

THURMONT POLICE DEPARTMENT

GENERAL ORDER	Date Issued: May 4, 2007	Effective Date: May 4, 2007	Order No: Chapter 13
Authority: Chief of Police Gregory L. Eylar			Manual Page No:
Subject: Legal Process			Replaces Page No:
CALEA Standard: 74	Distribution: ALL	Amends:	Number of Pages: 13
Related Documents:			Rescinds:

This Directive is for internal use only, and other than as contraindicated here this Directive does not create or enlarge this Department's, governmental entity's, any of this Department's officers, and/or any other entities' civil, criminal, and/or other accountability in any way. This Directive is not to be construed as the creation of a standard of safety or care in any sense, with respect to any complaint, demand for settlement, or any other form of grievance, litigation, and/or other action. Deviations from this Directive, if substantiated, can only form the basis for intra-Departmental administrative action(s) (including discipline and/or termination).

I. PURPOSE:

To provide guidelines for the recording, maintaining, and executing of arrest warrants and other legal processes.

II. POLICY:

It is the policy of the Thurmont Police Department to maintain access to a criminal warrant system to insure prompt recording and execution of both local and foreign warrants. This operation will have 24 hour accessibility located in the Frederick County Sheriff's Office.

III. DEFINITIONS:

ARREST WARRANT: charging document issued by the District Court commissioner or judge, directing the arrest (taking into custody) of a person on criminal or traffic violations.

BENCH WARRANT: charging document issued by a judge "from the bench" for a contempt violation, i.e., failure to appear, violation of probation, failure to pay fines and costs, failure to report for weekend incarceration, etc.; this type of document often has preset bond to secure appearance to testify in a pending case.

BODY ATTACHMENT FOR MATERIAL WITNESS: charging document similar to a bench warrant but issued for a witness, commanding that the person named thereon be

apprehended and brought before the appropriate Court for the purpose of posting bond to secure appearance to testify in a pending case.

CHARGING DOCUMENT: arrest warrant, bench warrant, criminal summons; a court document which places a criminal, traffic, or contempt charge against an individual.

CRIMINAL SUMMONS: charging document for which the defendant signs to acknowledge receipt of a copy as a promise to appear for trial and is released pending trial date. The trial date is often indicated on the criminal summons.

EX-PARTE ORDER: an order from the court issued to provide **temporary** relief to a victim of domestic violence until a hearing is conducted before a judge to determine if a **Protective Order** will be issued.

FUGITIVE WARRANT: issued by a Judge or Commissioner that commands the apprehension of fugitives. A “fugitive” is a person wanted by another Maryland jurisdiction and a “fugitive from justice” is a person wanted by a jurisdiction *outside* of Maryland.

MILES: Maryland Inter-agency Law Enforcement System; a state computer system and database maintained by the Federal Bureau of Investigation.

NCIC: National Crime Information Center; a national computer system and database maintained by the Federal Bureau of Investigation.

PETITIONER: a person who applies for an **Ex-Parte** or **Protective Order**.

PROTECTIVE ORDER: an order of the Court issued to protect a victim of domestic violence for a specific period of time.

RESPONDENT: a person for whom an Ex-Parte or Protective Order is issued due to domestic violence.

RETAKE WARRANT: issued by the Wardens or Superintendents of correctional institutions that authorizes and requires law enforcement officers to apprehend and return escapees.

SHOW CAUSE ORDER: non-arrestable document issued by the Court requiring the appearance of the individual named thereon for the purpose of explaining some action or situation which may have violated a prior court order.

SUBPOENA or SUMMONS: document issued by the Court, directing that the person named thereon appear in court on the specified date at the specified time for the purpose specified thereon.

IV. PROCEDURE:

A. CRIMINAL / TRAFFIC / TOWN ORDINANCE WARRANTS:

1. Upon receipt of a criminal or civil warrant from the Circuit Court Office or other governmental agency, the following information will be recorded by the Administrative Assistant:
 - a. Date and time received.
 - b. Type of legal process (criminal / traffic / town ordinance)
 - c. Nature of the document,
 - d. Source of the document,
 - e. Officer assigned, if any,
 - f. Date assigned,
 - g. Court docket number and warrant number,
 - h. Name of plaintiff/complainant or name of defendant/respondent, and
 - i. Date service due.

B. All attempts for service of a warrant by the Thurmont Police will be recorded on the appropriate Warrant Control Sheet (Appendix A). The following information shall include:

1. Date and time served or attempted to be served,
2. Name of the Officer(s) who attempted the service,
3. The person to which service was attempted or executed,
4. Method of service,

5. Location of service.

C. PROCESSING

1. Each item of legal process, civil and criminal, received at the Thurmont Police Department will be time/date stamped upon arrival.
2. All legal process received will be entered into the Department's in-house computer system.
3. All warrants that are applied for and received directly by an officer, as a result of an investigation, will be submitted to the Records Section if the warrant cannot be executed within 24 hours to ensure that the warrant is recorded in both the in-house computer system and CJIS. The officer that applied for a warrant may still attempt service.
4. Expiration of legal status
 - a. Stipulated Expiration Date

If the legal process has an expiration date stated on the paperwork that is the date of expiration.

- i. Emergency Evaluations
- ii. Ex-Partes
- iii. Peaces Orders
- iv. Protective Orders

- b. Legal Process with no Expiration Date

All legal process with no expiration date does not expire unless notification is received from the appropriate Court.

- i. All legal process received indicating a Thurmont address will be assigned to an individual officer on an equitable, rotating basis based on area assignments.

- ii. Legal process with no expiration date will be due back to the records Section within 60 days from the assignment. Extension will be granted on an individual case basis.
- iii. Any warrant applied for by an officer will be assigned to that officer for service.

D. EXTRA JURISDICTIONAL SERVICE OF THURMONT WARRANTS:

1. As a general rule, the Department will not send warrants to other jurisdictions for service. In the rare instances where a warrant is sent to a foreign jurisdiction the following procedure will be followed:
 - a. The Administrative Assistant is responsible for controlling and maintaining warrants sent to other jurisdictions,
 - b. A copy of the warrant shall be sent to authorities of the foreign jurisdiction with a letter of explanation,
 - c. Request for a thirty (30) day return date.

E. EXECUTION OF FOREIGN WARRANTS:

1. When a warrant for service is received from a foreign jurisdiction, the Administrative Assistant will do the following:
 - a. Assign appropriate personnel to attempt service,
 - b. Contact the foreign jurisdiction to verify if the warrant is active, if appropriate under the circumstances.
2. If the warrant is served, the following should be done:
 - a. Notify the foreign jurisdiction as soon as practicable, and prior to offender's release,
 - b. Make an incident number and indicate offender's name and identifiers on an incident report,
 - c. Obtain confirmation and the name of the person from the foreign jurisdiction who will quash the warrant and document the arrest report.

3. If the warrant cannot be served, the following should be done:
 - a. Notify the foreign jurisdiction in writing of non-service and reasons why service was not completed, if known, and,
 - b. Return unserved summons or warrants,

F. WARRANT SERVICE AND ARREST:

1. Pursuant to the provisions of Maryland 4-212, arrest and bench warrants, criminal summonses, and subpoenas will be served by sworn law enforcement officers only. Subpoenas and criminal summonses are valid until the court date shown on the face of the document or until recalled by the Court. Warrants are valid indefinitely until either served or recalled by the Court. No person, other than the issuing Judge or District Court Commissioner, has the right to alter a warrant.
2. An arrest with a warrant may be made at any time. If the warrant is for very minor charges, the supervisor has the authority to dictate that service will take place during reasonable hours, i.e., between the hours of 0700 and 2300 hours.
3. Officers WILL NOT WAIT to serve a warrant if any of the following criteria exist:
 - a. the defendant is considered an escape risk and/or is likely to avoid service at a later time;
 - b. the defendant is wanted on other charges;
 - c. the defendant is in imminent danger of causing harm to him/herself and/or others;
 - d. the defendant is a suspect in other case(s);
 - e. the defendant, unless immediately apprehended, may tamper with, dispose of, or destroy evidence; or,
 - f. the defendant, unless immediately apprehended, may cause injury to the person or damage to the property of one or more other persons.
4. Officers may only serve charging documents within the Thurmont corporate limits, unless express permission has been obtained from a supervisor. If an officer desires to serve a warrant outside Thurmont but within Maryland, that

officer will always be accompanied by an officer having police authority over the jurisdiction where the attempted service will occur.

5. Officers who have been assigned to serve a court document will make every effort to execute the document during their tour of duty. Court documents will be handled by the officers to whom the supervisor has issued the document for service until such time as it has either been served or it has been determined that the defendant cannot be located.
6. If the person is wanted by an agency outside of Maryland, the officer will request Communications to send a "Hit Confirmation" BEFORE the arrest is made. If the Wanted person is not being arrested solely on the strength of the warrant, but for another reason, the computer "hit" can be taken care of at Central Booking by the arresting officer.
7. Prior to the execution of a warrant, officers should develop a plan of action to ensure the safety of the officers, the safety of innocent bystanders, and the safety of the person to be taken into custody. Officers will use only the force necessary to take the person into custody and to accomplish lawful objectives.
8. Arrests made without a warrant must follow the statutory requirements set forth in (§2-202) of the Maryland Annotated Code which states:
 - a. A police officer may arrest without a warrant a person who commits or attempts to commit a felony or misdemeanor in the presence or within the view of the police officer.
 - b. A police officer who has probable cause to believe that a felony or misdemeanor is being committed in the presence or within the view of the police officer may arrest without a warrant any person whom the police officer reasonably believes to have committed the crime.
 - c. A police officer without a warrant may arrest a person if the police officer has probable cause to believe that a felony has been committed or attempted and the person has committed or attempted to commit the felony whether or not in the presence or within the view of the police officer.
9. At least two (2) Officers will be assigned to serve a criminal warrant.
10. Searching and handcuffing of arrestee shall be in conformance with the General Order entitled Prisoner Transportation, Chapter 11, and Article 27, Section 551 of the Annotated Code of Maryland.

11. Unless the arrested person requires medical attention or is needed for questioning, he/she will be transported to Central Booking and processed the same as any other arrested person.
12. Thurmont Police Officers are expected to maintain a working knowledge of State Statutes and Judicial Decisions that relate to arrest and prisoner rights. Training will be provided when changes in procedure result from new Statutes or Judicial Decisions.
12. When this department receives notification from another jurisdiction that a defendant has been arrested on an outstanding warrant held by this department, the following steps shall be taken:
 - a. Check the warrant file for a physical copy of the warrant,
 - b. Check the jurisdiction limitations listed on the warrant,
 - c. Determine whether the arresting agency is located within the geographical limitations listed on the face of the warrant. If the agency holding the defendant is outside the geographical limitations listed, the warrant is deemed to be invalid,
 - d. Ascertain from the arresting agency if the defendant is able to post bond at their facility,
 - e. If the defendant is able to post bond, it will be necessary to assign a court date and location. Information concerning bail bond numbers and agency name, as well as other information as called for on the warrant control sheet shall be obtained,
 - f. When notified that the defendant has posted the required bail, the warrant shall immediately be canceled from the MILES/NCIC systems,
 - g. If the defendant is unable to post bond, on the arresting agency's charges, our department shall place a hold on the subject and advise them or the jail holding the subject to notify this department when he/she is eligible for release to our department. The warrant shall remain in the MILES/NCIC systems.
13. In cases where a defendant is eligible for release to our department the following steps shall be taken:

- a. If the subject is being held outside of the county where the warrant initiated from, it is necessary to have the defendant sign a waiver of rights. The waiver shall indicate in summary that the defendant waives his/her right to appear before the nearest and most accessible judge in the county in which he/she was arrested.
- b. In cases where a defendant refuses to waive his/her right, arrangement shall be made with the arresting agency to transport the subject to a judge within the county of arrest. In the event that the arresting agency is unable to transport the subject to the nearest judge within the county of arrest our department shall do so.
- c. After a waiver of rights has been completed or the defendant appears in front of a judge within the county he/she was arrested in, the defendant shall be transported to the county jail where the warrant originated.
- d. When a defendant is apprehended on a District Court arrest warrant, he/she will be transported to the Frederick Country Central Booking Facility, where service of the warrant will be executed and custody of the defendant will be remanded to the Corrections Bureau of the Frederick County Sheriff's Office.
- e. **Defendants charged on Circuit Court charging documents are NOT processed through Central Booking.** When a defendant is apprehended pursuant to a Circuit Court charging document, he/she will be transported to Police Headquarters where service of the warrant will be executed, and processing of the defendant (completion of one Maryland State Police criminal fingerprint card, one Federal Bureau of Investigation criminal fingerprint card, a departmental ID card, and a mugshot) will be completed. If the Circuit Court is in session, the officer will arrange for the defendant to be surrendered to the custody of the Court Security Section of the Frederick County Sheriff's Officer so that the defendant may have an initial appearance to the Frederick County Adult Detention Center. The defendant may be able to post bond with District Court.
- f. 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 State Law. An officer making an arrest pursuant to a Retake Warrant must also notify the Warden or Superintendent who issued the warrant. An individual processed on a Retake Warrant will be processed as if the person was served with an Arrest Warrant.

- g. When arresting a “fugitive,” officers will complete the “Charge Against Fugitive” side of the document if they arrest an individual who is wanted by another State, and will attach a copy of the “hit,” teletype, etc., along with extradition confirmation to this document. Processing will be as if the defendant was being served with an Arrest Warrant.
 - d. After the defendant has been taken to jail, the warrant shall be canceled from the MILES/NCIC system by the arresting officer and the completed warrant control sheet (Appendix A) and waiver of rights form forwarded to the Administrative Assistant.
 - e. In cases where the Frederick County Sheriff’s Office has a defendant in custody on our outstanding warrant and the subject is being held at their jail, a copy of the warrant may be transmitted by FAX. The warrant shall then be canceled from the MILES/NCIC system and the warrant control sheet completed.
 - f. The warrant will then be forwarded to the clerk, along with the bail bond information and monies when applicable.
 - g. The officer will then forward the warrant control sheet to the Administrative Assistant and transmit the warrant to the Circuit/District Clerk's Office where the warrant originated.
14. The subject may also post bond for the offense and be released if requested or approved by the jurisdiction holding the warrant.
15. An arrest report will be completed for these types of arrests with the classification service to the County Sheriff or to other Police Agencies added to any other classification which applies.

G. CIVIL PROCESS:

- 1. Only sworn Officers of the Thurmont Police Department may serve Civil Process. The Department will serve court ordered Civil Process initiated only by the Town of Thurmont or authorized agent of the Town of Thurmont. Civil process will be served in compliance with all local law and the Maryland Annotated Code.
- 2. Due to the potential for resistance, only sworn members of the Thurmont Police Department will be present during the execution or service of civil arrests or seizure of any real or personal property.

3. Any property that comes under the control of the Thurmont Police Department through the execution of a civil forfeiture will be logged in the same manner as any other property coming under the control of the department and will only be disposed of pursuant to legal authority.
4. Civil Process may include, but is not limited to, the following:
 - a. Annexation notices,
 - a. Subpoenas,
 - c. Notices to appear,
 - d. Arrest Warrants,
 - e. Warrants requiring the seizure of real or personal property,
 - f. Domestic Violence “Orders of Protection,” or
 - g. Ex-Parte/Protective Orders:
 - i. The Frederick County Sheriff’s Office is generally responsible for all civil process; however, the Thurmont Police Department will be involved in the process of Ex-Parte and Protective Orders if the petitioner or respondent live within the Town.
 - ii. The Petitioner and Ex-Parte Order are delivered in-person to the Information Clerk by a Court Clerk.
 - (1) The Information Clerk will create a CAD record and complete an Ex-Parte/Protective Order coversheet. The Information Clerk will ensure he/she receives any additional information needed to process the paperwork as listed on the form.
 - (2) The Information Clerk will record the Ex-Parte on the log and forward the Ex-Parte for entry into MILES/NCIC.
 - iii. Ex-Parte and Protective Orders are processed by the Information Clerk who will then forward the paperwork to Communications for computer entry. The Dispatcher will read the report in its entirety and make the appropriate MILES/NCIC entry.

- iv. The Ex-Parte will then be served by a sworn officer if the respondent lives within the Town. If the respondent lives outside the Town, the Information Clerk will forward the paperwork to the appropriate agency for service.
- v. After the Ex-Parte is served, the Information Clerk will determine if a Protective Order is issued following the Ex-Parte hearing date. If the Ex-Parte is NOT served, the Information Clerk will notify the Clerk of the Court of the lack of service and to request a hearing extension.
- vi. If a Protective Order is issued, the Dispatcher will make the appropriate modifications to the MILES/NCIC entry.
- vii. If a protective Order is not issued, the Dispatcher will remove all MILES/NCIC entries.

H. HITS TO WANTS PROCEDURES

1. In the event this agency receives a “Hits to Wants” notification from the FBI, VIA NLETS, regarding notice that a fingerprint card has been submitted by an agency that has identified an individual that this agency has arrested or may have an active warrant entered in NCIC, it is this agency’s responsibility to follow-up by determining if the case is still active and to contact that agency and advise the case status.
2. This agency will also follow-up with any other agency following a “Hits to Wants” notification where this agency fingerprinted an individual and the holder of the case is another agency. Follow-up will be conducted for any “Hit to Wants” notification received that is not covered in the above procedures.

ATTACHMENTS:

Appendix 13.0A – Warrant Control Sheet

DOCUMENT DATES:

Amended Date:

Review Date:

Review Date:

Rescinds:

Order Written by: Chief of Police

Order Edited and Approved by: Chief of Police

*CALEA Standards included in this Order
Chapter 74*