

## **74.0 Legal Process**

### **74.1 Records**

#### **74.1.1 Information**

The Sheriff's Office receives criminal and civil process through the court clerks for service. The clerk delivers the legal process to the Judicial Division office associates to be recorded and distributed to the judicial deputies or process servers for service.

Each legal process should be recorded and include:

- A. Date and Time received
- B. Type of Legal Process (Criminal or Civil)
- C. Nature of the document
- D. Source of the document
- E. Name of the plaintiff/complainant or name of the defendant/respondent
- F. Deputy or Process Server assigned
- G. Date of Assignment
- H. Court docket number
- I. Date service due

#### **74.1.2 Attempts or Execution of Service**

- A. Judicial Division Office Associates will assign legal process to judicial deputies or process servers for service. After service or attempted service of legal process, the Office Associate shall record the actions. As a rule, the document should be received, at least five business days before service is due.

Each legal process will have a jacket sheet to document the following information:

- 1. Whom original process was assigned
- 2. Date and time process was attempted/executed
- 3. Name of person on whom process was served/executed
- 4. Address of attempt/execution of service
- 5. Method of service

If the deputy or process server finds that the defendant/respondent no longer lives at the address provided on the process and the forwarding address is not in their assigned service area, they will return the process to the Office Associate for reassignment to the respective deputy/server, unless the address is close to their service area. If this is the case, the deputy shall make an attempt.

Once the service is complete or non-est (not served), the return of service and jacket sheet is returned to the Office Associate. The Office Associate will enter any changes noted by the deputy/server.

- B. Non Est (Not Served) - If the deputy or process has no forwarding information at the address listed on the legal process, the deputy may use several resources to try to locate the defendant/respondent to include but not limited to:

1. C.A.D.
2. MVA browse
3. Detention records
4. Post Office
5. Phone book
6. City Hall
7. Neighbors
8. Court records

If all attempts to locate a forwarding address have failed to produce any forwarding information, the process will be returned to the Office Associate as Non Est.

As a rule, with time permitting, a minimum of three (3) attempts will be made prior to being considered “Non Est”, unless satisfactory proof exists to corroborate a “Non Est” disposition.

The State’s Attorney should be notified of appropriate processes that are Non-Est.

- C. Service in Personam (Service In Person) - Generally, service of process may be made either within State or outside this State. The Laws of the State authorize restricted delivery by U. S. Mail to the person to be served, and shall include a copy of the summons, complaint, and all other related papers associated with the filing. Service by certified mail is complete upon delivery. (MD Rule 2-121 (a)).

- D. Resisted Service - If a person resists service of civil process by threats, violence, or superior force, or by preventing the officer serving the process from entering the premises so that the officer cannot serve the process without personal risk, the officer shall leave a copy of the process:

1. With a responsible person at the premises; or, if that is not possible;
2. Posted as near the premises as practicable.

Service under this section is as effective as actual personal service. (Courts & Judicial Proceedings 6-303).

- E. Service in Rem or Quasi in Rem - When the plaintiff has shown by affidavit the whereabouts of the defendant are unknown and reasonable efforts have been made to locate the defendant, the Court may order service by mailing a notice to the defendant’s last known address and:

1. By posting of the notice at the Courthouse door or in a bulletin board within its immediate vicinity; or,
2. By publishing the notice at least one week in each of three successive weeks in one or more newspapers of general circulation published in the county in which the action is pending; or,
3. In an action in which the rights relating to land, including lease hold interests are involved, by the posting of the notice by the Sheriff in a conspicuous place on the land.

Additionally, the court may order any other means of notice that it deems appropriate.

- F. Service on a Business - Service is made upon a corporation, association, or joint stock company by serving its resident agent, secretary, or treasurer. If the corporation, association, or joint stock company has no resident agent or if a good faith attempt to serve the resident agent, president, secretary, or treasurer has failed, service may be made by serving the manager, any director, vice president, assistant secretary, assistant treasurer, or other person expressly or impliedly authorized to receive service of process. If a corporation required by statute of this State to have a resident agent has no resident agent or if two good faith attempts on separate days to serve the resident agent have failed, service may be made by serving two (2) copies of the summons, complaint, and all other papers filed with it, together with the requisite fee, upon the State Department of Assessments and Taxation.

#### 74.1.3 Warrants and Wanted Persons File

##### Definition:

**Warrant Control Officer (WCO):** The Warrant Task Force Supervisor will be designated as the departmental Warrant Control Officer (WCO). The Warrant Control Officer will ensure compliance with this Order and strict accountability of warrants assigned this department for service. By the fifth of each month, the WCO will forward a monthly report of activity by the Warrant Task Force to the Sheriff, Chief Deputy and Judicial Commander. Additionally, the report will be forwarded to selected staff at HPD and MSP, as well as the WTF officers.

**Warrant Clerks:** Warrant Clerks will be assigned to assist the WCO with warrant accountability. The WCO will assign duties to the clerks as deemed necessary and will be responsible for ensuring assignment compliance. Duties of the Warrant Clerks will include, but not be limited to:

- A. Any warrant received by the department issued in Washington County involving criminal charges on adult offenders will be entered by a Warrant Clerk into the METERS System, (**M**aryland **E**lectronic **T**elecommunication **E**nforcement **R**esource **S**ystem), providing adequate information is available. Warrants received by the department issued in

Washington County involving criminal charges in which the State's Attorney has, by way of an "Extradition Request" form, authorized extradition from outside Maryland, will be entered into the NCIC System, (National Crime Information Center), by the Warrant Clerk.

As part of the computer entry procedure, a Warrant Clerk will complete a "Computer Check Off" form. The form will be checked for accuracy and signed by another Warrant Clerk assigned to the Warrant Task Force. Copies of these entries will be made a part of the warrant file.

- B. All warrants received by this department, (via mail, fax, or hand carried), will be recorded immediately in the "Warrant Control Ledger" form by the Warrant Clerk and assigned the next sequential file number. The sequential file number will be used as a reference for the warrant. This procedure may be exempted if immediate service is necessary to assure the safety and welfare of the individuals involved to prevent escape or in the event of other extenuating circumstances. If immediate service is warranted, a copy of the warrant will be forwarded immediately to the Warrant Clerk upon service so entry can be made.
- C. All warrants received will be entered by a Warrant Clerk into the Records Management System (RMS).

A Warrant Clerk will establish a file folder for each warrant received. The original warrant will remain in the file folder until served. Copies of the warrant may be taken into the field on warrant attempts. Warrant file folders will be kept in alphabetical order in a file cabinet located in the Patrol Records Section.

When a warrant issued in Washington County involving criminal charges is received, a Warrant Clerk will forward a copy of the warrant along with an "Extradition Request" form to the State's Attorney's Office. A copy of the "Extradition Request" will be made a part of the warrant file.

- D. Warrant Inventory
  - 1. The Warrant Control Officer, or his designee, will ensure all open warrants on file are compared with Warrant Validation Sheets received from METERS/NCIC. Only warrants currently on file will be carried on the METERS/NCIC system. Warrants not on file but carried on the system will be removed from the system as soon as possible.
  - 2. An annual audit will be conducted by the WCO or his designate to determine that all open warrants are accounted for. A check will be made to see if all leads regarding service of the warrant have been exhausted.
  - 3. A copy of any warrant the WCO determines should be considered for recall will be sent to the State's Attorney's Office for review. Per Maryland law, any misdemeanor or traffic warrant 7 years old

will be forwarded to the State's Attorney for review to be dismissed and recalled. This will be done on a continuing basis by the WCO. Such actions will be documented by accompanying letter with a copy made part of the warrant file.

4. All warrants received for service will be checked, if at all possible, by the WCO or his designate to ensure adequate information needed for process is on the warrant. If a warrant from another jurisdiction lacks sufficient information for service, it will be returned along with the "Return of Warrant" form, stating inability to serve due to insufficient information.
5. All warrants will be verified as active prior to taking any person into custody.
  - a. Verification on out-of-county warrants is achieved through METERS/NCIC message prior to an individual being taken into custody. The assigned deputy will request the Communication Center to send a "Hit Confirmation Request" to the originating agency to find out if the warrant is still active.
  - b. Once the warrant has been confirmed as active and the person is taken into custody, the assigned deputy will request the Communication Center to send a "Locate Message" to the originating agency informing them that this department has the wanted person in custody. Copies of these messages will be kept by the assigned deputy and submitted with his/her report.

E. Warrant Recall

1. Authorized recall notices of warrants are as follows:
  - a. A written notice is required from a requesting agency to this department recalling a warrant.
  - b. Telephone messages alone are not acceptable, and the warrant will be held pending formal notification. Callers will be informed of the departmental policy.
  - c. To prevent a warrant service prior to receipt of formal notification, an obvious notation will be made in a conspicuous place on the warrant file and an entry made in the Records Management System, indicating a "recall pending".
  - d. If the warrant file indicates Detention Center Booking was given a copy of the warrant to hold as a detainer, (subject being held in Detention Center on local charges); the

Booking Deputy will be advised that the warrant has been recalled.

2. Recall of Warrant by Court Order

a. When a formal recall notice for a warrant is received from a court, the following actions will be taken:

1. The warrant, along with a “Warrant Return” form will be returned to the originating agency by the WCO or his designee.
2. Notations will be made in the Warrant Control Ledger and Records Management System.

3. Recalling Warrants Forwarded to Another Agency

a. In the event a recall is received for a warrant that has been forwarded to another agency for service, the following actions will be taken:

- 1) A “Washington County Sheriff’s Office Recall” form will be prepared and attached to a copy of the formal recall notice. The documentation will then be forwarded to the appropriate agency for action.
- 2) The original recall notice and the respective METERS/NCIC purge will be retained in the warrant file three years from date of recall, and then may be destroyed.
- 3) Appropriate ledger entries will be made.

4. Recalled Warrants from other Agencies Held by Washington County Sheriff’s Office

a. If this department holds a warrant from another department and a formal recall notice is received, the following actions will be taken:

1. A “Washington County Sheriff’s Office Return Notice” will be attached to the warrant in question with a copy of the formal recall request.
2. Appropriate ledger entries will be made.

F. 24-hour access to the warrant files

1. All original copies of warrants will be housed in the records Section at the WCSO Patrol Division because it is a 24-hour operation.
2. Original copies of warrants will not be removed from the Records Section until the wanted person has been taken into custody or unless approved by the WCO. Warrants removed from the file cabinet for any reason will be logged out on the "Warrant Log" form. When the warrant is returned to the cabinet, the "in" portion of the caption will be completed. If an original warrant is being transmitted to another agency; i.e., State's Attorney's Office, a "Warrant Receipt" form, will be filled out by the person releasing the original warrant and will be signed by the receiving person at the other agency.

G. Time of Day for Warrant Services

When feasible, and in accordance with guidelines set forth in this Order, warrant service will be attempted between 0700 hours and 2300 hours. Other hours should only be used if prior attempts at service have met with negative results, it is established the person is evading service, a question of safety is involved, or other extenuating circumstances are present. Attempts during other hours must be approved Duty Officer or Warrant Task Force Supervisor.

H. Warrant Arrests

1. When a person has been taken into custody on a warrant issued in Washington County, the arresting deputy will transport the person to the Washington County Central Booking Unit and immediately take the following actions:
  - a. File an Adult Arrest report.
  - b. Ensure that the warrant has been cleared from METERS/NCIC and noted as "served" in the Records Management System.
  - c. Central Booking will handle all aspects of processing arrestees.
  - d. The Warrant Task Force Supervisor or other designated supervisor from Judicial will pick up all arrest folders and paperwork from Central Booking daily. All on-view arrest paperwork will be distributed to the appropriate WCSO Supervisor. Those arrests made by other agencies will be distributed to them via inter office mail.

- e. The WTF Supervisor will review and sign the arrest report and ensure all pertinent documents are enclosed in the warrant folder. The WTF Supervisor will ensure the warrant has been marked as served in the Records Management System and Warrant Ledger. The WTF Supervisor will ensure the warrant has been removed from METERS/NCIC. The file will be placed in the Completed ADR mailbox outside of Records unless the warrant was served by another agency. If this is the case, the file will be given to the Records Section Supervisor for further review.
  - f. Upon receipt of a warrant file, which has been served, a Warrant Clerk will check to see if copies of the warrant were distributed to other jurisdictions for service. If copies were distributed, the Warrant Clerk will immediately fax a Warrant Return form to the agency where the copy was sent, notifying them of the service and requesting the return of the copy to this agency. A copy of the form will be maintained with the file. The Warrant Office Associate will also document the date and time the copy of the warrant was received.
2. A warrant received from a Maryland agency outside Washington County for a subject incarcerated in the Washington County Detention Center will be processed as follows:
- a. The Warrant Clerk will notify the requesting agency that the defendant is incarcerated in the Washington County Detention Center and they need to file a detainer with them. The appropriate information will be provided so this can be done.
  - b. The exception to this is any warrant issued in Frederick County, MD which can be served in the county of arrest. These warrants will be served.
3. If a deputy makes an arrest as a result of a warrant originated by another law enforcement agency within Washington County, he shall:
- a. If a Warrant Task Force Officer is on-duty, either have one of them respond to take custody or transport the defendant to the WCSO and turn them over to the WTF Officer.
  - b. If a Warrant Task Force Officer is not on duty, the arresting deputy shall serve the warrant and turn the defendant over to Central Booking for processing.
  - c. A Warrant Clerk will forward a copy of the served warrant and arrest report to the originating agency.



4. Warrants received by this department for inmates confined at a correctional facility, (other than the Washington County Detention Center), will be processed as follows:
  - a. Such warrants will be processed in accordance with this Order.
  - b. After recording of the warrant, the Warrant Clerk will send a copy of the warrant along with a "Detainer Request" form, to the correctional facility.
  - c. A confirmation of receipt will be requested from the facility. A copy of the "Detainer Request" form will be placed in the warrant file folder.
5. Fugitive Warrants
  - a. Whenever this agency receives a teletype from an out of state agency, regarding a wanted subject in this area, the following action will be taken:
    - 1) The WTF Supervisor or Duty Officer will review the teletype for proper information identifying the subject, and extradition authorization from Washington County.
    - 2) If the teletype does not contain the needed information, a return message will be sent advising the information needed before any action is taken.
    - 3) Upon receipt and review of the teletype, the WTF Supervisor or Duty Officer will assign personnel to check location(s) indicated by the requesting agency.
    - 4) A copy of the teletype from the requesting agency will be maintained by the Warrant Task Force and a copy with personnel attempting to apprehend the subject.
    - 5) A teletype is the only acceptable form of communication regarding a request from an out of state agency to apprehend a fugitive.
    - 6) A copy of teletypes from out of state agencies requesting apprehension of a fugitive will be given directly to the Central Booking Officer to serve as a detainer when:

- a) A subject is arrested on local charges, a computer check indicates he/she is wanted on an active out of state warrant, and the originating agency indicates extradition is authorized. (In this instance, Detention Center personnel will obtain the Fugitive Warrant at their discretion and arrange for service of the warrant.)
  - b) A subject is currently incarcerated in the Detention Center and a teletype is received indicating he/she is wanted by an out of state agency authorizing extradition. (Detention Center Personnel will obtain the Fugitive Warrant and arrange for service in this instance.)
- 7) When applicable, a message will be sent to the requesting agency advising them of the incarceration and that their teletype is being maintained at the Detention Center as a detainer. The requesting agency will also be advised that their contact point for the Department will be Detention Classification, during normal business hours.
- b. Once the fugitive has been taken into custody, the following action will be taken:
  - 1) The arresting deputy will transport the fugitive to the Washington County Central Booking Unit.
  - 2) The arresting deputy will immediately prepare a charge against fugitive and submit it to the District Court Commissioner along with copies of teletype requests from the requesting agency. (Fugitive charges will only be filed after the fugitive is in custody)
  - 3) The fugitive charge will be served and the prisoner processed in accordance with standard procedure by a Central Booking Unit Deputy.
  - 4) The arresting deputy will ensure a copy of the out-of- state warrant and copies of all teletypes correspondence are given to the Booking Officer at the Detention Center.

## I. Out of County Warrants

### 1. Warrants to be served out of county

- a. Warrants received charging individuals residing in Maryland but outside of Washington County will be logged in accordance with this Order. After recording of the warrant, a “Request for Warrant Service” form, and a copy of the warrant will be forwarded to the appropriate police agency for an attempt at service. A copy of the request form will be kept in the warrant file folder.
  - b. The Sheriff’s Office will assume responsibility for making METERS/NCIC entries of warrants issued in Washington County and assigned to the Sheriff’s Office for service, including those forwarded to another jurisdiction for service.
2. Out of county warrants to be served in county - If the warrant is a Maryland warrant but from an out of county agency, the following will apply:
- a. If the warrant is from a Maryland agency outside of Washington County, and is for a person who is already incarcerated on local charges or who is serving a sentence in the Washington County Detention Center, the warrant will be used as a Detainer Only and will not be served until the charges/sentence are fulfilled.
  - b. If the warrant is from a Maryland agency outside of Washington County, **and the warrant specifies that the person can be taken before a District Court Commissioner in the county where arrested** for first appearance, the warrant **will be served if:**
    - 1) There are no local charges against the person.
    - 2) Any warrant issued in Frederick County, MD which can be served in the county of arrest will be served on an arrestee, whether or not there are local charges.
  - c. If a District Court Warrant is from a Maryland agency outside of Washington County, **and the warrant specifies that the person must be brought before a District Court Commissioner in the county where the warrant was issued**, the warrant **will not be served** but held as a detainer as follows:
    - 1) If the person is currently in the Washington County Detention Center, the warrant will act as a detainer until the person can be retrieved by the issuing

agency once pending local charges or sentence are satisfied. The police agency holding the warrant will be instructed to send a detainer to the Detention Center.

2) If the subject is apprehended by departmental personnel on the strength of the warrant only; i.e., no local charges involved, the issuing agency will be notified to retrieve the subject within a reasonable period of time from Central Booking.

d. If the warrant is a Circuit Court document from an agency outside of Washington County where the person is not to be taken before a District Court Commissioner, the warrant will not be served, but will be used as a detainer as in “c” above.

e. It is imperative that the information be passed to the Detention Center when a warrant is received and is to be used as a detainer only for a subject that is currently in the Detention Center.

J. Bail Bondsmen/Bounty Hunters

Bail Bondsmen and/or Bounty Hunters will not be afforded any assistance, whatsoever, from Sheriff’s Office personnel unless approved by a Division Commander or higher authority.

L. Escapees from the Washington County Detention Center

1. When an inmate escapes from the Detention Center, the Criminal Investigations Unit (CIU), will procure an arrest warrant charging escape.
2. The warrant will be recorded as stated under “Recording of Warrants” in this Order.
3. Appropriate entries will be made into the METERS/NCIC System.
4. The warrant will remain in the local file until served.

M. Maryland Comptroller’s Office Tax Refund/Warrant Initiative

1. In 2014 legislation was enacted to authorize the Maryland Comptroller’s Office to withhold Maryland income tax refunds of certain individuals with outstanding warrants to include residents of Washington County or individuals who have warrants from Washington County. The process of selecting warrants for this initiative is done electronically following guidelines described in the legislation. Every day the active warrant list is downloaded from the Washington County Sheriff’s Office by the Comptroller’s Office.

Those defendants of warrants that qualify will be flagged by the State and should that defendant be eligible for a Maryland tax refund, the refund will be withheld and a letter is sent to the defendant advising them of their warrant. Once the warrant has been served, the refund is released by the State.

2. The Comptroller's Office emails a list of suppressed and released funds daily to the Warrant Task Force Supervisor. These lists reflect those persons who have had their tax refunds held and released.
3. Each month the Warrant Task Force Supervisor will forward the Sheriff a list of those persons on the suppressed and released lists, using the associated spreadsheet which includes personal data on those persons.
4. The Sheriff is then responsible for reporting these statistics to the State of Maryland.

## 74.2 Civil Process

74.2.1 Service of Civil Process Documents- Deputies assigned to the Circuit Court and Process Servers will be assigned various legal processes to serve. Each legal process is served in accordance with Maryland Statute.

- A. **Criminal Witness Subpoena** - In person
- B. **Circuit Court Initial Appearance** - In person or to Attorney who entered appearance.
- C. **Bill of Information** - In person or to Attorney who entered appearance
- D. **Writ of Summons** - In person or substitute service
- E. **Peace Order**- In person. A Peace Order is filed in the District Court by a Petitioner against a Respondent. If filed after hours, a District Court Commissioner may issue an Interim Peace Order, or a District Court Judge may issue a Temporary Peace Order. The District Court will notify the Sheriff's Office when a Peace Order has been issued. Upon notification, the order will be picked up as soon as possible to attempt service on the respondent. The warrant unit has primary responsibility for picking up orders when possible. If the warrant unit is unavailable, the Patrol Duty Officer will ensure other personnel are assigned to pick up the order.

### 1. Receiving Peace Orders:

- i. The Deputy picking up the order will ensure all paperwork is forwarded to the patrol division Records section for appropriate logging and filing.

### 2. Processing a Peace Order:

- i. The Records staff will assign a OCA number and enter the order in the Peace Order log.
- ii. The Records staff will place the respondent's section of the Peace Order on a clipboard in the records room, making it available for service.
- iii. The Records staff will enter the Peace Order into the RMS system.
- iv. The Records staff will file the law enforcement copy and associated Peace Order paperwork into a file, labeled with the Respondent's name. The file will be maintained in the Peace Order section of the records room.

### 3. Service of Peace Orders:

- i. The service of Peace Orders will be attempted as soon as possible by the Warrant Unit or other uniformed deputies.
- ii. The attempts to serve Peace Orders will be logged on the Court Return of Service, the Civil Order information sheet and in the CAD notes.
- iii. The Deputy attempting service of a Peace Orders will be responsible for returning any Peace Orders not served back to the records room clipboard prior to the end of their shift.
- iv. The Deputy who serves a Peace Order will complete the Court Return of Service and return it promptly to either the District Court or District Court Commissioners office if it is after hours.
- v. The Deputy who serves a Peace Order will complete and return the Civil Order information sheet and forward it to the Records staff.
- vi. The Records staff will verify the date the order was served and was appropriately entered on the Peace Order log and in the RMS system.
- vii. A deputy who serves an electronic copy of a Peace Order for an allied agency will ensure the completed Court Return of Service is electronically transmitted back to the allied agency.

### 4. Peace Orders Not Served:

- i. The Court Return of Service will be completed, indicating the Peace Order was not served prior to the hearing date. The Peace Order will be returned to the court of issue.
- ii. If the Peace Order was from an allied agency, the Court Return of Service will be completed, indicating the order was not served prior to the hearing date. The completed Court Return of Service will be electronically transmitted back to the allied agency.
- iii. All Peace Orders, whether served, un-served, or dismissed will be retained on file in the Records section for a period of 1 year past the Peace Orders expiration date and then destroyed.

5. Violation of Peace Orders:

- i. Deputies will arrest a person when probable cause exists to believe the person has committed a violation of an arrestable provision of a Peace Order.
- ii. An arrestable provision is generally regarded as a violation of Peace Order that include “NO ABUSE” and “STAY AWAY FROM” instructions.
- iii. All other violations of a Peace Order, not enforceable by law enforcement will be referred to the issuing court for Contempt of Court charges. The appropriate response is to refer the Petitioner back to the court to inform the judge of the violation by the Respondent.

F. **Protective Order- In-Person.** Refer to General Order 92.0 Domestic Violence, specifically section 92.6 Interim, Temporary and Final Protective Orders.

G. **Court Ordered Emergency Petition** - In person Emergency Petitions are filed in the District Court by an interested person who has reason to believe that the respondent is endanger of injuring themselves or others by actions or words. If the petitioner provides the court with reasonable grounds, the District Court Judge may issue an Emergency Petition.

Once the deputy receives the Emergency Petition, he/she will attempt to locate the respondent and transport them to the nearest hospital for an emergency evaluation.

When located, the respondent will be transported to the Meritus Medical Center Emergency Room. The hospital will be provided with a sealed copy of the Emergency Petition.

The deputy will have the nurse or doctor sign that they received the respondent from the deputy on the appropriate form and will provide the hospital with a copy.

The deputy will complete an Arrest and Detention Report and have a report number assigned.

The original and receipt will be returned to the District Court Clerk immediately upon service.

Court Ordered Emergency Petitions are only valid for 5 days from the date of issue unless otherwise specified by the court.

H. **Writ of Execution-** In person and post on the property to be levied.

I. **Writ of Summons and Notice to Appear** (Child Support)- In person and has to be signed for by respondent\*\*\*.

- J. **Juvenile Summons/ Witness Subpoena** - In person \*\*\*Note- parent/guardian may accept subpoena for juvenile, however, juvenile may not accept summons for parent/guardian.
- K. **Writ of Possession** - In person \*\*\*Note – Also property posted on day of service.
- L. **Writ of Distrain** - In person \*\*\*Note- May not be served on Sundays by law.
- M. **Out of State Summons** - In person. \*\*\*Note- all pertinent identifying information should be obtained from the person served (full name, driver's license number, social security number, date of birth, etc.) for affidavit of service.

*\*\*\*substitute service, is when allowed by law, any competent person who is over the age of 18, who can be verified as living in the same residence as the respondent is served with the legal process\*\*\**

### 74.3 Criminal Process

#### 74.3.1 Execution of Criminal Process- Sworn personnel may serve Criminal Process documents in accordance with State Law.

Criminal Process includes District Court Criminal Summons, District Court Bench Warrants, Circuit Court Bench Warrants, Bill of Indictments, Bill of Information, Parole Retake Warrants, Fugitive Warrants, and Body Attachment Warrants.

- A. **District Court Criminal Summons-** District Court Criminal Summons are issued by a District Court Commissioner upon application by a complainant after sufficient information in a Affidavit to establish probable cause that a particular crime, as defined under Maryland Statute, has been committed by the defendant.

The Criminal Summons has a set trial date for the case as well as a date to return to the court if the defendant is not served.

If the defendant is located, the deputy will have the defendant sign for and date the summons. The deputy will then complete the return of service and indicate the time, date and location that the summons was served as well as complete an Arrest and Detention Report. A report number will be assigned to the summons service and documented on the ADR.

If the defendant is not able to be located, the deputy will return the summons to the District Court as indicated as the same for issuance of an arrest warrant.

If the defendant refuses to sign, leave the defendant's copy with them and indicate on the Court and Law Enforcement Copy "Refused to Sign" in the



defendant's signature area and return original to the Commissioner. The original is returned to the District Court.

- B. **District Court Arrest Warrant-** District Court Arrest Warrants are issued by a District Court Commissioner upon application by a complainant after sufficient information in a Affidavit to establish probable cause that a particular crime, as defined under Maryland Statute, has been committed by the defendant.

A District Court Judge may also issue District Court Arrest Warrants when a defendant failed to be located for service of a criminal summons.

When located, the defendant will be taken into custody for processing and service of the arrest warrant. An Arrest and Detention Report will be completed with a report number assigned. The deputy will complete the return of service indicating the time, date and location where the arrest warrant was served.

The defendant will be taken to the Central Booking Unit for processing and then an appearance before a District Court Commissioner.

The original is returned to the District Court Commissioner.

- C. **District Court Bench Warrant** - District Court Bench Warrants are issued by a District Court Judge when a defendant fails to appear for a scheduled criminal court appearance, violations of probation and failing to pay fines and/or costs. The judge may preset a bond or order that the commissioner assign an appropriate bond amount to ensure the defendants appearance in court.

When located, the defendant will be taken into custody for processing and service of the arrest warrant. An Arrest and Detention Report will be completed with a report number assigned. The deputy will complete the return of service indicating the time, date and location where the arrest warrant was served.

The defendant will be taken to the Central Booking Unit for processing and then an appearance before a District Court Commissioner.

The original is returned to the District Court Commissioner.

- D. **Circuit Court Bench Warrant-** Circuit Court Bench Warrants are issued by a Circuit Court Judge when a defendant fails to appear for a scheduled court appearance or when a defendant fails to perform an act required by the court. The judge may set a bond, order the defendant be taken to a District Court Commissioner or order the defendant be held without bond to be seen by the judge. Generally, the defendant will have to post bond to the Circuit Court unless otherwise stated on the warrant.

When located, the defendant will be taken into custody for processing and service of the arrest warrant. An Arrest and Detention Report will be

completed with a report number assigned. The deputy will complete the return of service indicating the time, date and location where the arrest warrant was served.

The original is returned to the Circuit Court. If the defendant is taken to Central Booking, the original will be turned over to a Booking Officer and WCDC will return the original to Circuit Court. If the defendant is served at Circuit Court and not processed by Central Booking, the original copy of the warrant will be given to the clerk at Circuit Court.

- E. **Fugitive Arrest Warrant** - When a subject is located who has a verified extraditable arrest warrant from another state, the defendant will be taken into custody and served with a Fugitive Warrant. An Arrest and Detention Report will be completed with a report number assigned. The deputy will complete the return of service indicating the time, date and location where the arrest warrant was served.

The defendant will be taken to Central Booking and served with a Charge Against Fugitive (Fugitive Warrant).

- F. **Bill of Information** - A Bill of Information is a charging document filed directly from the State's Attorney to be served on the defendant. The service is indicated on the document to either arrest the defendant or serve as a criminal summons.

When the defendant is located, the deputy will complete the return of service indicating the date, time and location where served. If arrested, the defendant will be processed and taken to a District Court Commissioner for an initial appearance. An Arrest and Detention Report will be completed with a report number assigned. The deputy will complete the return of service indicating the time, date and location where the bill was served.

The original summons is returned to the Circuit Court.

- G. **Bill of Indictment** - A Bill of Indictment is a charging document issued after a Grand Jury proceeding and a defendant is charged with a criminal offense. The service is indicated on the document to either arrest the defendant or serve as a criminal summons.

When the defendant is located, the deputy will complete the return of service indicating the date, time and location where served. If arrested, the defendant will be processed and taken to a District Court Commissioner for an initial appearance. An Arrest and Detention Report will be completed with a report number assigned. The deputy will complete the return of service indicating the time, date and location where the bill was served.

The original summons is returned to the Circuit Court.

- H. **Paternity Warrant** - A Paternity Warrant is issued by a judge of the Circuit Court for failure to pay child support and/or failing to appear for a scheduled court proceeding. The document will indicate either a purge amount, bond amount or to hold without bond. Purge bonds are posted at the Department of Social Services. Bonds are posted at the Circuit Court.

Generally, the defendant will have to post bond in the Circuit Court unless otherwise specified.

When the defendant is located, the deputy will complete the return of service indicating the date, time and location where served. An Arrest and Detention Report will be completed with a report number assigned. The deputy will complete the return of service indicating the time, date and location where the bill was served.

The original is returned to the Circuit Court. If the defendant is taken to Central Booking, the original will be turned over to a Booking Officer and WCDC will return the original to Circuit Court. If the defendant is served at Circuit Court and not processed by Central Booking, the original copy of the warrant will be given to the clerk at Circuit Court.

- I. **Body Attachment**- A Body Attachment is issued by either a District Court or Circuit Court Judge and a bond amount is set to ensure witnesses/victim appearance for court after failing to appear for a scheduled court proceeding.

When the defendant is located, the deputy will complete the return of service indicating the date, time and location where served. If arrested, the defendant will be processed at Central Booking and, if specified, taken to a District Court Commissioner for an initial appearance. An Arrest and Detention Report will be completed with a report number assigned. The deputy will complete the return of service indicating the time, date and location where the bill was served.

The original is returned to the District Court Commissioner, if a District Court Attachment. If the Attachment is from Circuit Court, the WCDC will return the original to the court.

74.3.2 Service of Criminal Process may only be made by sworn law enforcement personnel.