



FIRE OFFICIAL 2016 ENFORCEMENT REVIEW



FIRE OFFICIAL 2016 ENFORCEMENT REVIEW OBJECTIVES

WHAT WE ARE GOING TO COVER:

- ♦ GOALS
- ♦ AUTHORITY
- ♦ CIVIL vs. CRIMINAL COURT
- ♦ WORKING WITH YOUR STATE PROSECUTOR
- ♦ INSPECTIONS, RIGHT OF ENTRY AND ADMINISTRATIVE SEARCH WARRANTS
- ♦ ABATEMENT PROCEDURES
- ♦ ARREST WARRANT PREPARATION



GOALS OF ENFORCEMENT

1. COMPLIANCE

Using the abatement process.

2. CORRECT HUMAN BEHAVIOR

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



WHERE DOES YOUR AUTHORITY COME FROM?

- ◆ U.S. and CT State Constitution
- ◆ Connecticut General Statutes (CGS)
 - Connecticut State Fire Safety Code
 - Connecticut Fire Prevention Code
 - Other state adopted fire codes and regulations
- ◆ U.S. and State of CT Court Opinions
- ◆ DAS, DCS, Office of the State Fire Marshal
 - OSFM Directives and Addendums



Delegation of Authority CGS § 29-298(d)

- ♦ Except as provided in this subsection, each certified deputy fire marshal, fire inspector or other inspector or investigator shall act under the direction and supervision of the local fire marshal while enforcing the provisions of this part. The local fire marshal may authorize, in writing, such deputy fire marshal or fire inspector to issue any permit or order under the provisions of this part or to certify compliance with the provisions of this part, on his behalf. If no local fire marshal has been appointed in accordance with the provisions of section 29-297, the deputy fire marshal or acting fire marshal shall assume the authority granted to the local fire marshal under this section.



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 when:
(but not limited to)*

- ♦ Violation contributes to a fire, fatality or injury.
- ♦ Violations cause an delay in emergency response.
- ♦ Reckless conduct due to code violation.
- ♦ Lack of Abatement (most common).



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.

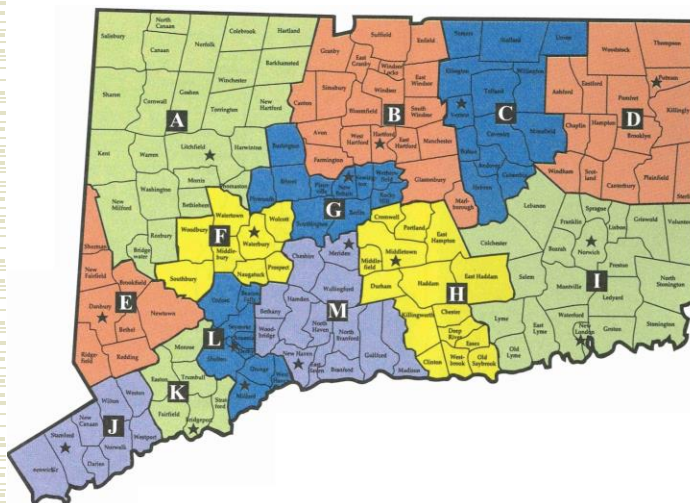


WORKING WITH YOUR STATE PROSECUTOR





JUDICIAL DISTRICTS in CONNECTICUT



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

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DCJ HOUSING PROSECUTOR ASSIGNMENTS AS OF 1/2016



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Before you get there...

*Two **fundamental questions** must be answered:*

- a. Do I have jurisdiction?
- b. Does the code apply?



What does this mean?

- ◆ Jurisdiction: Do I have authority here geographically?
- ◆ Code Application: Is this the type of structure that is covered by code or by state statute?



ARREST WARRANT PREPARATION



ARREST WARRANT PREPARATION

YOU'VE BEGGED

YOU'VE PRAYED





Stress Reduction Kit

**Bang
Head
Here**

Directions:

1. Place kit on FIRM surface.
2. Follow directions in circle of kit.
3. Repeat step 2 as necessary, or until unconscious.
4. If unconscious, cease stress reduction activity.



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

29-295

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

NOT THE CSFSC OR
NFPA



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

- ◆ 1ST 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

- ♦ 2ND 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

- ♦ 3RD 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

- ◆ 4th 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

- ◆ 5TH Paragraph: ABATEMENT ORDER
- ◆ On, [DATE OF ABATEMENT ORDER], a Connecticut State Fire Safety Code Abatement 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

- ◆ 6TH 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

- ◆ 7TH 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 fire code violations still existed:



AFFIDAVIT

- ◆ 7th Paragraph (Continued): LIST VIOLATIONS
- ◆ Provide a list of each of the outstanding violations. Each entry should include the CSFSC/NFPA 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

- ◆ 8TH 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

- ◆ 9TH 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

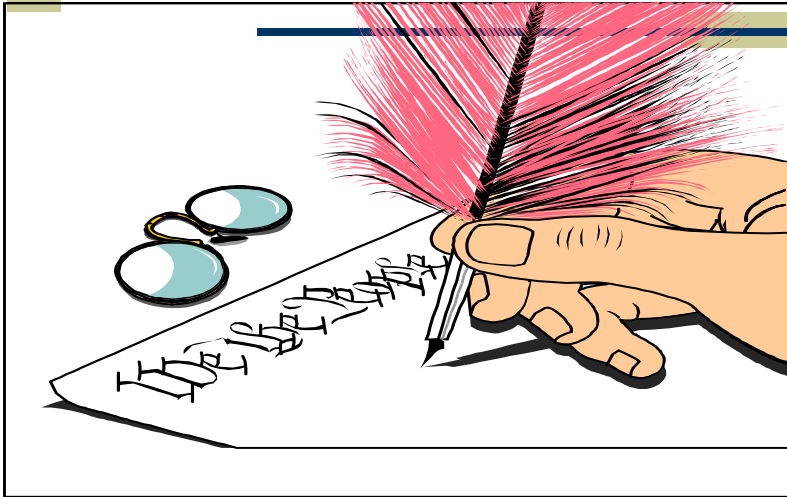


INSPECTIONS, RIGHT OF ENTRY AND ADMINISTRATIVE SEARCH WARRANTS





The United States Constitution

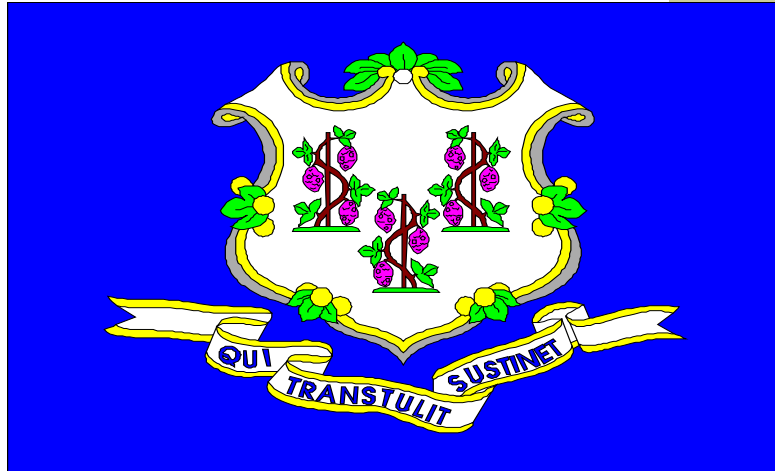


Fourth Amendment

- ♦ 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.”



Suppression of Evidence

- ♦ Sanction for violation of the constitution
- ♦ Applied to federal officers since 1914
- ♦ In 1960 – “silver platter” taken away



The Exclusionary Rule 1914-1961

1961 – Mapp v. Ohio

- ♦ Deter illegal police behavior
 - Really only works with intentional or reckless misconduct
- ♦ Enhance the imperative of judicial integrity ?



NO GOOD FAITH EXCEPTION

♦ Federal rule

- Suppression is not required if officers, in good faith, rely on a finding of probable cause made by a neutral and detached magistrate.

♦ Connecticut rule

- The good faith exception **does not apply** in Connecticut.



Inspection Authority

♦ C.G.S. 29-305(a)

- Each local fire marshal and the State Fire Marshal, for the purpose of satisfying themselves that all pertinent statutes and regulations are complied with, **may inspect** in the interests of public safety all buildings, facilities, processes, equipment, systems and other areas regulated by the Fire Safety Code and the State Fire Prevention Code within their respective jurisdictions.



Inspection Authority

◆ C.G.S. 29-305(b)

- Each local fire marshal **shall inspect** or cause to be inspected, at least once each calendar year or as often as prescribed by the State Fire Marshal ... in the interests of public safety, all buildings and facilities of public service and all occupancies regulated by the Fire Safety Code within the local fire marshal's jurisdiction...



Inspection Authority

◆ C.G.S. 29-305(b) (continued)

- except residential buildings designed to be occupied by one or two families which shall be inspected, upon complaint or request of an owner or occupant, only for the purpose of determining whether the requirements specified in said codes relative to smoke detection and warning equipment have been satisfied.



Inspection Authority

◆ C.G.S. 29-305(d)

- Upon receipt by the local fire marshal of information from an authentic source that any other building or facility within the local fire marshal's jurisdiction is hazardous to life safety from fire, the local fire marshal shall inspect such building or facility.



Inspection Authority

◆ C.G.S. 29-305(d)

- Such local fire marshal or a designee **shall have the right of entry** at all reasonable hours into or upon any premises within the local fire marshal's jurisdiction for the performance of the fire marshal's duties except that occupied dwellings and habitations, exclusive of common use passageways and rooms in tenement houses, hotels and rooming houses, may only be entered for inspections between the hours of 9:00 a.m. and 5:00 p.m., except in the event of any emergency requiring immediate attention for life safety, or in the interests of public safety.



Area Inspection Programs

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

**Warrantless searches are
presumed**

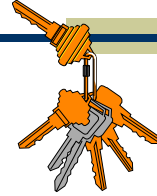


UNREASONABLE



Exceptions to Warrant Requirement

- ♦ **Consent**
- ♦ **Plain view**
- ♦ **Exigency**
- ♦ Terry (stop & frisk)
- ♦ Search incident to arrest
- ♦ Automobile
- ♦ Inventory



Consent

- Voluntary
- Not the result of duress or coercion
 - Saying yes freely
 - More than mere acquiescence
- Burden of proof on State





Factors to Show 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
- 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



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 _____ (insert) who are members of the Division of Criminal Justice, and _____ 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 witnesses)



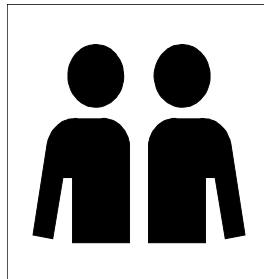
Consent Considerations

- ♦ Consent can be withdrawn at any time
- ♦ Consent can be limited
- ♦ Consent can't be forced – as threat to get warrant



Third Party Consent

- ♦ Mutual or joint use
- ♦ Common authority
- ♦ Sharing assumes the risk sharer will consent
- ♦ United States v. Matlock





Third Party Consent: “Apparent Authority”

- ♦ Warrantless entry is valid when based on consent of third party who the government official, at time of entry, reasonably believe possesses common authority over the premises but in fact does not.
- ♦ Based on reasonably objective belief.
- ♦ Each case judged on its own facts.



Third Party Consent

- ♦ Not from Landlord (even with a right of entry clause in the lease)
- ♦ Not from a non-resident owner





Third Party Consent

Not from a
Hotel clerk



Plain View

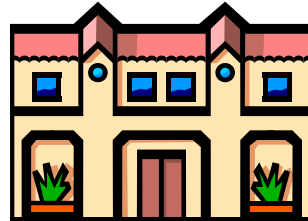
- ◆ “Lawful Initial Entry”
 - Entry onto property was lawful, or condition is visible from a public area.
- ◆ “Immediately Apparent”
 - At time of viewing, there is probable cause to associate the property in plain view with illegal activity without further investigation.



Reasonable Expectation of Privacy

- ♦ Hallway of apartment building

- Mutual use and control by tenants
And owner
- Multi-family dwelling
- Visitors
- Delivery people
- Trades people



- ♦ Common hallway - no expectation of privacy



Reasonable Expectation of Privacy

- ♦ Common porch area – no privacy

- ♦ 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

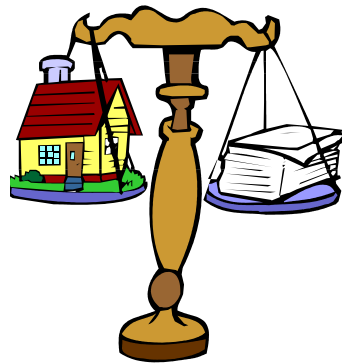
Abandoned Property

Private Party Searches



Curtilage or Open Field

1. Distance from the house
2. Fenced in area around the house
3. Associated with the intimate activities of the house
4. No privacy fences





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 on open driveway could be ticketed
 - Diminished expectation of privacy
 - State v. Brucuglio



Emergency (Exigent) Searches

- ♦ Emergency doctrine – danger to life
- ♦ Escape
- ♦ Destruction of evidence
 - State v. Guertin

911



Emergency Doctrine

- ♦ State v. Klauss – shotgun pumped
- ♦ Reasonable belief a person needs immediate aid
- ♦ Not probable cause standard
- ♦ Imminent and substantial threat



**“No” is not a bad word.
“Why?” is a fair question.**

Be prepared to answer questions about your authority in a respectful and professional manner.



INSPECTION WHERE ENTRY REFUSED

U.S. SUPREME COURT AND CT APPELLATE COURT AUTHORITY TO INSPECT:

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.”



Administrative Search Warrant Applications

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



Administrative Search Warrant Applications

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.



Administrative Search Warrant Applications

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.



Administrative Search Warrant Applications

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





Administrative Search Warrant Applications

- ◆ You will draft an application and forward it 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.



Administrative Search Warrant Applications

Once the administrative search warrant is secured, have the warrant executed with assistance from your local police department.

Execution should be no later than 10 days after the warrant is issued.



ABATEMENT PROCEDURES

THE ABATEMENT PROCESS:

- ◆ Authority to abate is derived from Connecticut General Statute 29-306. PLEASE REFER TO STATUTE HANDOUT
- ◆ The procedures to abate are derived from the Office of the State Fire Marshal's Directive #3.
 - OSFM Directives 1-10 may be found online at <http://www.ct.gov/dcs/cwp/view.asp?a=4219&q=494804>



OSFM DIRECTIVE # 3

- ◆ Revised (MAKE SURE YOU HAVE THE RIGHT FORM)
- ◆ Provides a uniform procedure for abatement of violations.
- ◆ Includes sample forms for notification to the owners, referral for criminal prosecution, inspection report form and requests for modification and extension.



Initial Phase

- Inspection / Documentation
- Notification of Violations / Abatement Order (Send Inspection Report)
- Plan for Compliance
 1. Correction
 2. Time Extensions
 3. Modifications
- Appeal decision of FM



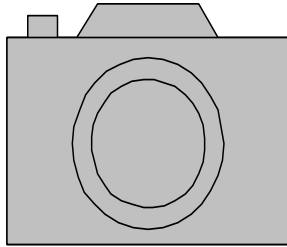
INSPECTION PROCESS ENFORCEMENT

THE ABATEMENT PROCESS:

- ◆ The **initial inspection** is conducted.
- ◆ A **notice** of fire and life safety hazards is issued to the owner or occupant.



PHOTOS



- ♦ OSFM guidelines.
- ♦ Remember to identify who took each photo, when it was taken, where and what the photo was taken to show.



ABATEMENT:

- ♦ NOTICE – USE AS PROVIDED BY OSFM
 - MUST IDENTIFY THE VIOLATIONS WITH CODE SECTIONS AND LOCATION OF VIOLATION.
 - DATE AND TIME OF THE INSPECTION.
 - MUST CITE THE PROPERTY OWNER/OCCUPANT.
 - MUST STATE THE TIME FRAME OF ABATEMENT.
 - LAW, AUTHORITY AND PENALTY.
 - REMEDY.
 - RIGHT OF APPEAL.



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.



ABATEMENT:

POSSIBLE OWNERS OF PROPERTY:

- Persons – cite all of record.
 - DBAs (“doing business as”) – check Town Clerk
- Estates – check Probate Court
- Corporations – check CT SOS.
- Partnerships (General) – check CT SOS.
- Trusts
- Condominium Association Board of Directors (common areas only)



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 housing matters.



ADDRESSING THE ORDER

Mirror the deed...

- ♦ 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.



CORPORATE AND PARTNERSHIP OWNERS

- ♦ CORPORATIONS (Corps. and Inc.s)
- ♦ LIMITED LIABILITY CORPORATIONS (LLCs)
- ♦ PARTNERSHIPS
- ♦ LIMITED LIABILITY PARTNERSHIPS (LLPs)
 - DOMESTIC (Registered in CT)
 - FOREIGN (Registered outside of CT)

ALL CORPORATIONS DOING BUSINESS IN CT
MUST BE REGISTERED WITH THE STATE OF
CT SECRETARY OF STATE (SOS).



ABATING CORPORATIONS CGS 53a-11

- ♦ **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...

- ◆ First obtain the owner name from the deed for the property.
- ◆ If a corporation, LLC or general partnership, check the exact name with the CT Secretary of State – CONCORD SEARCH

www.concord-sots/ct.gov



ADDRESSING THE ORDER

Mirror the deed...

- ◆ CORPORATE OWNER (Ex.)
 - Deed says XYZ, Inc. is the owner.
 - Enter XYZ, Inc. in CONCORD search.
 - Identify the principal of the corporation = the PRESIDENT of the corporation. (NOT AGENT FOR SERVICE!)
 - Obtain residence address for service.
 - Print copy of CONCORD page for your file.



ADDRESSING THE ORDER

Mirror the deed...

- ◆ LIMITED LIABILITY CORPORATIONS
 - Deed says XYZ, LLC.
 - Enter XYZ, LLC in CONCORD search.
 - Identify the principal of the LLC = the MEMBER or Managing Member of the LLC (NOT AGENT FOR SERVICE).
 - Obtain residence address for service.
 - Print copy of CONCORD page for your file.



ADDRESSING THE ORDER

Mirror the deed...

- | | |
|------------------------|--------------|
| ◆ CORPORATION
(ex.) | ◆ LLC (ex.) |
|------------------------|--------------|

I. V. League, Pres.
XYZ, Corp.
123 Home Road
No Name, CT 06000

I.V. League, Member
XYZ, LLC
123 Home Road
No Name, CT 06000



Proof of Service:

- ♦ Service is an *essential element* that we must prove in a criminal prosecution. It must be proved with documentation.
- ♦ Service can be proven through certified mail return receipt requested or other provable methods.
- ♦ Service can also be completed by hiring a Marshal to serve the owner/agent. Be sure to get the Marshal's service information, that is written proof who the marshal served.
- ♦ Pick a service method which gets the order to the responsible party as quickly as necessary to abate the fire hazards.



REQUESTS FOR MODIFICATION AND/OR EXTENSION

- ♦ Only the property owner or authorized person may request a modification/extension of time regarding the abatement.
- ♦ If compliance has not been reached by the date of the re-inspection it is important to know whether these requests have been made.



FOLLOW-UP PHASE:

- ◆ After the appropriate time frame has passed, you must conduct a **re-inspection** of the premises to determine compliance. Keep in mind, the rules of entry still apply.
- ◆ If violations not corrected, no extension of time is filed, or no modifications are filed, **refer to court.**



Notice of Referral For Criminal Prosecution:

- ◆ Per Directive #3.
- ◆ Prepare and Send the Notice of Referral for Criminal Prosecution to the owner certified mail return receipt requested or other provable method of service.
- ◆ Attach notice of fire and life safety code.
- ◆ Attach latest inspection report.
- ◆ Prepare and submit an Arrest Warrant Application to the appropriate Assistant State's Attorney having jurisdiction.
- ◆ We will review and either sign it or request corrections. If signed, it will be sent to the judge for review.



OSFM Directive #10

- ◆ OSFM Policy Directive #10 applies to CGS 29-306(c), Effective May 1, 2009
 - Restricting use of a building by FM OR POLICE OFFICER order to vacate IF
 - Immediate hazard
 - 5 deadly sins
 - Correction > 4 hours
 - SFM to: Uphold, Modify or Reverse Order
 - After hours CSP MS 1-800-842-0200



Policy Directive #10, cont'd

- ◆ Name of Establishment
- ◆ Address
- ◆ Name of official issuing the order
- ◆ Circumstances
- ◆ If an incident occurred
- ◆ Injuries/fatalities



Relocation

- ◆ CGS 8-266, et seq.
 - Uniform Relocation Act applies in circumstances involving removal of persons from use or occupancy of buildings.
 - Affixes to shut down of a premises under CGS 29-306.
 - Requires referral to Uniform Relocation Act administrator for your town, city or district for assistance to affected occupants.



About your files:

- ◆ Discovery:
 - Procedure that allows the defense to have copies of information in our file.
 - Therefore, **EVERYTHING** may be seen by the defense.
- ◆ Consider creating a system so that anyone in your office can access the needed information.
- ◆ Maintain your files with the assumption that you and your file may have to go to court.



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



Other concerns:

- ◆ Always be mindful of media disclosures.
- ◆ Follow Freedom of Information Laws.
- ◆ Various conditions/violations that you find may not be a result of purposeful disregard of your order, i.e., there are mental health conditions that are a factor in some of the conditions you will find. For example, CGS 29-306(a) and (c) apply to excessive combustibles especially liable to fire which may be a result of hoarding; a mental health disorder.



Never, never, never...

- ◆ tell anyone you will arrest them unless you are a police officer with probable cause.
- ◆ tell anyone you will obtain an arrest warrant or a search warrant; that is up to a judge.
- ◆ tell anyone that you must be allowed on the property without legal right to entry.
- ◆ tell anyone what the prosecutor may or may not do with the case. You do not speak for us.
- ◆ excuse someone from a court date.
- ◆ tell anyone you will get their case dropped.



MAKE IT SAFE.
STAY SAFE.



THANK YOU