
	GAITHERSBURG POLICE DEPARTMENT			
	Warrant Service and Arrest Processing			
	GENERAL ORDER	800.1		Related CALEA Standards:
	Effective Date	06/23/2016		1.2.3, 1.2.5, 70.1.6, 74.3.1, 81.2.9
Authorized by:	Mark P. Sroka CHIEF OF POLICE	SIGNATURE <i>Mark Sroka</i>	DATE 06/23/2016	

I. PURPOSE

The purpose of this directive is to outline the Department’s procedures for the service of various types of warrants and the legal authority to serve such charging documents.

II. POLICY

Gaithersburg Police officers shall be knowledgeable in the laws governing when an arrest can be made and the differences between various types of warrants that command taking a person into custody. Arrests will be made in such a manner that they are within Department policy, conform to the Laws of Arrest (Criminal Procedure, § 2-203 of the Maryland Code), comply with Constitutional requirements and, to the greatest extent possible, do not jeopardize the safety of bystanders or the arresting officer(s).

III. DEFINITIONS

A. Deserter

Within the context of this directive, the term “deserter” refers to a military service member who, without authority, goes or remains absent from his or her unit, organization, or place of duty with intent to remain away permanently. The service member is classified as a deserter under the authority of Article 85 of the Uniform Code of Military Justice (UCMJ).

B. Subpoena

Within the context of this directive, the term “subpoena” refers to a writ requiring appearance in court to give testimony, show specified records, or produce other evidence incident to the administration of justice.

C. Summons

Within the context of this directive, the term “summons” refers to a writ requiring a proper officer to notify a defendant that an action has been begun against him or her in the court from which the writ was issued and that he or she is required to appear on a certain day to answer the complaint.

D. Warrant

Within the context of this directive, the term “warrant” refers to a written order issued by a judicial officer or other authorized person commanding a law enforcement officer to perform some act incident to the administration of justice, such as the arrest of a defendant.

IV. PROCEDURE

A. General Provisions

1. Pursuant to the provisions of Maryland Rule § 4-212, only police officers or sheriffs are authorized to serve charging documents (summonses or warrants).
2. Officers are authorized to serve, or participate in the service of:
 - a. Arrest warrants;
 - b. Bench warrants;
 - c. Juvenile warrants;
 - d. Body attachments;
 - e. Retake warrants;
 - f. Traffic warrants;
 - g. Fugitive warrants; and
 - h. Domestic violence orders of protection issued by other jurisdictions.
2. Prior to the execution of a warrant, officers should develop a plan of action to ensure the safety of everyone involved.
 - a. The plan should take into consideration the following:
 - i. Potential for violence;
 - ii. Need for assistance from other officers, including the Emergency Response Team (ERT);
 - iii. Availability of a prisoner transport vehicle; and
 - iv. Potential escape routes.
 - b. Officers shall wear issued body armor during risk entries.

3. Officers will use only the force necessary to take a person into custody and to accomplish lawful objectives.

B. Open Warrants and Confirmation

1. If a computer check via PSCC reveals an open warrant on a person, the officer will request that PSCC contact the originating agency to confirm that the warrant is on file, valid and extraditable before an arrest is made on the strength of that warrant.
2. If the person is wanted by an agency outside of Montgomery County, the officer will request that PSCC send a "locate message" and a "hit confirmation message" to verify the warrant through the holding agency before the arrest is made.
 - a. NCIC policy states that an agency has ten minutes to respond to the "hit confirmation message."
 - b. An individual who is wanted by an agency outside of Montgomery County is considered a "fugitive" and if wanted by an agency outside the State of Maryland, the person is considered a "fugitive from justice." Once the warrant and extradition have been confirmed the individual shall be arrested and processed at CPU.
 - c. Under no circumstances will any fugitive be turned over to officers from another state until and unless the fugitive has appeared in Court, in front of a judge and waived extradition.
3. For persons wanted by the Maryland State Police (MSP), the appropriate MSP barrack will be notified of the arrest.
 - a. Arrangements will be made for custody to be relinquished to MSP after the individual is processed on any local charges that are being placed.
 - b. If the individual is not going to be charged with another separate offense, custody may be relinquished to MSP without processing.
4. If the wanted person is being arrested on other charges, unrelated to the warrant, "hit confirmation" can be done at the processing facility by the arresting officer.
5. If an open warrant is revealed by means other than through the

PSCC, such as an inquiry via the station NCIC terminal, it is the officer's responsibility to verify the warrant before taking action on the strength of the warrant.

6. If an individual has been arrested because he or she is wanted by a federal or military law enforcement agency (and no local charges are anticipated):
 - a. A "fugitive from justice" charge is not necessary during normal working hours;
 - b. The arresting officer will notify (or cause to be notified) the originating agency to respond and accept custody of the arrestee.

C. Arrest Warrants

1. Arrest warrants are charging documents issued by a District Court commissioner or judge based upon a showing of probable cause by the applicant. Warrants are good until served or recalled by the court. A warrant issued "in blank" is void. No person, other than the issuing judge or commissioner, has the right to alter a warrant.
2. An arrest with a warrant may be made at any time. However, if the charges are of a very minor nature, service of the warrant should be sought at a reasonable hour (typically between the hours of 0700 and 2300 hours). An officer may arrest any person they encounter during the course of their duties who is wanted on an outstanding extraditable warrant.
3. Officers will not delay service of a warrant if the defendant:
 - a. Is considered an escape risk or is likely to avoid service at a later time;
 - b. Is wanted on other charges;
 - c. Is in imminent danger of causing harm to himself or others;
 - d. Is a suspect in another case;
 - e. May tamper with, dispose of, or destroy evidence if not immediately apprehended;
 - f. May cause injury to the person or damage to the property of one or more other persons if not immediately

apprehended.

D. Bench Warrants

1. Bench warrants are issued by judges "from the bench" and generally charge a defendant with contempt of court.
 - a. Service of District Court bench warrants involves the same processing and procedures as for arrest warrants.
 - b. Circuit Court bench warrants are normally served by the Montgomery County Sheriff's Department.
 - i. Officers are authorized to arrest on the strength of Circuit Court bench warrants, however custody of the individual will be relinquished to the Sheriff's Office for processing, per County Code and our Memorandum of Understanding.
 - ii. Officers may transport the arrestee to the processing facility, directly to the Sheriff's Office, or to another location that has been mutually agreed upon to relinquish custody of the arrestee.
2. A supplement report is not required.

E. Body Attachments

1. Body attachments are issued by judges and order that a person be taken into custody by a law enforcement officer and brought to a court proceeding, pursuant to Maryland Rule § 4-267.
2. A body attachment may be issued if a subpoenaed witness fails to appear for a trial and a judge orders a law enforcement officer to locate the witness, take him or her into custody and bring the person to court.
3. If an officer takes custody of an individual pursuant to a body attachment, the officer will immediately bring the person before a judicial officer in the county in which an action is pending.
4. A police information report will be written.

F. Retake Warrants

1. Retake warrants, which are issued by wardens or superintendents of correctional institutions, authorize and require law enforcement officers to apprehend and return escapees.

2. When a retake warrant is issued, a copy of it must be forwarded to the State's Attorney in the county from which the escape was made.
3. An officer making an arrest on the strength of a retake warrant will promptly notify the Division of Corrections of the arrest, in accordance with Correctional Services Article § 3-214 of the Maryland Code

G. Charge against Fugitive/Fugitive Warrants

1. A "fugitive" is a person wanted by another Maryland jurisdiction and a "fugitive from justice" is a person wanted by a jurisdiction outside Maryland.
2. Fugitive warrants are issued by a judge or commissioner and command the apprehension of fugitives.
3. The "CHARGE AGAINST FUGITIVE" side of the document must be completed if an officer arrests an individual who is wanted by another state. A copy of the "hit", teletype, etc., should be attached or forwarded to CPU along with extradition confirmation.
4. Processing will be the same as with an arrest warrant.

H. Traffic Warrants

1. Traffic Warrants are issued by District Court commissioners and charge the defendant with violation of the Maryland Transportation Article, or Code of Maryland Regulations (COMAR).
2. Citizens and police officers may apply for traffic warrants.
3. Processing will be the same as with an arrest warrant.

I. Domestic Violence Orders of Protection Issued By Other Jurisdictions

1. Under the Federal Violence against Women Act (VAWA), jurisdictions give full faith and credit to valid orders of protection issued by other jurisdictions. Full faith and credit is a legal term that means jurisdictions must honor and enforce orders issued by courts in other jurisdictions (18 U.S.C.)
2. Law enforcement officers are required to enforce orders of protection from other jurisdictions in the same manner they enforce orders issued within their own jurisdictions.

3. Before arresting for violation of an order of protection issued in another jurisdiction, officers should verify that a valid order exists, determine whether the order was violated and enforce the terms of the order pursuant to the laws of the enforcing jurisdiction.

J. Juvenile Warrants

1. Juvenile Warrants are issued by judges assigned to the Juvenile Court.
2. The MCP Family Crimes Division will be notified when a juvenile is arrested on a juvenile warrant. An FBI fingerprint card is not required, but MSP and MCP fingerprint cards must be completed.
3. Arrest and supplement reports are also required.

K. Military Members Arrested as Deserters

1. The Uniform Code of Military Justice (UCMJ) sets forth the authority of civil law enforcement officers to arrest deserters from the armed forces and deliver them to authorities.
2. Officers arresting a deserter will treat the offense as a misdemeanor and shall contact the appropriate armed forces branch. If contact cannot be made with the deserter's branch of service, the United States Army Military Police Command, located at Fort Leonard Wood, Missouri, will assist in verifying the deserter status for service members assigned to any branch of the military. Contact details for the service branches are as follows:
 - a. United States Air Force
Headquarters AF Personnel Center, DPFCM
Randolph Air Force Base, TX 78150
(800) 531-5501
 - b. United States Army Deserter Information Point
297 Gold Vault Road
Fort Knox, KY 40121
(502) 626-3711 / 3712 / 3713
 - c. United States Marine Corps
Commandant, US Marine Corps
2 Navy Annex
Washington, D.C. 20380
(703) 614-3248 / 3376
 - d. United States Navy

Navy Absentee Collection and Information Center
2834 Greenbay Road
North Chicago, IL 60064
(800) 423-7633

- e. United States Coast Guard
Washington, D.C.
(202) 267-2100
 - f. United States Army Military Police Command
Fort Leonard Wood, Building 1000
East 19th Street
Fort Leonard Wood, Missouri 65473
(573) 596-1098
3. Members will include the following information in the arrest report:
- a. Basis for arrest, i.e., NCIC hit, person volunteered information, etc;
 - b. Arrested person's rank and social security number (or service number);
 - c. Title and location of arrested person's command or unit of assignment;
 - d. Date the person deserted;
 - e. Name of the official contacted for verification and the time of contact.
4. The individual will be processed pursuant to the provisions of this directive.

L. Processing Warrant Arrests

- 1. Arrestees will be transported to the Central Processing Unit (CPU) without unnecessary delay.
 - a. If the arrestee requires medical attention, this will take precedence over processing (see General Order 601.1 – [Prisoner Searches and Transports](#));
 - b. When reasonable and appropriate, transport for interview or interrogation may precede processing (see General Order

801.1 – Interviews, Interrogations and Access to Counsel).

2. Upon their arrival at CPU with the prisoner, officers will:
 - a. Secure their weapons in the areas provided;
 - b. Obtain and complete a CPU Form 513;
 - c. Inventory the arrestee's property and package as directed by CPU personnel;
 - d. Relinquish the prisoner, Form 513 and prisoner property to a corrections officer, who will indicate receipt of the prisoner and property on the Form 513;
 - e. Inform CPU staff that the prisoner is wanted on an outstanding warrant;
 - f. If the warrant was obtained by an officer of this Department and has not been filed with MCP Warrant Section, a Warrant/DCS control sheet shall be completed to indicate service, and any attempts, and return the cover sheet to the Administrative Bureau Commander.
3. If the officer intends to obtain evidence through questioning of the defendant about the incident described in the warrant, the defendant must be advised of his or her rights on an MCP Form 50.
 - a. Once a defendant has asked for an attorney, questioning of the defendant will stop.
 - b. This does not preclude an officer from using information obtained during the course of a conversation with the defendant.
4. If the warrant was entered by an agency outside of Montgomery County, it is the responsibility of the officer serving the warrant to cause notification of that agency to be made so the warrant will be removed from the system. A "hit confirmation" may not automatically cause the entering agency to remove the warrant, so officers should follow up with a phone call to the Message Routing Center (MRC) to ensure notification is made.