

## Arrests

### 12016.1 CIVIL BENCH WARRANT PROCEDURE FOR CCP 1993

Civil Bench Warrants (CBW) may be issued by a court pursuant to Code of Civil Procedure (CCP) 1993 [1] to compel a witness, who has previously been properly served with a subpoena, to attend a civil proceeding. Such warrants should be addressed only to the Sheriff's Departments and cannot be entered into AWSS. We will receive these warrants directly from our county courts or from other county Sheriff's Departments and process them in the following manner:

(a) Professional Staff Duties

1. Accept the warrant, letter of instructions, the appropriate deposit amount per Government Code 26744.5 [2], and enter the warrant into our civil system.
2. Ensure the warrant contains all of the following:
  - i. The title and case number of the action.
  - ii. The name and physical description of the person to be arrested.
  - iii. The last known address of the person to be arrested.
  - iv. The date of issuance and the county in which it is issued.
  - v. The signature or name of the judicial officer issuing the warrant, the title of his or her office, and the name of the court.
  - vi. A command to arrest the person for failing to appear pursuant to the subpoena or court order, and specifying the date of service of the subpoena or court order.
  - vii. A command to bring the person to be arrested before the issuing court, or the nearest court if in session, for the setting of bail in the amount of the warrant or to release on the person's own recognizance. Any person so arrested shall be released from custody if he or she cannot be brought before the court within 12 hours of arrest, and the person shall not be arrested if the court will not be in session during the 12-hour period following the arrest.
  - viii. A statement indicating the expiration date of the warrant as determined by the court.
  - ix. The amount of bail.
  - x. An endorsement for nighttime service if good cause is shown, as provided in Section 840 of the Penal Code [3].
  - xi. A statement indicating whether the person may be released upon a promise to appear, as provided by Section 1993.1 [4]. The court shall permit release upon a promise to appear, unless it makes a written finding that the urgency and materiality of the person's appearance in court precludes use of the promise to appear process.

# Orange County Sheriff-Coroner Department

## Custody and Court Procedures Manual

### Arrests

---

- xii. The date and time to appear in court if arrested and released pursuant to 11 above.
  3. Complete a Trip Ticket and Scan a copy of Trip Ticket and Warrant into Civil Automated System (CAS).
  4. Prepare a Notice of Warrant and mail it to the defendant.
  5. Send Original Trip Ticket and Original Warrant to the Civil Field Office.
- (b) Defendant Cited & Released
  1. If the Deputy cites and releases the defendant in the field, the Deputy will return the Trip Ticket, the Original Warrant and Original Citation to the professional staff.
  2. Professional staff will make a photocopy of the Original Citation and place it in the case file.
  3. The Original Citation and Original Warrant will be returned to the Orange County Court or County Sheriff's Department that sent the Original Warrant.
  4. The file copy (pink) will be sent to North Operations by the Deputy. Close the case as a served warrant.
- (c) Defendant Arrested
  1. If the defendant is arrested, they will be taken to Court.
    - i. The warrant will be turned into the court civil division.
    - ii. When you get the trip ticket back, it will be marked as an arrest.
    - iii. Close the case as a served warrant and send the Proof of Service to the Court or Originating Sheriff's Department.
- (d) Defendant Not Found
  1. If service on the Warrant is a "Not Found", it will be handled in the same manner as all other Not Finds.
- (e) Deputy's Duty when Defendant Cited & Released
  1. Make contact with the defendant and cite and release them on the warrant if the court has authorized it with a statement on the warrant that allows a release on a promise to appear.
  2. Request a DR number and title it, "Civil Warrant – Cite and Release."
  3. For more information and instructions on completing a citation, refer to the OCSD Patrol Operations Manual (POM) Section 9 – Citations.
  4. Return the trip ticket, original copy of the citation, and the warrant to the civil professional staff.
  5. A Report Continuation form must be written and attached to the citation.
  6. Write the Citation Number just below the DR Number on the Report Continuation form, on the back of the file copy (pink) write "refer to continuation page."

# Orange County Sheriff-Coroner Department

## Custody and Court Procedures Manual

### Arrests

---

7. Attach the file copy (pink) to the front of the continuation report and submit the report per normal procedures.
- (f) Deputy Duties when Defendant Arrested
1. If the defendant refuses to sign the citation, arrest the defendant and bring them to the court of issuance if issued in Orange County, or to the nearest magistrate if issued outside of Orange County.
  2. The defendant must be brought before the court within 12 hours from the time of the arrest or be released. Even if there is a nighttime endorsement on the warrant the person must be brought to a court within 12 hours. Therefore, arrests should not occur anytime that would not allow for the person to be presented to a court within 12 hours, i.e., no Friday or Saturday night arrests and no arrests between 1500 and 2100 hours. This will ensure that every person arrested will be presented to the Court within the 12 hours required by law.
  3. Unless the warrant contains an endorsement for nighttime service, attempts to serve CCP 1993 warrants [6] can only be made between 0600 and 1500 hours to ensure the defendant is brought to court on the same day an arrest is made.
  4. Request a DR # and write a Follow-Up Report, the title will be "Civil Warrant Arrest and Transport to Court."
  5. The report shall be brief but detail the events that took place, include the details of the refusal to sign the citation in the report.
  6. Void the citation and book the first three copies of the citation into evidence.
  7. Complete the "REQUEST TO DISMISS/VOID CCP 1993 CIVIL WARRANT CITATION" form and submit it through the chain of command.
  8. Turn in the trip ticket and write "defendant arrested" in red in the notes section so the professional staff knows the warrant went to the court.
- (g) Closing the Warrant as Unable to Locate
1. If the defendant cannot be located after four attempts, close the warrant as "unable to locate" and return it to professional staff.
  2. Write "Unable to locate after Diligence" in your notes.
- (h) Citation Distribution
1. Citations consist of 4 pages, distribute the pages as follows:
    - i. 1st page – Court (Original)(White)
    - ii. 2nd page – Defendant's Copy (Yellow)
    - iii. 3rd page – File Copy (Pink)
    - iv. 4th page – Deputy Copy (Canary)(stays in Citation book)
- (i) Writing the Citation

# Orange County Sheriff-Coroner Department

## Custody and Court Procedures Manual

### Arrests

---

For more information and instructions on completing a citation, refer to the OCSD Patrol Operations Manual (POM) Section 9 - Citations.

References:

POST ORDER 12-01

California State Sheriff's Association Civil Procedures Manual

#### **12016.2 CIVIL BENCH WARRANT PROCEDURE FOR CCP 708.170, 491.160 AND 1209**

(a) Warrants

1. Civil Bench Warrants for (CBW) failure to appear on Orders for Appearance of a Judgment Debtor, CCP 708.170 / 191.160 [1] (\$50.00 fee), that meet the minimum requirements will be forwarded to the Central Warrant Repository (CWR) through our office.
2. CCP 1209 Warrants [2] will be served at no charge. The court will send CCP 1209 warrants directly to the CWR.

(b) Minimum Criteria

1. Only warrants meeting the minimum criteria may continue to be directed to the CWR for entry into Automated Warrant Service System (AWSS).

(c) Minimum Information for AWSS

1. The minimum information needed by the Sheriff for warrant entry into AWSS is:
  - i. Full name of the person to be arrested.
  - ii. Date of birth of the person to be arrested.
  - iii. Full address of the person to be arrested.
  - iv. Sex and race of the person to be arrested.

(d) Warrants Missing Minimum Information

1. Warrant requests, which do not contain the above basic information, will not be forwarded to CWR for entry into the automated system.
2. Warrants that do not meet the minimum standards will be held at our offices for letter or field notification.

(e) Warrants with Name and Address Only

1. Warrant requests, which contain a name and address, may be forwarded to the appropriate Sheriff Court Operations office for an attempt to contact the subject and obtain voluntary compliance.

(f) Warrants Meeting the Minimum Information

1. Once it has been determined that the warrant meets the minimum requirements to be forwarded to CWR, professional staff will open the case, enter the warrant into our field civil system and accept the fee.

# Orange County Sheriff-Coroner Department

## Custody and Court Procedures Manual

### Arrests

---

2. Once the case is entered, the warrant will be forwarded to the CWR for entry into the automated system.
- (g) Central Warrant Repository (CWR)
1. CWR will generate a "Warrant Worksheet" and forward it to the Tactical Apprehension Team (Warrants) for assignment and further action.
  2. Warrant Bureau professional staff will mark the warrant worksheet identifying the warrant as a Civil Bench Warrant and forward it the appropriate Civil Detail for service.
- (h) Return of Warrants
1. Notification will be sent to the originating office with the warrant disposition written on the warrant worksheet.
  2. It is important that the originating office be notified of the warrant outcome, so they may update/close the open case in the civil system.
  3. The warrant worksheet will be returned to the Tactical Apprehension Team.
  4. Recalled warrants will be returned to the Tactical Apprehension Team.
- (i) Warrants for Service Outside Orange County
1. The Sheriff cannot accept warrants for service outside Orange County.
  2. The person requesting service outside Orange County will be directed to the appropriate county.

### References

POST ORDER 08-04

POST ORDER 11-07