-33a of the Connecticut General Statutes and training bulletins updating court decisions as they pertain to the law of search and seizure, including the requirements for obtaining a search warrant.
 - b. All search warrant affidavits shall provide an accurate, complete, and clear description of the offense, the person, place or thing to be searched, scope of the search, and time and method of the search.
 - c. A supervisor, specifically the primary officer's immediate supervisor when feasible, shall review each search warrant affidavit application, before it is filed by an officer, for appropriateness, legality, and conformance with Department policy. The reviewing supervisor shall assess the information contained in the warrant application and supporting documents for authenticity, including an examination for "canned" or conclusory language, inconsistent information, and lack of articulation of a legal basis for the warrant.

- 1) As part of the supervisor's review, the supervisor shall document in an auditable format those warrant applications that are legally unsupported, are in violation of department policy or that indicate a need for corrective action or review of agency policy, strategy, tactics, or training.
 - 2) The supervisor shall take appropriate action to address violations or deficiencies, including recommending non-disciplinary corrective action for the involved officer, and/or referring the incident for investigation.
2. Search Warrant Service
- a. Upon receipt of a signed search warrant from court, the affiants will notify their supervisor to arrange for the search warrant to be served. The affiant officers, will make a diligent effort to serve the search warrant.
 - b. Prior to serving a search warrant, an Operations Plan shall be completed except for the following circumstances:
 - 1) Search warrants for medical, telephone, and/or internet records.
 - c. A supervisor shall review the Operations Plan for the execution of a search warrant and, absent exigent circumstances, shall be present for execution of the search warrant. A supervisor shall document in the case file the exigent circumstances preventing his or her presence.
 - 1) This section does not apply to search warrants for medical, telephone, and/or internet records.
 - d. During the execution of a search warrant, if an officer has reason to believe that any of the property described in the warrant is concealed in the garments of any person in or upon the place or thing to be searched, the officer may search the person for the purpose of seizing the described property.
 - 1) When the person to be searched is a female, the search shall be conducted by a female officer.
 - 2) When the person to be searched is a male, the search shall be conducted by a male officer.
 - e. Once executed, a supervisor shall review the execution of the search warrant. Supervisors shall memorialize their reviews in writing within 24 hours of the execution of a search warrant.
 - 1) This section does not apply to search warrants for medical, telephone, and/or internet records.
 - e. Whenever an officer has a search warrant for an out of town address, but within the State, or during times other than their regular shift, that officer shall contact their Division Head and/or Shift Commander, who shall be responsible for arranging the service of the search warrant.

- f. If information develops making it necessary to serve a search warrant immediately, the officer's Division Head and/or Shift Commander shall decide the time and manner in which it will be served.
 - g. Whenever an officer(s) is serving a search warrant out of town, the agency of that town shall be contacted and advised of the intent to serve such search warrant. A request shall be made for that agencies assistance if needed.
 - 1) This section does not apply to search warrants for medical, telephone, and/or internet records.
 - h. If there are insufficient on-duty personnel, additional personnel will be called in so that the search warrant may be served. Only sworn officers will serve search warrants.
3. Record Keeping Process
- a. A case number will be assigned by dispatch for each search warrant served. The name of the subject and/or the location of the attempt will be noted in the written report.
 - b. Officers shall use the original case number in the warrant service report and include a brief summary of circumstances of the original case, including the location where the warrant was served.
 - c. The officers shall forward a copy of the report(s) to the Records Division.
 - d. The department shall maintain a log file listing each search warrant, the case file where a copy of such warrant is maintained, the officer who applied for, and each supervisor who reviewed the application for a search warrant.

B. Arrest Warrants

1. Applying for Arrest Warrants

- a. If probable cause exists for an arrest, and the arrest without a warrant is not feasible, the investigating officer will complete an arrest warrant affidavit application.
 - 1) An officer may confer with his or her immediate supervisor for approval to use his or her discretion or other means necessary to resolve the issue in cases that do not mandate an arrest.
- b. All arrest warrant affidavits shall be completed within LEAS.
- c. The officer completing the arrest warrant affidavit shall ensure the affidavit is completed in its entirety.
 - 1) The narrative contained within the affidavit should be clear, concise, and accurate.
 - 2) Probable cause shall be clearly articulated within the narrative of the affidavit.

- d. Upon completion of the affidavit, a supervisor, specifically the officer's immediate supervisor when feasible, shall review the affidavit and supporting documents for deficiencies, appropriateness, legality and conformance with Department policy. The reviewing supervisor shall assess the information contained in the warrant affidavit and supporting documents for authenticity, including an examination for
 - a. "canned" or conclusory language,
 - b. inconsistent information,
 - c. lack of exculpatory information,
 - d. d. lack of articulation of the legal basis for the affidavit.
 - e. Upon the completion of the supervisory review and any required revisions of the affidavit, the officer/affiant shall sign and date the affidavit.
 - f. Upon completing the supervisory review, the supervisor shall sign the arrest warrant affidavit application. By signing the arrest warrant affidavit application, the supervisor is confirming that the arrest warrant affidavit application contained probable cause, did not contain deficiencies and conformed to departmental policy.
 - g. The affidavit shall then be submitted to court for approval.
2. Arrest Warrant Service
- a. Upon receipt of a signed arrest warrant from court, the arrest warrant will be provided to Records personnel so it can be entered into LEAS and COLLECT/NCIC.
 - b. Once the arrest warrant is entered into LEAS and COLLECT/NCIC, Records Division Personnel will notify all officers of the active arrest warrant via department e-mail.
 - c. Upon the affiant officer being notified of the court approved arrest warrant, the affiant will notify their supervisor to arrange for the arrest warrant to be served. The affiant officer will make diligent efforts to serve the arrest warrant as soon as practical to do so.
 - d. The officer will document each attempt of service in LEAS on a separate case number, which will be cross referenced to the original case number by the dispatcher.
 - e. Any unsuccessful attempt to serve the arrest warrant shall be documented in LEAS.
 - f. If the subject is located and placed under arrest, Policies and Procedures # 412 – Arrests shall be followed.