



Policy Name:	FEENEY WARRANTS		
Policy #:	OP 4.49.2	Last Updated:	2022-03-03
Issued By:	INVESTIGATIVE SERVICES BUREAU	Approved By:	SURREY POLICE BOARD
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RELATED POLICIES

OP 4.49.4 *Search Warrants and Production Orders*

OP 4.94.5 *Telewarrants*

1. PURPOSE

1.1. To provide guidance to Surrey Police Service (SPS) Members regarding the obtaining and execution of warrants to arrest a person in a dwelling house.

2. SCOPE

2.1. This policy applies to all SPS Members.

3. POLICY

3.1. Sections 529 to 529.5 of the *Criminal Code* provide direction for Members to obtain a warrant to enter a dwelling house to arrest a person. Through case law in *Regina v. Feeney* (SCC, 1997), these types of warrants are commonly referred to as a “Feeney Warrant”.

4. PROCEDURE

4.1. There are three exceptions for when SPS Members do not require a Feeney Warrant prior to entry into a dwelling house to effect an arrest for an offence under the *Criminal Code* or another federal Act of Parliament:

- i. the member is in fresh pursuit of an individual they are attempting to arrest;
- ii. there are Exigent Circumstances as set out in s. 529 of the *Criminal Code*; or
- iii. police are given consent to enter the premises by the homeowner or person authorized to occupy the premises (e.g., the primary tenant on record).

4.2. In all other instances, Members must consider their grounds for entry into a dwelling house. This must include:

- i. the person to be arrested has an active warrant for their arrest; or
- ii. Members have reasonable grounds to believe the person has committed or is about to commit an offence and is arrestable, under s. 495(1) of the *Criminal Code*.

Grounds to Establish

4.3. A Judge or Justice may issue a warrant in Form 7.1 authorizing a peace officer to enter a dwelling house described in the warrant for the purpose of arresting or apprehending a person identified or identifiable by the warrant.

4.4. The Judge or Justice must be satisfied there that there are reasonable grounds to believe that the person is or will be present in the dwelling-house and that:

- i. a warrant referred to in this or any other Act of Parliament to arrest or apprehend the person is in force anywhere in Canada. For clarity, Feeney warrants are not available for offences under provincial laws and municipal by-laws;
- ii. grounds exist to arrest the person without warrant under s. 495(1)(a) or (b) or s. 672.91 of the *Criminal Code*; or
- iii. grounds exist to arrest or apprehend without warrant the person under an Act of Parliament, other than the *Criminal Code*.

4.5. If a frontline policing Member requires assistance with drafting and writing a judicial authorization for a Feeney Warrant, they must consult the on-duty Front Line Investigative Support (FLIS) Supervisor.

4.6. A Feeney Warrant is not required to enter a dwelling house to apprehend a person under the *Mental Health Act* (BC).

Omitting Announcement Before Entry

4.7. A judge or Justice who authorizes a Member to enter a dwelling-house under s. 529 or 529.1 of the *Criminal Code*, or any other judge or justice, may authorize the Member to enter the dwelling-house without prior announcement if the judge or justice is satisfied by information on oath that there are reasonable grounds to believe that prior announcement of the entry would:

- i. expose the Member or any other person to imminent bodily harm or death; or
- ii. result in the imminent loss or imminent destruction of evidence relating to the commission of an indictable offence.

Telewarrant

4.8. Under section 529.5 of the *Criminal Code*, if a Member believes that it would be impracticable in the circumstances to appear personally before a judge or justice to make an application for a warrant under s. 529.1 or an authorization under s. 529 or 529.4 of the *Criminal Code*, the warrant or authorization may be issued on an information submitted by telephone or other means of telecommunication and, for that purpose, s. 487.1 applies, with any modifications that the circumstances require, to the warrant or authorization.

APPENDIX A: DEFINITIONS

“Dwelling House” means the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence, and includes:

- a. A building within the curtilage of a dwelling-house that is connected to it by a doorway or by a covered and enclosed passage-way; and
- b. A unit that is designed to be mobile and to be used as a permanent or temporary residence and that is being used as such a residence.

“Member” means a sworn Police Officer appointed by the Surrey Police Board.

“Reasonable Grounds” includes both subjective and an objective component and means that the officer must personally believe that the decision or action is necessary, and in addition, the decision or action must be able to stand the test of whether an objective third person, who is acting reasonably – and is informed of the officer’s training, experience and the factual circumstances at the time, would also reach the same conclusion.

“SPS” means Surrey Police Service.

APPENDIX B: REFERENCES

Criminal Code, R.S.C. 1985, c. C-46

Regina v. Feeney, [1997] 2 S.C.R. 13