

Heinz von Eckartsberg, Chief of Police

Date: \_\_\_\_\_

<b>GENERAL ORDER 74</b>
<b>LEGAL PROCESS</b>
EFFECTIVE DATE: August 10, 2011
SUMMARY OF REVISIONS: 74.1.1 A

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**PURPOSE:** The purpose of this chapter is to address agency discretion in performing and recording legal process functions. The standards are adopted for the effective and timely service of court documents and to ensure sufficiency of information, accuracy, accessibility and fiscal accountability.

## 74.1 RECORDS

### 74.1.1 CONTENTS OF RECORDS SYSTEM

A. All legal process will be marked with the time and date received.

– The name or unit number of the communications technician receiving said legal process (i.e. **arrest warrant**) will be noted on the warrant work sheet that will become part of the warrant file folder.

– **Protection orders** (i.e. temporary protection order, civil protection order, anti-stalking protection order, and any other criminally enforceable protection order in the state of Ohio) will be forwarded to the communications center for entry into the computer aided dispatch (CAD) system.

– **Subpoenas** shall be forwarded to the Court Liaison Officer who shall mark the date received.

–For **Franklin County Municipal Court cases**, the Court Liaison will notify the appropriate officers via the current Groupwise appointment notification system. The Court Liaison Officer will also place a printed copy of the court appointment in the appropriate officers' mailbox.

–The Court Liaison Officer will forward **hard copies of subpoenas** to officers for cases through Dublin Mayor's Court, Franklin County Common Pleas Court, Franklin County Juvenile Court, and all Delaware and Union County Courts.

When communication is received from Franklin County Municipal Court regarding a **court ordered vehicle immobilization**, the communication will be forwarded to the First Shift Patrol Sergeant or his/her designee.

–The First Shift Patrol Sergeant or his/her designee will review the court order to assure that all is in order, and we have the proper jurisdiction for the immobilization location.

–The First Shift Patrol Sergeant or his/her designee will make available a copy of the court order and the immobilization tool to a sworn member of this agency. That member will then seek out the vehicle and immobilize it according to the court order.

–If the vehicle is found at the immobilization location and an owner not available to unlock the vehicle, the vehicle will be unlocked using an agency owned lock out tool.

–The officer executing the immobilization will put a narrative surrounding the immobilization on the back of the provided copy, and return the same to the First Shift Patrol Sergeant or his/her designee, including at a minimum the time and exact location of the immobilization.

–The First Shift Patrol Sergeant or his/her designee will be responsible for maintaining a file of current and expired immobilized vehicles within the City of Dublin.

– Upon expiration of the immobilization period, the First Shift Patrol Sergeant or his/her designee will designate a sworn member of this agency to release the immobilized vehicle.

– The same procedure as the initial immobilization will be followed with respects to unlocking of the vehicle and reporting back the results to the First Shift Patrol Sergeant or his/her designee.

– The First Shift Patrol Sergeant or his/her designee will be responsible for maintaining contact during and after the immobilization period, with the Court appointed immobilization coordinator.

B. Civil and Criminal Legal Process - Members of this agency will not normally be required to serve civil process. Civil process originating in Municipal Court or County Courts is handled by the Sheriff's Departments of Franklin, Delaware, and Union counties, respectively.

– Generally, only criminal process will be handled through this agency.

– **Arrest warrants** and **protection orders** are normally processed by the communications center.

– **Subpoenas** will be processed through this agency's court liaison function.

– **Search warrants** are processed by the originating officer(s) within this agency.

C. A descriptor indicating the **nature of the document** will be incorporated in the face of the document itself or will be typed or hand written on the face of the document, e.g. warrant, summons, complaint, etc.

D. The **source of the document** will be incorporated in the face of the document itself or will be typed or hand written on the face of the document, e.g. Dublin Mayor's Court, Franklin County Municipal Court, etc.

E. The **name of the plaintiff/complainant** and/or the name of the defendant/respondent will be clearly indicated on the face of the document or will be added.

F. An on-duty patrol supervisor may request a copy of the warrant work sheet and **assign out the legal process for service** to an officer. The original warrant worksheet contained in the original warrant file will be completed by the serving officer subsequent to arrest or attempted service.

G. The serving officer will clearly indicate the **date of assignment** on the original warrant worksheet.

H. The **court assigned docket number** will normally be clearly indicated on the face of the document. If no docket number is assigned, the communications center will contact the issuing court, obtain a docket number, and record it on the face of the document.

I. The date service is due (if applicable) will be clearly indicated on the document (although normally no specific service date is given).

#### 74.1.2 EXECUTION OF PROCESS

Warrant worksheets completed by the serving officer subsequent to arrest or attempted service will include the following:

- A. Date and time of service was executed/attempted
- B. Name of the officer(s) executing/attempting service
- C. Name of the person served
- D. Method of service or reason for non service
- E. Address where service or attempt was made

- Warrant worksheets will only be kept for those cases that have not been actually served.

- Upon execution of the legal process, the warrant worksheet shall be destroyed. The serving officer will complete an arrest report form (U-10-100) that shall include: 1) Date and time of service was executed; 2) Name of the officer(s) executing service; 3) Name of the person served; 4) Method of service; 5) Address where service was made.

- Upon execution of the legal process, the executing officer shall immediately notify the communications section to allow them to cancel the warrant entry in LEADS/NCIC, if applicable.

#### **74.1.3 WARRANT/WANTED PERSONS FILE**

The agency **wants and warrants file** is maintained in the communications center.

A. All agency **warrants are entered into Ohio LEADS and NCIC** in accordance with LEADS/NCIC operating guidelines by the communications center warrant team.

B. Information may be received from **other jurisdictions** concerning warrant and wanted person files.

- The communications sections shall forward information from other agencies to the shift supervisor.

C. Warrants are maintained in **separate files** located in the communications center.

- Communications center warrant team personnel will **enter all warrant information** into the records management system (RMS) to include pickup radius as directed in LEADS/NCIC policy.

D. All **warrants are validated** in accordance with a validation schedule established by LEADS/NCIC.

- Communications personnel must verify warrants by teletype hit confirmation to the appropriate agency (originating agency) or by telephone with the Clerk of Court office prior to service.

E. When a **warrant is served, cancelled, recalled** or cannot be confirmed as valid, it shall be removed from LEADS/NCIC by communications center warrant team and logged as inactive in the records management system (RMS).

F. Warrants are accessible in the communications center at all times.

## **74.2 CIVIL PROCESS**

### **74.2.1 SERVICE OF CIVIL PROCESS**

A. Members of this agency will not normally be required to serve civil process or protection orders. Civil process or protection orders originating in Municipal Court or County Courts will be handled by the Sheriff's Departments of Franklin, Delaware, and Union counties, respectively.

B. In certain cases, the agency may be requested by courts and other agencies outside of this agency's jurisdiction and outside of the jurisdiction of the courts of Franklin, Delaware, or Union Counties to serve certain civil processes and/or documents.

- At the discretion of the on-duty patrol supervisor, the agency may attempt to provide service of these documents.

- Attempts should be made to serve the civil process during reasonable hours.

- If the process requires some type of enforcement action beyond simple service, the Sheriff of the appropriate county will be contacted to handle service of the process.

C. If the courts evict a tenant within the City of Dublin and the Dublin Division of Police becomes aware of evicted property that has been removed from the residence, neither the Division of Police nor the City of Dublin will assume control over any property, nor will they assume security responsibility for said property.

## **74.3 CRIMINAL PROCESS**

### **74.3.1 EXECUTION OF CRIMINAL PROCESS**

A. Sworn members of the Dublin Division of Police will **execute any criminal warrant** which is presented to them or which comes to their knowledge while they are performing their duties within the City of Dublin, as governed by Ohio Revised Code Chapter 2935 and Ohio Rules of Criminal Procedure Rule 4.

- Prior to arresting any subject on a criminal warrant, the serving officer will request the communications center to **verify the warrant**.

- When the warrant has been verified, the serving officer may **execute the warrant**.

- If the warrant **has not been verified** or is unable to be verified, the serving officer will not execute the warrant.

– In situations where an **active and verified criminal warrant exists**, but the originating agency refuses to serve the subject, the on-duty patrol supervisor, at his/her discretion, may allow a Dublin officer to execute the criminal warrant. This does not mandate the Dublin Division of Police to execute criminal warrants for originating agencies that refuse to serve their warrants.

– Active and verified criminal warrants may be served at **anytime of the day or night**, however, the Dublin Division of Police will not normally proactively work criminal warrants outside of the hours between 7 AM and 8 PM.

B. Sworn members of the Dublin Division of Police **may execute criminal warrants outside of the City of Dublin** when such execution is allowed and as governed by Ohio Revised Code Chapter 2935 and Ohio Rules of Criminal Procedure Rule 4.

– Sworn members of this agency attempting to serve criminal process outside of the City of Dublin will make a **reasonable attempt** to inform the agency that has primary jurisdiction of their intent to serve process and will make a reasonable attempt to have an officer of that agency of jurisdiction in their company prior to service.

– Persons who are served criminal process in counties **other than those adjacent to the county from which the process was issued** (Franklin, Union, or Delaware County) will not be picked up by this agency unless the person has received a Criminal Rule 4 hearing or has waived his/her rights to said hearing.

C. Except as provided in Ohio Revised Code 2935, which allows the court to withdraw a misdemeanor charge not served within two (2) years of the date of issue, **warrants have no expiration date** and, provided legal process was begun in a timely fashion as provided in Ohio Revised Code 2901 or provided process has been served, warrants may be served at any time or place as outlined in Ohio Revised Code and Ohio Criminal Rules of Procedure.

– Persons arrested upon a warrant **must be brought before the Court** that issued the warrant without unnecessary delay or must be presented the opportunity to present bail to the Court. (Criminal Rule 4)

– Time limitations for trials are set forth in Ohio Revised Code §2945.71 and are a concern of the Court.

D. The **issuance of a summons in lieu of arrest** is discretionary on the part of the officer when the appearance of the defendant is reasonably assured. (See General Order 1.2.4)

– Summons **should not be issued** when the offender cannot or will not offer satisfactory evidence of his/her identity or when the offender has previously failed to appear in court.

E. Use of force in service of a criminal warrant will be governed by standards governing use of force in any situation. (See General Order 1.3 et seq)

– “When **making an arrest or executing an arrest warrant** or summons in lieu of an arrest warrant, or when executing a search warrant, the peace officer, law enforcement officer, or other authorized individual making the arrest or executing the warrant or summons may break down an outer or inner door or window of a dwelling house or other building, if, after notice of his intention to make the arrest or to execute the warrant or summons, he is refused admittance,

but the law enforcement officer or other authorized individual executing a search warrant shall not enter a house or building not described in the warrant.” (Ohio Revised Code §2935.12)

F. Officers will be familiar with those individuals who are privileged from arrest and under what circumstances these individuals are privileged from arrest. (See G.O. 1.1.4)

## G. SEARCH WARRANTS

In accordance with ORC 2933.21 – 2933.32

Sworn members will only execute a search warrant that is signed by a judge and based on probable cause. The search warrant will particularly describe the place or person to be search and the things to be seized.

Search warrants will be executed in the time parameters designated by the search warrant.

- A search warrant must be executed within three days (72 hours) of issuance.
- A day time warrant will only be worked during day time hours (7:00 am to 8:00 pm)

If a nighttime search warrant is granted, the night time search warrant may be worked during nighttime hours. Reasons a nighttime search warrant may be granted include:

- To prevent the further distribution of contraband into the community and to assist the officers in serving the search warrant without being detected.
- For the safety of the executing officers.
- To prevent the destruction or removal of evidence.
- The place to be searched has been secured at nighttime and a search warrant is received to be executed immediately.

After executing a search warrant, sworn personnel will leave a copy of the inventory of property taken (property impound form), and a copy of the search warrant at the place where the property was taken from. When possible the inventory of the property taken should be conducted in the presence of the owner of the property.

After executing a search warrant, sworn personnel will promptly return the original search warrant and a copy of the inventory to the court that authorized the search. A copy should also be maintained with the departmental case packet.

## H. INVESTIGATIVE SUBPOENAS

Investigative subpoenas may be requested through County Municipal Court of jurisdiction. Investigative Subpoenas should be sought when investigating a case where the subpoena of and receiving documents would likely lead to resolving the investigation. Current instructions and forms for Investigative Subpoenas are maintained on COPNET.

### **74.3.2 WARRANTS EXECUTED BY SWORN PERSONNEL**

Only sworn officers of the Dublin Division of Police are authorized to execute arrest warrants.

### 74.3.3 CITIZEN PRIVATE FILE REFERRAL

A citizen private file referral refers to those instances where a citizen wishes to pursue a criminal complaint or charge against another for an alleged criminal violation, but there is a legal question as to whether the act/event is criminal and/or whether probable cause exists to file a charge.

A **citizen private file referral** should only occur if: 1) an officer encounters a situation, investigates it, and the officer is unsure if the act/event is a crime and it doesn't require an immediate action -OR- 2) an officer encounters a situation, investigates it, and the officer is unsure if he/she has probable cause to make an arrest or file a charge and it doesn't require an immediate action.

In either of these cases, officers shall do the following:

- File an offense, incident, or continuing investigation report which details the facts and circumstances of the act/event.
- Investigate the matter, follow-up on all leads, and supplement all follow-up actions. The matter should be fully investigated with all leads reasonably exhausted. The investigation should be completely documented.
- The officer shall review the investigation with his/her supervisor prior to submitting it to the court liaison function. The supervisor may authorize the officer to file charges himself/herself, refer the case to detectives for further investigation, advise the investigating officer to conduct further follow-up investigation, advise the investigating officer that no further action is needed or warranted on the case, and/or refer the case to the court liaison function for a citizen private file referral by the prosecutor.
- When completed with the investigation, forward a copy of the entire investigation to the court liaison function (i.e. witness statements, offense report, supplemental reports, phone records, impound forms, audio/video recordings, etc.).
- Advise the victim/complainant that the case is going to be referred to the prosecutor for a citizen private file referral and provide the prosecutor's contact information.

The court liaison function will meet with the prosecutor on a weekly basis or as needed to review all citizen private file referral matters to determine:

- If the act/event is a crime?
- Is there any additional follow-up necessary or that needs to be completed?
- If the act/event meets the prosecutor's criteria for dispute resolution?
- Whether charges will be authorized?
- Who will file the charge (citizen or officer)?
- Who will communicate with the victim and complainant?



The court liaison function will coordinate and act as the liaison between the prosecutor and the investigating officer.

– If the prosecutor declines to authorize charge(s) on the case, a court liaison officer will contact the victim/complainant and advise him/her of the case status/disposition.

– If the prosecutor authorizes charges on the case, a court liaison officer will contact the investigating officer with instructions. Generally, this will involve the investigating officer filling out the charge(s) and meeting with the victim/complainant to have the charge(s) signed and filed.

If the prosecutor determines that dispute resolution will be offered to the parties involved, the prosecutor will assume responsibility for the case and all communication with the parties involved.

**CROSS REFERENCE TO STANDARDS AND POLICIES:** G.O. 1.2.4, 1.3, 1.4, 84; ORC 2933, 2935, 2901, 2945, 2331; Criminal Rule 4; United States Constitution

**CROSS REFERENCE TO FORMS:** Warrant worksheet, U-10-100, Search Warrant

SAMPLE POLICY  
This may not represent this agency's current procedure