



NOVASCOTIA
PUBLIC PROSECUTION SERVICE

DOCUMENT TITLE:

ARREST WARRANTS – COMMON PROTOCOL

NATURE OF DOCUMENT:	PROTOCOL
FIRST ISSUED:	JANUARY 30, 2011
LAST SUBSTANTIVE REVISION:	JANUARY 30, 2011
EDITED / DISTRIBUTED	JANUARY 30, 2011 [EFFECTIVE APRIL 4, 2011]

NOTE:

THIS POLICY DOCUMENT IS TO BE READ IN THE CONTEXT PROVIDED BY THE **PREFACE** TO THIS PART OF THE MANUAL.

CERTAIN WORDS AND PHRASES HAVE THE MEANINGS ESTABLISHED IN THE **“WORDS & PHRASES”** SECTION OF THIS PART OF THE MANUAL.

COMMON PROTOCOL
FOR THE EXECUTION AND ADMINISTRATION OF ARREST WARRANTS
EITHER ISSUED IN, OR ENDORSED FOR, EXECUTION IN THE PROVINCE OF NOVA SCOTIA
Released January, 2011
Effective April 4, 2011

Background

On December 5, 2006 Justice Merlin Nunn issued the report of the public inquiry into the circumstances surrounding the release of a youth offender who was convicted under the YCJA, and whose release resulted in a fatal car crash. Recommendation #19 of that report stated:

The Department of Justice and all of its justice partners, including police, sheriffs, court administrative staff, and the Public Prosecution Service, and others as necessary, should meet to determine a common protocol on the execution and administration of arrest warrants.

A committee of justice partners was convened to analyze best practices to resolve gaps in knowledge, training, practices, and procedures in dealing with arrest warrants. The committee considered: 1) an accurate list of issues that require resolution; 2) best practices or standard procedures that are fair and equitable to all justice partners; and 3) steps to go toward achieving resolution on outstanding issues.

Parties to this protocol

Parties to this protocol include Sheriff Services, Court Services, Public Safety and Security, Correctional Services, Municipal Police, RCMP, and the Public Prosecution Service. Principles of judicial independence do not permit the judiciary to be a party to this protocol; however the judiciary has been consulted with respect to the determination of this protocol.

Principles

The following consensus decisions form the basis of this protocol:

1. Warrants issued by the Provincial Court in the Province of Nova Scotia will be executed on a province-wide basis.
 - 1.1 There exists no legal authority for using radius restrictions pertaining to distance as a determinant as to whether a person is arrested or not arrested on a warrant. All warrants issued by a Provincial Court in Nova Scotia are valid province-wide.
 - 1.2 There is no legal requirement to return the accused to the Court where the warrant was issued. An accused arrested on a Provincial Court warrant can be taken to any location of the Provincial Court.
 - 1.3 There is no jurisdiction for a Judge to direct that an individual be brought back before the specific Judge who issued the warrant, except in the case of Witness Warrants.
2. A warrant issued in the Province of Nova Scotia is deemed executed when any police officer arrests an individual within the Province of Nova Scotia on that warrant, whether or not an individual is brought before a Justice after arrest. The individual cannot be rearrested on that warrant.
3. The protocol addresses endorsed and unendorsed warrants issued by Provincial Court.
4. Parties to this protocol will take the lead in identifying best practices and training issues associated with required changes within their respective functions, to accommodate this protocol.
5. This protocol addresses warrants issued within the Province of Nova Scotia and issued in another province, which are endorsed pursuant to s. 528 of the *Criminal Code*.

Definitions

For purpose of this protocol, the following definitions of the following terms will apply:

Originating Court

Means the Court location where the arrest warrant was issued and/or where the criminal charges underlying the arrest warrant are to be tried;

Crown A

Means the Crown Attorney's Office which has carriage of the criminal proceedings at the Originating Court in relation to which the arrest warrant was issued;

Crown B

Means the Crown Attorney who appears in the Receiving Court, being the location to which the arrested individual was brought;

Endorsed Warrant

Means an arrest warrant upon which the issuing Justice has, pursuant to s. 507(6) of the Criminal Code, authorized the release of the arrested individual by the police;

Unendorsed Warrant

Means an arrest warrant upon which the issuing Justice has not authorized the release of the arrested individual by the police;

J .P. Centre

Means the Justice of the Peace Centre located at 277 Pleasant Street in Dartmouth, Nova Scotia where Presiding Justices of the Peace may issue arrest warrants via application made in person, telephone or facsimile transmission and conduct judicial interim release (bail) hearings via telephone or video-link;

Judge A

Means the Judge or Justice of the Peace who issued the arrest warrant;

Judge B

Is the Judge presiding in the Receiving Court or the Justice of the Peace at the J.P. Centre before whom the arrested individual appears, if the initial appearance after arrest is not at the Originating Court;

Police A

Means the law enforcement agency or particular detachment of the RCMP which sought and obtained the arrest warrant from a Judge at the Originating Court or from a Justice of the Peace at the J.P. Centre;

Police B

Means the law enforcement agency or specific detachment of the RCMP which arrested the individual on an outstanding arrest warrant when such law enforcement agency or specific detachment of the RCMP is different than Police A;

Receiving Court

Means the Court location to which the arrested individual is brought if that location is different than the Originating Court.

Common procedures for consistent practice

Parties to this protocol agree to the common procedures outlined at the tabs relevant to each justice partner.

Judge A

Authority of the Provincial Court Judge or Presiding J.P. who hears the arrest warrant application

- Issue warrant.
- Consider whether the warrant is endorsed or unendorsed.

OR

- Decline issuance of the warrant.

Note:

1. There is no legal requirement to return the accused to the Court where the warrant is issued. An accused arrested on a Provincial Court warrant can be taken to any location of the Provincial Court.
2. Except in the case of witness warrants, there is no jurisdiction for a Judge to direct that an accused individual be brought back either before the specific Judge who issued the warrant or to a specific location of the Court (R. v Davids on [2004] A.J. No. 1424 Alta. C.A.).

For questions related to the role of the Provincial Court Judge or presiding Justice of the Peace, contact:
The Chief Judge or Associate Chief Judge of the Provincial Court.

Judge B

Authority of the Provincial Court Judge before whom the arrested individual is brought

- Release:
 - Determine the appropriate release order, authorizing release of the arrested individual.
 - Determine appropriate courtroom location, court number, day, date and time for next appearance.

OR

- Remand:
 - Remand individual to a correctional facility and direct an appearance at Originating Court on a future date.
 - Remand individual to a correctional facility and direct appearance at Receiving Court on a future date.

Note:

1. Care should be taken when the arrest of an individual occurs both in respect of an arrest warrant and in respect of new charges where the Originating Court and the Receiving Court are at different locations. In those situations care is required to ensure that both the individual and the Crown are aware that the individual may be remanded to appear in respect of all matters at the Receiving Court or remanded to appear in the Originating Court in respect of the arrest warrant matter and at the Receiving Court in respect of the new charges. Appearances however in different Court locations will need to be scheduled on different days.

For questions related to the role of the Provincial Court Judge, contact:
The Chief Judge or Associate Chief Judge of the Provincial Court

Judge B when Judge B is a Presiding Justice of the Peace at the J.P. Centre

**Authority of the Presiding J.P.
before whom the arrested individual is brought**

- Release:
 - Determine the appropriate release order(s), authorizing release of the arrested individual.
 - Determine appropriate courtroom location(s), court number, day, date and time for next appearance(s).

OR

- Remand:
 - Remand individual to a correctional facility and direct an appearance at Originating Court on a future date.
 - Remand individual to a correctional facility and direct appearance at Receiving Court on a future date.

Note:

1. When arrested individuals appear through the J.P. Centre after being arrested on both new charges and an outstanding arrest warrant issued at a Court location other than the Court location serving the place where the arrest occurred, it is more likely, in the event of remand, that the Presiding J.P. will order the next court appearance to be at the Receiving Court in respect of the new charges as well as the charges underlying the arrest warrant(s).
2. When the appearance is ordered to occur at the Receiving Court, as indicated in Note 1 above, the notices and documentation shall be provided and carried out by the J.P. Centre, the Originating Court and the Receiving Court in accordance with the provisions set out in item 7 of the Justice of the Peace Operational Procedures.
3. Care should be taken when the arrest of an individual occurs both in respect of an arrest warrant and in respect of new charges where the Originating Court and the Receiving Court are at different locations. In those situations care is required to ensure that both the individual and the Crown are aware that the individual can be remanded to appear in respect of all matters at the Receiving Court or remanded to appear in the Originating Court in respect of the arrest warrant matter and at the Receiving Court in respect of the new charges. Appearances however in different Court locations will need to be scheduled on different days.

For questions related to the role of the Provincial Court Judge or presiding Justice of the Peace, contact:
The Chief Judge or Associate Chief Judge of the Provincial Court

Unendorsed Warrant

- Enter warrant on CPIC, with a radius notation “province-wide”, unless the warrant is Canada-wide.
- Ensure there is a mechanism for 24/7 contact with agency to address warrant verification
- On notification by Police B of a warrant execution, forward a partially completed Warrant Execution Form to Police B for completion immediately on arrest processing.
- Forward a faxed copy of the warrant to Police B.
- Ensure a completed Warrant Execution Form is received back from Police B.
- Remove warrant from CPIC and advise PPS and Court of arrest.

Endorsed warrant

- Be prepared to provide courtroom location, court number, day, date and time for Police B to use on release documents. Allow sufficient time for travel to Originating Court and for documentation to be forwarded.
- Upon request from Police B, verify that warrant is valid.
- On notification by Police B of a warrant execution, forward the partially completed Warrant Execution Form to Police B.
- Forward a faxed copy of the warrant to Police B.
- Provide to Police B the courtroom location, court number, day, date and time for next appearance at the Originating Court
- Receive a faxed copy of the completed Promise to Appear or Recognizance from Police B.
- Add new appearance to Court docket.
- Follow up to ensure the original Promise to Appear or Recognizance is received, and forward to Originating Court prior to court date.

For questions related to the role of the police, contact:

Insp. Tony Dalton, Cape Breton Regional Police Service	563-5102
Chief Mark Mander, Kentville Police Service	678-3378
Supt. Bill Moore, Halifax Regional Police	490-4817
Sgt. Woody Woodfine, RCMP	426-0094

Unendorsed Warrant - Appearance in Receiving Court

- Arrest all individuals on warrants issued by the Provincial Court of Nova Scotia.
- Obtain verification from Police A that the warrant is valid.
- Request a faxed copy of the warrant from Police A.
- Complete the Warrant Execution Form and return to Police A immediately on arrest.
- Notify parent (as required under YCJA).
- Hold the individual for appearance in Receiving Court, or seek Remand.
- Ensure transportation is available and transport to Receiving Court.
- Present a copy of the warrant to Receiving Court.

Unendorsed Warrant - Appearance to be through the J.P. Centre via telecommunication

- Arrest all individuals on warrants issued by the Provincial Court of Nova Scotia.
- Obtain verification from Police A that the warrant is valid.
- Request a faxed copy of the warrant from Police A.
- Complete the Warrant Execution Form and return to Police A immediately on arrest.
- Notify parent (as required under YCJA).
- Request a telephone judicial interim release hearing by contacting the J.P. Centre in accordance with the procedures and documentary requirements prescribed in Item 6 of the Justice of the Peace Operational Procedures.
- Ensure release documents are provided to the accused in accordance with the J.P. Centre Operational Procedures set out in Items 8 and 9.
- If the arrested individual is remanded, ensure receipt of remand order from J.P. Centre and ensure transportation that same day to nearest Correctional Centre.

Endorsed warrant

- Obtain verification from Police A that the warrant is valid.
- Complete the Warrant Execution Form and return to Police A immediately on arrest.
- Request a faxed copy of the warrant from Police A.
- Request from Police A the courtroom location, court number, day, date and time to use on release documents.

- Release the individual with courtroom location, court number, day, date and time on release documents or if there are extenuating circumstances, i.e. New charges, attempt to flee etc., consult the Crown regarding having the individual held.
 - Fax the copy of the Promise to Appear or Recognizance to Police A and to the Originating Court.
 - Mail original Promise to Appear or Recognizance to Police A.
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Note:

1. When individuals are arrested under warrants of committal issued pursuant to S. 766 when a surety renders, transport the arrested individual to the prison nearest to the location where, under the recognizance, the accused was bound to appear.

For questions related to the role of the police, contact:

Insp. Tony Dalton, Cape Breton Regional Police Service	563-5102
Chief Mark Mander, Kentville Police Service	678-3378
Supt. Bill Moore, Halifax Regional Police	490-4817
Sgt. Woody Woodfine, RCMP	426-0094

Receiving Court

Responsibility of the Provincial Court in the area of the Province where individual is arrested

- When contacted by Court staff at Receiving Court:
- Obtain a copy (front and back) of Information from Originating Court, pertaining to the individual in custody.
- Accept the arrested individual in custody and either:
 - 1) Release to a courtroom location, court number, date and time in Originating Court;
 - 2) Remand and direct the individual to be transported to Originating Court for the bail hearing;
 - 3) Remand and direct the individual to be returned to Receiving Court for bail hearing.
 - 4) Accept a guilty plea with consent of the PPS.
- In the event the arrested individual appears at the Receiving Court via a remand order issued by a J.P. at the J.P. Centre, any clarification regarding the Judicial Interim Release Hearing Report, the documents sent with that report or matters scheduled by the J.P. Centre at the Receiving Court, is to be sought from the J.P. Centre.

Note:

1. There is a requirement for a process to be in place to accept the individual upon arrival in Receiving Court.
2. In the event an individual presents him /herself to the Court to surrender during regular working hours when no Judge is available locally, and Sheriff Services executes the warrant, confirm through JEIN check, and communicate to Sheriff Services that the warrant is outstanding.

For questions related to the role of the Court, contact:
David Aikens 424-4601

Originating Court

Responsibility of the Provincial Court in the area of the Province where the arrest warrant is issued

- When contacted by Court staff at Receiving Court:
 - Be prepared to provide a copy (front and back) of Information to Receiving Court.
- When remanded by Judge B to Originating Court:
 - Accept remanded individual from Correctional Services and deal with the bail hearing as per normal.
- When released by Police B (endorsed warrant) or released by Judge B in Receiving Court:
 - Accept the new court appearance date in the docket.
- When contacted by J.P. Centre staff or upon receiving a Remand Report as set out in the Justice of the Peace Operational Procedures, be prepared to:
 - Provide a copy (front and back) of Information to Receiving Court.
 - Notify the enforcing agency regarding the executed status of the Arrest Warrant relevant to the Remand Report.

Note:

For questions related to the role of the Court, contact:
David Aikens 424-4601

Unendorsed Warrants

- Be prepared to:
 - 1) Advise Crown B of Crown A's position concerning bail;
 - 2) Deal with the accused from Correctional Services in custody, if remanded and ordered to appear at Originating Court;
 - 3) Forward details to Crown B for plea and sentencing or request return of the accused to Originating Court via Corrections.

Endorsed Warrants

- Be prepared to deal with the accused individual at Originating Court on date directed by Police B, if released.

Note:

For questions related to the role of the Public Prosecution Service, contact:
Adrian Reid 424-6087 (ext. 4033)

- Before bail hearing make contact with Crown A seeking input regarding show cause or release conditions.
- Request a Show Cause (bail) hearing at the Receiving Court:
 - Remand to Correctional Services;
 - Facilitate transfer to Originating Court;
 - Notify Crown A of details;
 - If Show Cause is not successful, see release below.

OR

- Make submissions to Judge B regarding release on agreed conditions to a courtroom location, court number, date, and time in Originating Court.

Note:

For questions related to the role of the Public Prosecution Service, contact:
Adrian Reid 424-6087 (ext. 4033)

- Facilitate court appearance.
 - Accept remanded individual on the basis of the faxed copy of the unendorsed warrant during normal Court hours.
 - Transfer to Correctional Centre, if remanded by Court.
 - Transport to Receiving Court from Correctional Centre, if remanded by Judge B, for return to Receiving Court.
 - Facilitate transport to Originating Court as per direction of Receiving Court.
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- In the event an individual presents him /herself to the Court to surrender on an arrest warrant or if a Sheriff has information to believe an individual has an outstanding arrest warrant:
 - Obtain confirmation from Court staff that the warrant is outstanding;
 - Execute the arrest warrant and notify the Crown;
 - If no Crown or Judge is available contact the local police agency.

Note:

For questions related to the role of Sheriff Services, contact:
Fred Hildebrand 424-2838

- Accept remanded individual.

Note:

For questions related to the role of Correctional Services, contact:

Sean Kelly 424-6994

Paulette MacKinnon 424-8895



Justice

Common Protocol for Arrest Warrants (Provincial Court)

Partners to this protocol: Sheriff Services, Court Services, Public Safety and Security, Correctional Services, Municipal Police, RCMP, and the Public Prosecution Service.

Principles of judicial independence do not permit the judiciary to be a party to this protocol, however the judiciary has been consulted with respect to the determination of this protocol.

