

# 2016 CT BUILDING OFFICIAL ENFORCEMENT REVIEW



## 2016 CT BUILDING OFFICIAL ENFORCEMENT REVIEW OBJECTIVES:

*SUBSTANTIVE REVIEW OF THESE AREAS:*

- GOALS OF ENFORCEMENT**
- AUTHORITY**
- CIVIL vs. CRIMINAL COURT**
- WORKING WITH YOUR STATE PROSECUTOR**
- RIGHT OF ENTRY AND ADMINISTRATIVE SEARCH WARRANTS**
- ISSUING ORDERS**
- ARREST WARRANT PREPARATION**

## GOALS OF ENFORCEMENT

### 1. **COMPLIANCE**

*Using the abatement process.*



### 2. **CORRECT HUMAN BEHAVIOR**

*Introduce the importance of building safety to landlords, tenants and the surrounding community.*

### 3. **IMPROVE COMMUNITY WELL BEING**

*Create safer and healthier communities by enforcement of required code standards.*



## WHERE DOES YOUR AUTHORITY COME FROM?

- U.S. and CT State Constitution
- Connecticut General Statutes (CGS)
  - Enables the Connecticut State Building Code and all its included regulations.
- U.S. and State of CT Court Opinions
- DAS, DCS, Office of the State Building Inspector

## **BUILDING OFFICIAL STATUTORY AUTHORITY - CGS 29-260 and 29-261**

- The controlling statutes for all local building officials IS CGS 29-260, which covers appointment, and CGS 29-262, which covers Qualifications, Powers, and Duties.
  - [PLEASE REFER TO HANDOUT AT THIS TIME].

## **CIVIL vs. CRIMINAL COURT**

*WHAT IS THE  
DIFFERENCE?*

## CIVIL:

- Cases handled by municipal counsel.
- Purpose is to obtain a court order for required compliance, with costs and penalties for any violation.
- May also seek an order to close or restrict use.

## CRIMINAL:

- Cases handled by state prosecutors.
- Penalties on *conviction* include jail, fines, probation and other special conditions.
- Court may order compliance as a special sentencing condition.



## ARREST AND CRIMINAL PROSECUTION

*Referral should be made (but not limited to) when:*

- Code violation contributes to a fire, explosion or other incident resulting in injury or fatality.
- Violations cause a delay in emergency response.
- Reckless conduct code violation.
- Lack of Abatement after notice (most common).

## CT STATE BUILDING CODE



### PENALTIES

#### CGS 29-254a and CGS 29-394

- Convictions under CGS 29-254a and 29-394 are **crimes**, categorized as a B Misdemeanor.
- Each violation is a separate offense and if convicted in a court of law, is punishable by not less than two hundred and not more than one thousand dollars or imprisonment of not more than six months or both.

## Arrest

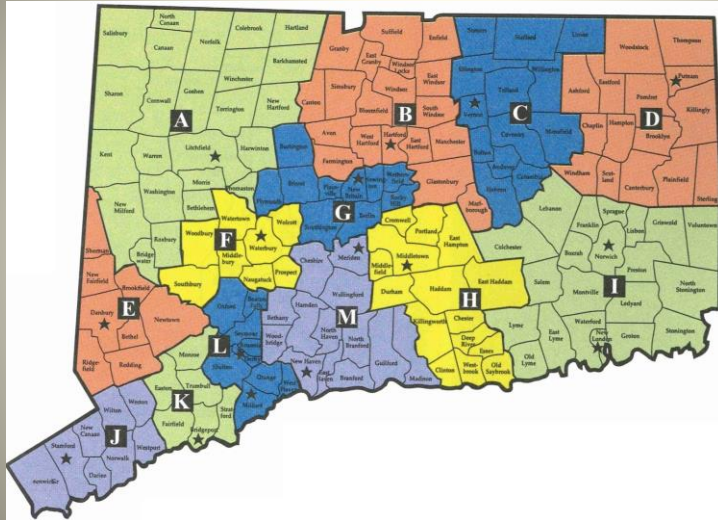
- Submitting an application for the arrest of an individual is very serious. Make sure this is the appropriate action to take.

You are asking for the initiation of a criminal case that may result in the deprivation of the rights of another individual.

## WORKING WITH YOUR STATE PROSECUTOR



## CT JUDICIAL DISTRICTS



**A:** Litchfield  
**B:** Hartford  
**C:** Tolland  
**D:** Windham  
**E:** Danbury  
**F:** Waterbury  
**G:** New Britain  
**H:** Middlesex  
**I:** New London  
**J:** Stamford-Norwalk  
**K:** Fairfield  
**L:** Ansonia-Milford  
**M:** New Haven



## 13 JUDICIAL DISTRICT STATE'S ATTORNEYS

|                                                                                      |              |
|--------------------------------------------------------------------------------------|--------------|
| <b>Ansonia/Milford Judicial District (L)</b><br>Kevin Lawlor, State's Attorney       | 203-874-3361 |
| <b>Danbury Judicial District (E)</b><br>Stephen Sedensky III, State's Attorney       | 203-207-8670 |
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## 13 JUDICIAL DISTRICT STATE'S ATTORNEYS

|                                                                                |              |
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## DCJ HOUSING PROSECUTOR ASSIGNMENTS AS OF 1/2016



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## ARREST WARRANT PREPARATION



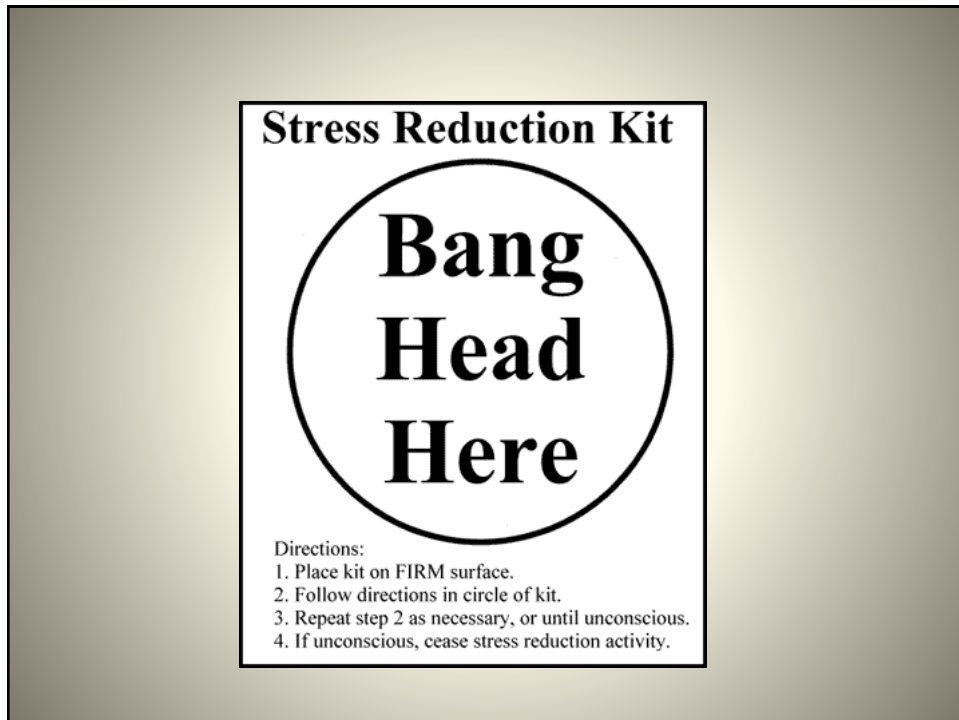
## ARREST WARRANT PREPARATION

**YOU'VE BEGGED**



**YOU'VE PRAYED**





### 3 PARTS OF CRIMINAL APPLICATION FOR AN ARREST WARRANT:

1. INFORMATION SHEET
2. ARREST WARRANT
3. THE AFFIDAVIT

## THE INFORMATION

THE INFORMATION ADVISES INTERESTED PARTIES  
OF:

THE NAME OF THE ACCUSED

THE NUMBER AND DESCRIPTION OF  
THE CHARGES

ALLOWS COURT PERSONNEL TO MAKE  
NOTATIONS.

## THE INFORMATION

### FORM

CASE NUMBER

AGENCY NAME

STATE OF CONNECTICUT VS

DATE OF BIRTH\*\*

TO BE HELD AT

### COMPLETION

LEAVE BLANK

YOUR DEPARTMENT

NAME OF THE ACCUSED

VERIFIED?

TOWN OF HOUSING COURT

## THE INFORMATION

### FORM

GA NUMBER

COURT DATE

### COMPLETION

HOUSING COURTS MAY NOT  
HAVE A GA NUMBER

LEAVE BLANK: NOT  
ASSIGNED BY THE  
WARRANT AUTHOR

## THE INFORMATION

### FORM

COUNT ONE:

OFFENSE

AT (TOWN)

ON OR ABOUT (DATE)

### COMPLETION

NON-COMPLYING  
ILLUMINATION/REAR EXIT  
STAIRS

PROPERTY LOCATION

RE-INSPECTION DATE

## THE INFORMATION

**FORM**

IN VIOLATION OF GENERAL  
STATUTE NUMBER

**COMPLETION**

29-252

THE SECTION OF THE CT  
GENERAL STATUTES THAT  
HAS BEEN VIOLATED.

NOT THE CT SBS

## THE INFORMATION

- SUBSEQUENT COUNTS ARE FILLED IN THE SAME WAY.
- WARRANTS WITH MORE THAN THREE COUNTS ARE CONTINUED ON ADDITIONAL INFORMATION PAGES.
- REMAINING SECTIONS ARE LEFT BLANK.

## ARREST WARRANT

- THE REVERSE SIDE OF THE INFORMATION IS THE ARREST WARRANT.
- IT AUTHORIZES “ANY PROPER OFFICER OF THE STATE OF CONNECTICUT” TO ARREST THE BODY OF THE ACCUSED.
- YOU COMPLETE ONLY THE AGENCY NAME AND THE NAME OF THE ACCUSED

## ARREST WARRANT APPLICATION

### FORM

- AGENCY NAME
- NAME
- RESIDENCE
- COURT TO BE HELD AT

### COMPLETION

- YOUR DEPARTMENT
- LAST, FIRST, MI OF ACCUSED.
- TOWN/ CITY OF ACCUSED
- LOCATION OF COURT

## APPLICATION FOR ARREST WARRANT

To: A Judge of the Superior Court

The undersigned hereby applies for a warrant for the arrest of the above-named accused on the basis of the facts set forth in the:

☐ Affidavit Below.

☐ Affidavit Attached.

## APPLICATION FOR ARREST WARRANT

The checkboxes should be marked especially when there are pages you want the judge to include in the finding of probable cause.

You are directing the reader to look beyond the “4 Corners” of the warrant.

## APPLICATION FOR ARREST WARRANT

DATE:

SIGNED (Prosecuting authority)

Type/print name of prosecuting authority

Not for applicant to fill out. For reviewing prosecutor.

## AFFIDAVIT

- This is the narrative portion of the arrest warrant application which establishes probable cause.
- Probable cause is reason to believe that an offense has been committed and that the accused committed it.

## AFFIDAVIT

- “The undersigned affiant, being duly sworn, deposes and says:”
- You are the affiant (author) of the narrative of the warrant. You must swear to the content and accuracy of the information contained in the body of the warrant.

## AFFIDAVIT

- 1<sup>ST</sup> Paragraph: YOUR CREDENTIALS
  - I, [YOUR NAME], AM A(N) [YOUR POSITION/TITLE], AND A DULY AUTHORIZED REPRESENTATIVE THEREOF, HAVE BEEN EMPLOYED BY THE [NAME OF THE DEPARTMENT YOU WORK FOR] FOR [TIME ON THE JOB.]

## AFFIDAVIT

- 2<sup>ND</sup> Paragraph: BASIS OF KNOWLEDGE
- The facts and circumstances reported in this affidavit are the result of personal knowledge and observations of this affiant [AND ADDITIONAL REPRESENTATIVES OF THIS DEPARTMENT]

## AFFIDAVIT

- 3<sup>RD</sup> Paragraph: INITIAL INSPECTION
- On, [DATE AND TIME OF INITIAL INSPECTION], I did inspect the premises of [ADDRESS AND DESCRIPTION OF THE PROPERTY.] the inspection was made pursuant to [A COMPLAINT/STATUTORILY REQUIRED INSPECTION.]

## AFFIDAVIT

- 4<sup>th</sup> Paragraph: OWNERSHIP
- On, [DATE], The owner of the property was determined to be [OWNER'S NAME OR LLC NAME]. The information was obtained by [DEED OR CONCORD WEBSITE OF THE OFFICE OF THE SECRETARY OF STATE]. A copy of the [DEED OR CONCORD INFORMATION] is attached to this affidavit and incorporated herein.

## AFFIDAVIT

- 5<sup>TH</sup> Paragraph: THE ORDER
- On, [DATE OF THE ORDER], a Connecticut State Building Code Order with a compliance time of [GIVE THE TIME FRAME], was sent via [PROVIDE THE MEANS OF SERVICE ON THE OWNER] to the owner of record.

## AFFIDAVIT

- 6<sup>TH</sup> Paragraph:
- This portion of the affidavit can include work done by the owner, contact made with the owner, extensions of time requested, modifications sought, or any information you believe should be considered for probable cause.

## AFFIDAVIT

- 7<sup>TH</sup> Paragraph: RE-INSPECTION
- On, [DATE (after the expiration of the time allowed in the abatement order) OF THE RE-INSPECTION], I\* re-inspected the property at [ADDRESS OF THE PROPERTY.] At that time, it was determined that the following code violations still existed:

## AFFIDAVIT

- 7<sup>th</sup> Paragraph (Continued): LIST VIOLATIONS
- Provide a list of each of the outstanding violations. Each entry should include the CSBC section violated, a layman's description of the violation, the description and location of the violation, [you may include the corrective action needed,] and the time provided to comply in the abatement order.

## AFFIDAVIT

- 8<sup>TH</sup> Paragraph:
- Said violations place the occupants of the premises at risk of physical injury.
- Include this paragraph if the statement applies to your inspection.

## AFFIDAVIT

- 9<sup>TH</sup> Paragraph: CONCLUSION
- Wherefore, I believe cause exists that a warrant should issue for [NAME OF THE OWNER/MEMBER/MANAGER OF THE LLC], owner of the property located at [PROVIDE THE ADDRESS OF THE PROPERTY,] in violation of Connecticut General Statute Section(s): [LIST THE SECTIONS FOR EACH COUNT].

## ARREST WARRANT

- Remember that the affidavit is discoverable.
- It is available to be seen by the accused, their attorney, and the general public.

ARREST WARRANT

NO MORE



**Right of Entry  
and  
Administrative Search  
Warrants**

## WHY DO YOU CARE?

- Dismissal of your case.
- Municipal liability.
- Possible personal liability

## STATUTORY AUTHORITY

- C.G.S. 29-261(Powers and Duties)
  - (d) The BO or ABO **shall have the right of entry** to such buildings and structures, except single family residences, for the proper performance of his duties between 9 am and 5 pm, except in case of emergency where he can enter anytime necessary in the interest of public safety.
  - This power is repeated in **SBC 104.6.**

## STATUTORY AUTHORITY

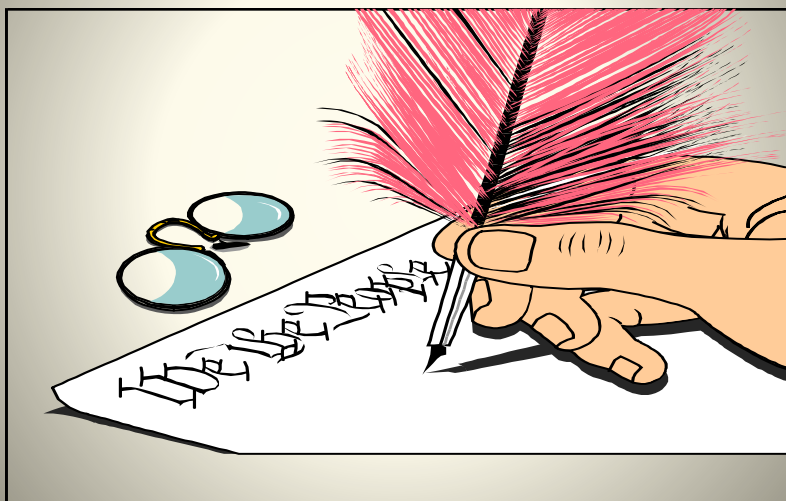
- C.G.S. 29-393
  - On receipt of information from the local fire marshal or from any other authentic source that any building in his jurisdiction, due to lack of exit facilities, fire, deterioration, catastrophe or other cause, is in such condition as to be a hazard to any person or persons, the building inspector **shall** immediately make an inspection by himself or by his assistant...

## STATUTORY AUTHORITY

C.G.S. 29-393. Any building inspector **shall have the right of entry** into all buildings for the performance of his duties between the hours of nine o'clock a.m. and five o'clock p.m., in the interests of public safety.

# Protection From Your Authority: The Federal And Connecticut Constitutions

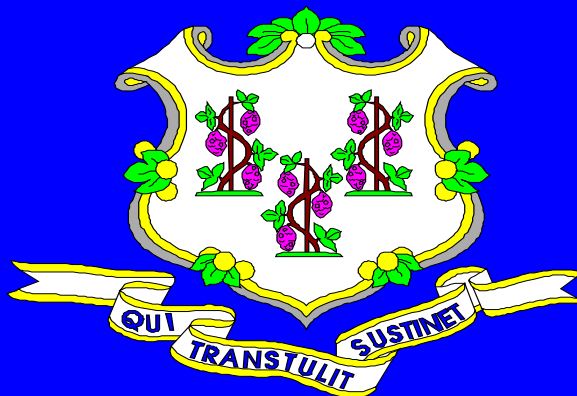
## The United States Constitution



## Fourth Amendment

- The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

## The Constitution of the State of Connecticut



## Connecticut Constitution

- Article First, section 7
  - “The people shall be secure in their persons, houses, papers and possessions from unreasonable searches or seizures; And no warrant to search any place, or to seize any person or things, shall issue without describing them as nearly as may be, nor without probable cause supported by oath or affirmation.”

## It's Not Just For This....



**For Fourth Amendment Purposes...**



**There is NO DIFFERENCE!!!**

**When Your Statutory  
Authority and the  
Constitution Collide...  
or,  
“A Man and His Dirt”**

<https://www.youtube.com/watch?v=ILahs9E30aY>

# Suppression of Evidence

What happens when you do it wrong.



## The Exclusionary Rule

- Evidence derived from an illegal search is inadmissible in court.
- “Fruit of the poisonous tree”
- Designed to deter illegal governmental behavior
- It’s a harsh remedy!

**So How Do We Do It  
Right?**

**Warrantless searches  
are presumed**



**UNREASONABLE**  
**(Unless an Exception Applies)**

**The Most Important Exceptions To The  
Warrant Requirement:**

- **Consent**
- **Plain view**
- **Exigency/Emergency**

**Consent**

# Consent

- Free and voluntary consent of authorized person
- May not be the result of duress or coercion
- Burden of proof on State



# Consent

- An inference that refusal is futile, or that a search warrant will be issued automatically, has been held to be coercive.

## **Consent Considerations**

- **Consent can be withdrawn at any time**
- **Consent can be limited**

## **Factors Showing Consent**



- Knowledge of constitutional rights in general
- Knowledge of the right to refuse consent
- Sufficient age and maturity to make an independent decision
- Intelligence to understand the significance of consent



## Factors Showing Consent

- Education in or experience with the workings of the criminal justice system
- Cooperation with inspectors
- Length of detention and nature of questioning regarding consent
- Coercive governmental behavior surrounding the incident

## Third Party Consent...a.k.a. “The Roommate Scenario”

- A person may consent to a search of areas over which he has common authority with another person.
- One person cannot consent to a search of the exclusive possessions or private space of another person.

## Third Party Consent

Exception:

- The consent of one occupant is **insufficient** when another occupant
  - is present, and
  - objects to the search

## Third Party Consent: “Apparent Authority”

- A search without a warrant is valid when it is based on consent given by someone who the government official reasonably believes has common authority over the premises, but who actually does not.
- Based on objectively reasonable belief.
- Each case judged on its own facts.

## Third Party Consent: “Apparent Authority”

- Conduct a **reasonable inquiry** of the person giving consent.



## Third Party Consent

- Not valid from Landlord (even with a right of entry clause in the lease)



# Third Party Consent

Not valid from a hotel clerk



# Written Consent

 State of Connecticut  
DIVISION OF CRIMINAL JUSTICE

**Consent To Search And Examine Evidence**

Case No: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_ City/Town: \_\_\_\_\_  
Name: \_\_\_\_\_ DOB: \_\_\_\_\_  
Address: \_\_\_\_\_

I, \_\_\_\_\_ (print name), after having been informed of my Constitutional right not to have a search performed without a search warrant and of my Constitutional right to refuse to consent to such a search, DO CONSENT \_\_\_\_\_ to have \_\_\_\_\_ and \_\_\_\_\_ who are members of the Division of Criminal Justice, and \_\_\_\_\_ who are members of the \_\_\_\_\_ (insert agency name) conduct a complete search of my:

☐ Residence ☐ Place of business ☐ Vehicle ☐ Other property

\_\_\_\_\_ (describe vehicle or property to be searched)

which property is located at: \_\_\_\_\_  
(specify location/ address: street, apartment number, route, city or town, state)

I authorize members of the Division of Criminal Justice and the \_\_\_\_\_ Police Department to take from the location or locations specified above, such materials and other property as they may desire and to perform examinations and tests, including forensic examinations and tests, on any item seized.

Permission for this search and examination of evidence is granted by me, knowingly, willingly and voluntarily, to the above named police officer or police officers and no inducements, threats or promises have been made to me in order to gain my consent.

Signature: \_\_\_\_\_ Witness: \_\_\_\_\_

Witness: \_\_\_\_\_ Witness: \_\_\_\_\_

(Except for the entering of the subject's signature and initials, this form shall be completed by a police inspector/officer. \*2 Police inspectors/officers should be witnessed)

# Plain View

## Plain View



- It is not a search within the Fourth Amendment to observe what is in plain view from a location where you have the right to be.

## Plain View



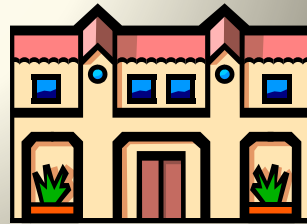
- “Lawful Initial Entry”
  - Entry onto property was lawful, or condition is visible either from a public area or a place you are authorized to be.

## Is It a Search?

- **Two things to think about:**
- **Did the owner have a reasonable expectation of privacy?**
- **Did the governmental action constitute a trespass?**

## Reasonable Expectation of Privacy

- **No reasonable expectation of privacy in common hallway of apartment building**
  - Mutual use and control by tenants and owner
  - Used by Visitors
  - Delivery people
  - Trades people



## Reasonable Expectation of Privacy



- No expectation of privacy in a common porch area
- Even tenants wouldn't have a reasonable expectation of privacy
- Non-tenant can't claim reasonable expectation of privacy

## **Fourth Amendment Doesn't Protect**

- **Open Fields**
- **Abandoned Property**
- **Private Party Searches**



## **Curtilage or Open Field?**

- “Curtilage” is the area immediately surrounding the house.
- Curtilage is considered to be part of the house for fourth amendment purposes.

## Curtilage or Open Field?

- Factors that help decide:
  - Distance from the house
  - Fenced in area around the house?
  - Use to which the area is put
  - Steps taken to protect the area from observation by passers by.

## Curtilage

- Vehicles in fenced back yard could not be ticketed
  - Close to house
  - 6 foot fence with “keep out”
  - Fence shut: no view from street
- Vehicles in front of house on open driveway could be ticketed.
  - Diminished expectation of privacy
    - State v. Brucuglio



## Trespass

In recent cases, the United States Supreme Court has started to look at whether there has been a **physical intrusion onto property**.

## Trespass

- A **search** occurs whenever the government **physically intrudes** upon a protected area for the purpose of obtaining information, regardless of the person's reasonable expectation of privacy.
- GPS device placed on undercarriage of car found to constitute a search as it was a physical intrusion on the car.

## Trespass

- An implicit license exists for visitors to:
  - Approach by the front path
  - Knock promptly
  - Wait to be received
  - Absent invitation to remain longer, leave
- Government official may do what any other private citizen may do.
  - Salesman, trick or treater, Girl Scout

## Trespass

- Scope of the implied license is limited to specific purpose.
- No one "is impliedly invited to enter the protected premises of the home in order to do nothing but conduct a search."
- Warrantless use of drug detecting canine on the front porch found to be an unreasonable and illegal search.

## Trespass

### OK:

- Walk up the driveway
- Walk up porch steps to front door
- Knock on door
- Observe anything in plain view on your way to and from the door
- Observe anything in plain view if resident opens the door
- Ask permission to enter and inspect

## Trespass

### NOT OK:

- Open a gate marked “No trespassing.”
- Explore path or yard with devices (metal detector, thermal imager).
- Go into back yard (absent invitation to do so).
- Go around house looking into windows

# Emergency & Exigent Circumstances

## Emergency/Exigent Circumstance



- Imminent and substantial threat to life safety.
- No time to get a warrant.
- Mere inconvenience is not sufficient

## Administrative Search Warrants



### INSPECTION WHERE ENTRY REFUSED

*When cooperation ceases  
and access to the property is denied, an  
**ADMINISTRATIVE SEARCH WARRANT**  
is required before entry and  
inspection can be accomplished.*

## ADMINISTRATIVE SEARCH WARRANTS UPHELD

- State v. Burke ( 1990, CT App. Court) Admin. search warrant upheld for fire inspection. Cites Camara v. Municipal Court, (1967, U.S. Supreme Court):  
“Probable cause to issue a warrant to inspect for safety code violation exists if reasonable legislative or administrative standards for conducting an area inspection are satisfied.”

## Area Inspection Programs

The U.S. Supreme Court has held:  
Validly enacted and properly conducted area code inspection programs are **reasonable searches**.

## INSPECTION PROCESS ENFORCEMENT

- An administrative search warrant is similar to a search and seizure warrant, except:
  - No seizure takes place
  - There is no requirement to show probable cause that a violation exists.
- All that must be demonstrated to a judge is that the official:
  - has a lawful right to inspect and
  - the premises is within your jurisdiction.

## INSPECTION PROCESS ENFORCEMENT

- The administrative warrant affidavit and application is a simple form to complete.
- It must be signed by two co-affiants and sworn to or affirmed in the presence of a judge of the superior court.
- Preparation of the affidavit is not complex, nor should it be.

## **INSPECTION PROCESS ENFORCEMENT**

The following elements are to be written into every affidavit:

1. The two affiants' credentials and credibility.
2. The authority to inspect.
3. The locations to be inspected.
4. What the inspection is intended to determine.
5. Why are you requesting the warrant, including efforts to obtain voluntary compliance.

## **REVIEW OF WARRANT**

- A state prosecutor must review all administrative search warrants before submitted to a judge.

## **DRAFT THE APPLICATION**

- You will submit for review to the prosecutor.
- If the application is approved by a prosecutor, it must be taken to the judge for review.
  - Remember, both affiants must go together to apply for the warrant and to swear or affirm before the reviewing judge.

## **AFTER THE WARRANT IS SIGNED**

- Right of entry for inspection purposes overrides objection of owner/occupant.
- Warrant must be served in 10 days or less unless Judge specifies shorter time.
- Police officer should accompany inspector for safety.
- Entry limited to those agencies on affidavit.
- Return should be sent to clerk within reasonable time of search.

## CT STATE BUILDING CODE



## PHOTOS



- Remember to take notes for the photos: who took the photos, what they depict and the address that you are taking the photos of along with the date/time of the picture.

## About your files:



- General rule: If you write it, be prepared to have it reviewed. State laws must be consulted for applicable disclosure laws.
- Freedom of Information laws generally require disclosure of your files, however some items may be closed as confidential. Prior to disclosure, seek the opinion of the local prosecutor on disclosure of records or documents in or subject to a criminal investigation or pending case.

And, also seek the opinion of municipal or local counsel on all other disclosure concerns.

## ABATEMENT:



- **CITING THE OWNER:**
  - The identity of the owner should be found on the municipal land records **NOT** the assessor's card.
  - Get a certified copy of the deed for you file as proof ownership.
  - Owners should be listed with full name on order.
  - Please be aware that if the owner is a business, estate, corporation or partnership different information is required.

## CT SBC BUILDING ORDER SET

Find at - <http://www.ct.gov/dcs/cwp/view.asp?a=4447&q=522242>

- 113 Notice of Violation and Order to Abate
- 114 Stop Work Order
- 115 Notice of Unsafe Structure
- 116 Notice of Imminent Harm, Order to Vacate and Posting of Unsafe Structure
- Notice of Referral for Criminal Prosecution

### SBC 113 Violations

- SBC 113.1 states it shall be unlawful for any person firm or corporation to erect, construct, alter, extend, repair, move, remove, demolish or occupy any building, structure or equipment regulated by this code, or cause same to be done, in conflict with or in violation of the SBC.

### SBC 113.1

#### Notice of violation

- Authorizes the BO to serve notice of violation or order on the person responsible for violation of the code, or of a permit or certificate issued under the code.
- Such order **shall** direct the discontinuance of the illegal action or condition and the abatement of the violation.



### SBC 113.2.1

#### Written notice

- The notice of violation **shall be in writing and shall be given** to the owner of the property involved, or to the owner's agent or to the person doing the work.





### 113.3 Prosecution of violation.

- If the notice is not complied with promptly, the **BO is authorized to request the legal counsel of the jurisdiction to institute the appropriate proceeding at law** as well as the appropriate proceeding in **equity** to restrain, correct or abate such violation or to require the removal or termination of the unlawful occupancy or of the order or direction made pursuant thereto.



### SBC 114 Stop work order.

- The BO is authorized to issue a **stop work order** whenever the BO finds any work regulated this code being performed in a manner either contrary to the provisions of this code or dangerous or unsafe.
- **Stop Work Order template now available for use in DPS approved format.**

## SBC 114.2

### Issuance of stop work order.

- The order **shall be in writing and shall be given** to the owner, owner's agent or the person doing the work.



## SBC 115: Unsafe structures and equipment



- **Unsafe Structure Order template now available for use in DPS approved format.**
- **The BO shall** deem structures or equipment an unsafe condition which are or become:
  - Unsafe
  - Insanitary
  - Deficient because of inadequate means of egress, inadequate light and ventilation

## SBC 115: Unsafe structures and equipment, cont.

- Can constitute a fire hazard



- Or are otherwise dangerous to human life or public welfare
- Or that involve illegal or improper occupancy or inadequate maintenance.

The BO **shall** cause a report to be filed on an unsafe condition. SBC 115.2

## SBC 115: Unsafe structures and equipment, cont.

- The unsafe structure **shall** be taken down and removed or made safe, as the BO deems necessary.
- A **vacant** structure that is not secured against entry **shall** be deemed unsafe. Enforcement of this provision can be a tremendous help to community safety.



### SBC 115.3

#### Notice of Unsafe Structure.

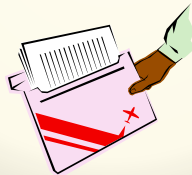
- If an unsafe condition is found, the **BO shall serve** on the owner, agent or person in control of the structure a written notice that describes the condition and specifies the abatement required, or demolition within a stipulated time.
- Requires the person notified declare immediately to the BO acceptance or rejection of the terms of the order.



### SBC 115.4

#### Method of service

- The unsafe structure or equipment order is deemed properly served if delivered to owner personally, sent certified or registered mail at last known address return receipt requested, or any other manner prescribed by law.



## Delivery:

- Although proof of delivery is not specifically required by the SBC, prosecution of a violation requires that the state prove the person knowingly violated the provision of the code.
- Proof of delivery is required to prove knowing violation of the order.



## Proof of Service:



- Service is an essential element that we must prove in a criminal prosecution. It must be proved with documentation.
- Service must be in accordance with the code provision. If not particularly proscribed, service can be by other provable method.



## SBC 115.6.1 Authority to seal equipment.

- The BO or his authorized representative **shall** in case of emergency have the authority to seal out of service immediately any unsafe equipment or device regulated by the SBC.
- The BO or his representative **shall** plainly identify it as out of service and indicate the reason.

## SBC 116 Emergency measures



- **Imminent danger of failure or collapse** of a building or structure or any part thereof which endangers human life, or
- **Has fallen and human life is endangered** by the occupation.
- BO is authorized and empowered to order and require the occupants **vacate** forthwith.

## SBC 116

### Emergency measures, cont.

- The notice **shall** read: "This structure is unsafe and its occupancy has been prohibited by the building official."
- The notice **shall** be posted at each entrance of the building or structure.
- Entry after posting is unlawful without BO permission which may be granted for purposes of required repair or demolition.

## SBC 116

### Emergency measures, cont.



- SBC 116.2 **Temporary safeguards.**

When in the opinion of the BO there is imminent danger to human life due to an unsafe condition, the BO **shall** cause the necessary work to be done to render such building or structure temporarily safe, whether or not the legal procedure described in Section 115 has been instituted.

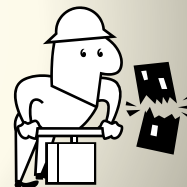
## SBC 116.4

### Emergency work.

- When imminent danger or an unsafe condition requiring immediate action exists and the owner cannot be located or refuses or is unable to expeditiously render the premises safe, the BO **shall** order the employment of necessary labor and materials as expeditiously as possible to make the premises temporarily safe up to and including demolition.

## CONDEMNATION:

- When it has been determined the building is no longer safe to occupy a condemnation order is issued, the Uniform Relocation Act applies.
- The occupants relocation costs **MAY** be recouped but as permitted under state law.
- May be ordered where necessary to protect life safety in cases of emergency.



## SBC 116.5

### Costs of emergency work.

- The costs incurred in performance of emergency repairs or demolition under the order of the BO shall be paid by the treasury of the town, city or borough.
- The legal counsel for the town, city or borough shall institute appropriate action against the owner to recover.



## BE CAREFUL IN ADDRESSING THE ORDER

- First obtain the owner name from the deed for the property. Mirror the deed.
- If abating an occupant or other person, be careful to obtain the proper names from a reliable source.
- If a corporation, LLC or general partnership, check the exact name with proper filing authority in your state.



## ADDRESSING THE ORDER

Mirror the deed...

- **PERSONS:** example - If deed states the grantees (owners) are John Owner and Lilly Owner, order should have both full names.

John Owner  
Lilly Owner  
123 Owner's Court  
No Name, CT 06000\*



\*One order is generally sufficient for multiple owners only if owners live at same address. Check with your local prosecutor for these matters.

## ADDRESSING THE ORDER

- **ESTATES:**
  - The deed may contain the name of a person who is deceased, or their estate.
  - Check with the Probate Court to determine the person responsible for the estate of the deceased owner. (i.e. Executor or an heir).
  - Get certified copy of appointment document.
  - Cite responsible person for the estate.
  - Consider circumstances

## CORPORATE AND PARTNERSHIP OWNERS

- CORPORATIONS (Corp.s and Inc.s)
- LIMITED LIABILITY CORPORATIONS (LLCs)
- PARTNERSHIPS
- LIMITED LIABILITY PARTNERSHIPS (LLPs)
  - DOMESTIC (Registered in your state)
  - FOREIGN (Registered outside of your state)



GENERALLY CORPORATIONS DOING BUSINESS IN A STATE  
MUST BE REGISTERED WITH THAT JURISDICTION'S SECRETARY OF STATE.

STATE LAWS VARY ON LIABILITY OF OFFICERS SO CHECK WITH YOUR  
LOCAL JURISDICTION



## CORPORATIONS, THEIR AGENTS AND CRIMINAL LIABILITY

- **Corporations and their agents may be held liable for their acts including failure to comply with an order of a code official.**
- **Example: Connecticut General Statute Sec. 53a-11. Criminal liability of an individual for conduct in name or behalf of corporation or limited liability company.** A person shall be criminally liable for conduct constituting an offense which such person performs or causes to be performed in the name of or in behalf of a corporation or limited liability company to the same extent as if such conduct were performed in such person's own name or behalf.

## ADDRESSING THE ORDER

Mirror the deed...

- CORPORATE OWNER (Ex.)
  - Deed says XYZ, Inc. is the owner.
  - Enter XYZ, Inc. in your search.
  - Identify the principal of the corporation = the PRESIDENT of the corporation.
  - Obtain residence address for service, if available.
  - Print copy of your search page or keep document for your file.

## ADDRESSING THE ORDER

Mirror the deed...

- LIMITED LIABILITY CORPORATIONS
  - Deed says XYZ, LLC.
  - Enter XYZ, LLC in your search.
  - Identify the principal of the LLC = the MEMBER or Managing Member of the LLC.
  - Obtain residence address for service.
  - Print copy of your search page or keep document for your file.

## ADDRESSING THE ORDER

Mirror the deed...

- CORPORATION (ex.)
- LLC ( ex.)

I. V. League, Pres.

XYZ, Corp.

123 Big House Ave.

No Name, Your State

00000

I.V. League, Member

XYZ, LLC

123 Big House Ave.

No Name, Your State

00000

## Remember...

- Code issues do not arise just between 9:00 – 5:00, when everyone who could help you are in their offices.
- You need to have a plan for when this circumstance happens, who to contact, their emergency numbers, what the chain of supervision shall be and who makes the final determination.
- **WHY? BECAUSE IT WILL HAPPEN!!!!**



## Referrals:

Everyone is busy, become familiar with and utilize the other agencies in your town to accomplish the goal.

- Building
- Police
- Health
- Housing
- Planning and Zoning
- Animal control
- Legal



## Other concerns:

- Always be mindful of where you are.
- Various conditions/violations that you find may not be a result of purposeful disregard of your order. For example, there are mental health conditions that are a factor in some of the conditions you will find. For example, collapsing house with excessive combustibles which may be a result of hoarding, a mental health disorder.



## UNLESS AUTHORIZED BY LAW, NEVER, NEVER, NEVER...



- Tell anyone you will have them arrested.
- Tell anyone you will get an arrest warrant.
- Tell anyone you will get a search warrant.
- Tell anyone that you must be allowed on the property.
- Tell anyone what the prosecutor may or may not do with the case.
- Excuse someone from a court date.
- Tell them that you will get their case dropped.

## CONTACT INFORMATION:

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Thank you.

