

*Keith Porch, Chief of Police*

//K. Porch//

# GENERAL ORDER 74

## LEGAL PROCESS

EFFECTIVE DATE: May 1, 2019

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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 (LE1)**

A. When a warrant to arrest for violation of any state law or city ordinance is obtained by any member of this Department it shall be registered immediately with the Records Section. **The Records section computer entry will serve as the date and time received for this agency..**

- A Warrant Service Cover sheet shall be filled out and attached to the Warrant by Records Section or Clerk of Courts personnel without delay.
- Subpoenas shall be forwarded to the Shift Commander who shall mark the date received.
  - The Shift Commander will subsequently forward hard copies of subpoenas to individual officers for service. **Officers shall notify the PSCC of the date and time of any service and attempted service, which will be recorded within the CAD System.**

**B. Civil and Criminal Legal Process** – Members of this agency will not normally be required to serve civil process. Civil process originating in Municipal or Richland County Courts are handled by the Richland County Sheriff's Department and Municipal Court employees.

- Generally, only criminal processes are handled through this agency.
  - **Arrest warrants** are normally processed by the records section.
  - **Subpoenas** will be processed through the Shift Commander.

**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, subpoena, 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. Mansfield Municipal Court, Richland County Common Pleas Court.

**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.** The original warrant cover sheet contained in the original warrant file will be **completed by the serving officer** subsequent to arrest.

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

**H.** The **court assigned docket number** will normally be clearly indicated on the face of the document. If no docket number is assigned, the Records clerk will return the document to the issuing court, so that they can 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**

Officers shall notify the PSCC of the date and time of any service and/ or attempted service which the following information will be recorded within the CAD System.

- 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 cover sheets are completed by the serving officer subsequent to arrest.

- Upon execution of the warrant, the communications section shall cancel the warrant entry in LEADS/NCIC.

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

The agency wants and warrants files are maintained in a combined effort by the Records section and the PSCC.

A. All agency **warrants are entered into Ohio LEADS and NCIC** in accordance with LEADS/NCIC operating guidelines by PSCC personnel.

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

- The PSCC shall forward information from other agencies to the shift supervisor.
- The records section will enter warrant information received from other agencies into the records management system (RMS).

C. The agency **wants and warrants file** is maintained in the Records section so that a multi-jurisdictional “active warrant” database has been created to better serve this agency and surrounding agencies.

The original warrants are maintained in separate files located in the PSCC.

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

- PSCC 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. An updated warrant list is produced on new warrants entered into this system on a daily basis for in house purposes and a master warrant list is produced on a weekly basis and distributed to surrounding participating agencies as well as in house so that warrant information is shared more effectively.

F. When a **warrant is served, cancelled, recalled** or cannot be confirmed as valid, it shall be removed from LEADS/NCIC by PSCC personnel. This information shall be forwarded to the Records section so that the warrant entry can be made inactive in the records management system (RMS).

G. **Warrants are accessible** in the communications center **at all times**.

## **74.2 CIVIL PROCESS**

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

Members of this agency will not normally be required to serve civil processes. Civil processes originating in Municipal or County Courts will be handled by the Richland County Sheriff's Department and Municipal Court employees respectively.

### **74.3 CRIMINAL PROCESS**

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

Sworn members of the Mansfield 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 Mansfield, 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 PSCC 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.

Sworn members of the Division of Police may execute criminal warrants outside of the City of Mansfield 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 Mansfield 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 Richland 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.

– 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)

Officers using force to effect the arrest of persons whom an arrest warrant has been issued shall be governed by standards in General Order 1.3. (Response to Resistance)

– “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)

NOTE: Officers shall obtain supervisor approval prior to making forcible entry pending exigent circumstances.

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)

## 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 served during day time hours (7:00 am to 8:00 pm)

If a nighttime search warrant is granted, the nighttime search warrant may be served during night time 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 of occurrence. 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 jacket.

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

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

**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 Cover Sheet, General Offence Report, Search Warrant.