

LEGAL PROCESS

PURPOSE: To establish procedures for employees of the Jacksonville Police Department to execute criminal and legal process. The elements of this policy shall apply to all sworn employees of the Department.

POLICY: It is the policy of the Jacksonville Police Department to provide responsible and professional service of criminal process consistent with the lawful authority granted to officers of the Jacksonville Police Department. Officers are charged with the duty to ensure that the authority of any criminal process served is valid on its face to restrict service of such process to that of courts with proper jurisdiction.

DEFINITIONS:

- I. **LEGAL PROCESS:** Any item of civil or criminal process, whether original, intermediate, or final that is valid on its face and is to be served or executed by a law enforcement agency.
- II. **CRIMINAL PROCESS:** Those writs, summons, mandates, warrants, or other process issuing from a court of law compelling a person to answer for a crime. The term also includes process issued to aid in crime detection or suppression, such as search warrants.
- III. **CIVIL PROCESS:** Those writs, summons, mandates, or other process issuing from a court of law or equity pertaining to a cause of a civil nature. The term includes original, intermediate, and final process to be served by a law enforcement agency in any action involving civil litigants.
- IV. **NO CONTACT ORDER:** Issued by a court to a defendant if it appears that there exists a danger that the defendant will commit a serious crime, seek to intimidate a witness, or otherwise unlawfully interfere with the orderly administration of justice. The victim can request the order at the defendant's plea and arraignment hearing.
- V. **RESTRAINING ORDER:** Issued in civil cases (i.e. divorce cases). May prohibit parties from harassing each other or protect the marital property interests during the time preceding the case. Enforced by the court and not by law enforcement.
- VI. **PROTECTION ORDER:** Court order to provide a victim immediate protection from an abuser in domestic violence. Orders can be issued for as little as ninety (90) days or as long as ten (10) years.

PROCEDURES:

- I. **CIVIL PROCESS (7.31, 7.32)**
 - A. Arkansas Rules of Civil Procedure Rule 4 states the service of civil summons shall be made by the Sheriff of the County where the service is to be made, or his deputy, unless the Sheriff is a party to the action.
 - B. The Jacksonville Police Department is not required to execute civil process, and will direct citizens to the Sheriff's Office of the county where the service is to be made.

II. CRIMINAL PROCESS WARRANT PROCEDURE (9.08)

- A. The Jacksonville Police Department warrant tracking system is maintained in Records Management System (RMS). This function is to provide accurate information regarding the status of each warrant issued by the Jacksonville District Court.
- B. The following information is accessible from this warrant system:
 - 1. Date and time received;
 - 2. Type of legal process, civil or criminal;
 - 3. Nature of document;
 - 4. Source of document;
 - 5. Name of plaintiff/complainant or name of defendant/respondent;
 - 6. Officer assigned for service;
 - 7. Date of assignment;
 - 8. Court docket number; and
 - 9. Date service due.
- C. The Department uses the Arkansas Crime Information Center and the National Crime Information Center (ACIC/NCIC) which have computerized Wanted Persons Files. Entries of criminal process into these systems must comply with the rules and regulations set forth by ACIC and NCIC. The file contains personal descriptors and identifiers for persons who have warrants and are being sought by the law enforcement community.
- D. Warrants that are recalled through the court will be removed from ACIC/NCIC and the RMS systems.
- E. The following Arkansas State Statutes, Rules of Criminal Procedure, and/or written policies govern the execution of the criminal process by employees of the Jacksonville Police Department:
 - 1. A.C.A. §16-81-105. Execution of summons and service of process. Any law enforcement officer to whom any criminal summons or warrant is directed may serve or execute it in any county in the state.
 - 2. A.C.A. §16-81-107(d) Procedures of arrest. A law enforcement officer making an arrest may summon orally as many persons as he deems necessary to aid him in making the arrest. Use of Force - The use of force in the execution of an arrest warrant will be governed by Policy 9-1: Response to Resistance.
 - 3. ARCrP Rule 4.2. Authority to arrest with warrant: Any law enforcement officer may arrest a person pursuant to a warrant in any county in the state.
 - 4. ARCrP Rule 5.2. Authority to issue citations: A law enforcement officer in the field acting without a warrant who has reasonable cause to believe that a person has committed any misdemeanor may issue a citation in lieu of arrest or continued custody.
 - 5. ARCrP Rule 6.1. Authority to issue summons: All officials having the authority to issue an arrest warrant may issue a criminal summons in lieu thereof in all cases in which a complaint, information, or indictment is filed or returned against a person not already in custody.
 - 6. ARCrP Rule 6.3. Service of criminal summons: A criminal process may be served by:
 - a. Any method prescribed for personal service of civil process; or
 - b. By certified mail, for delivery to the addressee only with return receipt requested.
 - 7. ARCrP Rule 13. Search and Seizure pursuant to a warrant.
- F. The Jacksonville Police Department and the Jacksonville Communications Center does not enter, maintain, or confirm warrants for other agencies. (9.09)
- G. At least annually, an audit of the warrants will be conducted in the RMS and ACIC/NCIC systems.

III. RECORDS OF EXECUTION/ATTEMPTED SERVICE OF CRIMINAL AND LEGAL PROCESS DOCUMENTS

- A. Warrant Officers and other sworn employees of this Department will make attempts to serve all active legal process documents which include: subpoenas; criminal summons; “No Contact Orders”; and, any other legal process documents required by law.
- B. Any officer attempting to serve such legal process documents shall document their efforts on the Warrant/Summons Activity List (JPD Form 12-3) which shall be stapled to the top left side of the legal process document and upon service of such document will forward this form to the Warrant Office for filing.
- C. JPD Form 12-3 is designed to document the following information:
 - 1. Date and time service was executed/attempted;
 - 2. Name of the officer(s) executing/attempting service;
 - 3. Name of the person on whom the warrant service was served/executed;
 - 4. Method of service/attempted service or reason for non-service; and
 - 5. The address of service/attempt.
- D. When an officer makes contact with a party in reference to serving a locally issued misdemeanor warrant, the following procedure for confirming the warrant shall be followed prior to placing the subject in question into custody: (9.08)
 - 1. The officer requesting confirmation shall contact the Communications Center to initiate confirmation of the warrant;
 - 2. Warrants will be stored in the Communications Center. Sworn personnel will have twenty-four (24) hour access to the warrants files;
 - 3. The dispatcher shall locate the “hard copy” of the warrant and compare the name, DOB, and warrant number in order to confirm the warrant;
 - 4. Then Communications shall relay the confirmation of the warrant to the requesting officer; and
 - 5. After the warrant is served, the warrants officer, or his designee, will make sure the warrant is deleted from ACIC/NCIC.
- E. When an officer makes contact with an individual for whom an outstanding warrant is listed in ACIC/NCIC, the following procedure for confirming the warrant shall be followed prior to placing the subject into custody:
 - 1. The officer requesting confirmation shall contact the Communications Center to initiate the confirmation of the warrant;
 - 2. The Communications Center shall send a Hit Confirmation Request through the ACIC/NCIC terminal to the originating agency; and
 - 3. Upon receipt of the Hit Confirmation Response, the Communications Center shall advise the requesting officer that the warrant is confirmed.
- F. After serving a warrant that is on file at the Jacksonville Police Department, the arresting officer shall retrieve the “hard copy” of the warrant from the Communications Center and record the following information on the return section of the warrant:
 - 1. County of Arrest;
 - 2. Date and time of arrest;
 - 3. Name of the arrested party;
 - 4. Date of the court appearance; and
 - 5. Arresting officer’s signature.
- G. In addition to completing the return on the “hard copy” of the warrant, the arresting officer shall complete an Arrest Disposition Report (ADR).
- H. Warrants originating out of the Jacksonville District Court do not include a due date for service.

IV. NO CONTACT AND PROTECTION ORDER PROCEDURES

- A. No Contact Orders and Protection Orders (orders) will be filed in the Communications Center alphabetically, along with the orders from outside jurisdictions. All orders shall be accessible twenty-four (24) hours a day for verification purposes.
- B. Orders are received from the courts that may have already been served. However, they must be kept on file for verification by officers in the field making an arrest for "Violation of a No Contact Order".
- C. Confirmations of an order will follow the procedures for confirmation of a warrant.
- D. Reports of violation of a restraining order will be referred to the issuing court.

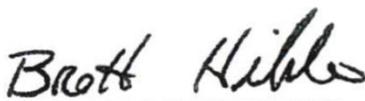
V. PRETRIAL RELEASE

- A. For subjects that are arrested on warrants that have specific instructions, the officer will have to follow those instructions as set by the signing Judge (bench warrant, cash bond only, etc.).
- B. Prisoners in custody may be released by any Supervisor or Commander without posting bond. Relevant considerations will include the seriousness of the offenses, the reasons that the arrest was made, and jail capacity constraints.

VI. WARRANT ENTRY (9.08)

- A. All Jacksonville Police Department warrants will be entered into the RMS and a detailed log will be kept for the life of the warrant.
- B. Felony warrants will be entered into ACIC/NCIC within 48 hours of picking up the issued copy from the courts.
- C. Felony warrants entered into ACIC/NCIC will be checked for accuracy no later than 24 hours after entry and will be completed by the non-entering officer or TSO.
- D. Warrant entry will be the responsibility of the Warrants Division with assistance from the TSO's.
- E. Served Warrants will be removed from ACIC within 24 hours and RMS will be updated.

ALEAP: 7.31; 7.32; 9.08; 9.09



Brett C. Hibbs
Chief of Police