

# CHARLOTTESVILLE POLICE DEPARTMENT



Note: This directive is for internal use only and does not enlarge an officer's liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this directive, if proven, can only form the basis of a complaint by the Charlottesville Police Department and then only in a non-judicial administrative setting.

Type of Directive: GENERAL ORDER	Number: 117-00
<b>LEGAL PROCESS CONTROL AND SERVICE</b>	Date: November 14, 2019
VLEPSC Number: OPR.12.01, OPR.12.02 and OPR12.04	Manual Number: 562.15
	Effective Date: 11/14/2019
Authorization: Chief R.M. Brackney <i>Rm Brackney</i>	Follow-up Date: As Needed

## I. POLICY

The Department must provide for the careful and timely handling and service of all legal process to ensure that service is made in the best interest of the community we serve and the Department.

## II. PURPOSE

This directive provides guidelines for the proper handling and control of all criminal and civil process received and served by the Charlottesville Police Department.

## III. DEFINITIONS

Records Management System (RMS) - The Department's RMS is a computerized database. Legal Process - For the purposes of this directive, legal process is defined as criminal process for the crimes reported or investigated by the Charlottesville Police Department. The Department handles subpoenas from General District Court, which are civil in nature but are related to criminal cases. The department handles Emergency Custody Orders and Temporary Custody Orders guided by the Albemarle-Charlottesville Psychiatric Crisis Manual and in accordance with Virginia Code Section 37.1-67.01 and 37.1-67.1. All other civil process is handled by the Charlottesville Sheriff's Office.

IMS – Information and Management Services of the Charlottesville Police Department.

## IV. PROCEDURE

### A. Handling Legal Process

1. All legal process that is not served immediately after it is obtained will be turned over to IMS. The legal process includes, but is not limited to:
  - a. warrants;
  - b. capias;
  - c. subpoenas; and

d. probation Violations (PB-15s).

*Note: IMS does not handle search warrants, they are the responsibility of the investigating officer's command.*

2. The investigating officer can delay system entry and/or service of a warrant if knowledge of the warrant's existence or immediate execution would create one of the following exigent circumstances:
  - a. danger to the officer or the public;
  - b. a clear indication that destruction of valuable evidence would result;
  - c. impediment to an investigation that could not be overcome by other investigative methods; or
  - d. clear and significant indications that the suspect would flee or avoid capture.
3. The authorization to hold a warrant should be made by a member of the Department with the rank of Lieutenant or above. The supervisor's approval to delay service or data entry of the warrant shall be in consideration of the extreme danger any delay in apprehension could create. Delays should be only long enough to organize an arrest effort, conduct surveillance or to allow the suspect to arrive at a location that is more strategically advantageous to the officer or for public safety.
4. Warrants received from other jurisdictions will be handled in accordance with Section IV of the Information and Management Services Manual. A copy of the Manual is available from the IMS Supervisor, each IMS Staff member and on the Police Department Sharepoint Site.

B. Data Entry

1. All legal process received by IMS will be entered into the RMS as soon, as is operationally possible.
2. The following information regarding each item of legal process shall be recorded and maintained to include:
  - a. the date and time received. The RMS automatically records the date and time the process information was entered into the system and shall be considered the date and time the process was received by the Department;
  - b. type of process (civil/criminal);
  - c. nature of document;
  - d. source of document;
  - e. name of plaintiff/complainant/defendant/respondent;
  - f. officer assigned for service;
  - g. date of assignment;
  - h. method of service;
  - i. date of service and/or return; and

j. court docket number (which is maintained and recorded by the Court).

The entry process creates a unique warrant number that is used for all tracking and handling purposes.

3. Legal process for arrest will receive the highest entry priority.
4. All data will be entered in compliance with Section III of the IMS Manual.

#### C. Inquiry

1. Inquiries concerning the active status of legal process will be made by a query of the RMS. Members of IMS or other appropriately trained Department members are permitted to make a query.
2. IMS Personnel provide twenty-four hour assistance for legal process inquiries, which can be made by radio (channel 2), telephone or in person.
3. A computer indication of an active process does not constitute probable cause for an arrest. The status of the process must be verified with the presence of the original document.
4. **Verification for legal process that has been received** by the Department **from another jurisdiction must be made** to ensure the original paper and that copy of the process in the department possession has not already been served.

#### D. Service

1. IMS will generate and send warrant notification letters for the following types of active warrants when they are checked into IMS:
  - a. bad check warrants;
  - b. class 3 and 4 misdemeanor warrants;
  - c. all traffic violation warrants.
2. Anytime an original legal process leaves IMS for any reason, a warrant tracking entry will be made in the RMS. The return of un-served process that is returned to IMS will also be documented with a warrant tracking entry.
3. A Warrant Worksheet, listing the name of the person to be served, will be generated after data entry of the legal process is entered into the RMS.
4. Warrant Worksheets shall be distributed to Department members for use in making service. Worksheets for process to be served within the City of Charlottesville will be given to Patrol Supervisors. Worksheets for process to be served outside the City of Charlottesville shall be retained in the Information Management Services section.
5. All warrants to be served outside of the Department's jurisdiction will be handled in accordance with the procedure of the IMS Manual, Section IV. A copy of the manual is available from the IMS Staff.

6. The Shift Commanders or their designee shall review the pending warrant lists daily to determine which warrants should be assigned for service attempt. Worksheets for the selected warrants shall be requested from IMS who will verify the existence of the actual warrant before providing the worksheets. The shift commander will issue the worksheets for attempted service. In providing for service, the Shift Commander shall consider the nature of the legal process, the shift's workload and the likelihood of successful service during their tour of duty.
7. Service of the legal process should be made on the person for whom the process was issued. The nature of all the Department's process is criminal and therefore service on other than the person intended is usually not appropriate. If service of a subpoena is made on someone other than the person on the face of the process, a clear note explaining the service must be made of the warrant worksheet.
8. Officers attempting service will note their attempts and results on the warrant worksheet. If service is not made officers will record the following information on the worksheet:
  - a. person on who the process service was attempted;
  - b. date and time of the attempted service;
  - c. badge number of the officer serving the process;
  - d. location of attempted service;
  - e. reason for non-service; and
  - f. additional information that may aid in future service attempts.
9. Warrant worksheets shall be returned to IMS before the assigned officer's end of tour of duty. When the process is received by IMS, personnel shall check the process in by creating a warrant tracking module note.
10. Warrant Worksheets for un-served process that patrol is no longer actively attempting to serve will be kept on file in IMS until the final disposition of the process.
11. All legal process service that results in a summons or arrest will be documented by an arrest report or uniform summons in accordance with department procedure for documenting such action.
12. Service of legal process will be documented on the warrant report and include the following information:
  - a. name of person to who service was addressed (if different than name on worksheet) and to whom the process was served.
  - b. date and time of service;
  - c. badge number of serving officer;

- d. location of service; and
  - e. method of service if other than “personal”.
13. Completed Warrant Worksheets that document served process will be returned to IMS and kept on file for 90 days after which they shall be destroyed.

E. Property involved when executing the legal process

1. All property involved in the legal process must be disposed of according to state law.
2. Officers executing a legal process that involves a legally possessed property item(s) should make every effort to keep the item in the subject’s possession. If the subject is remanded to jail, the item should be submitted to jail authorities. When it is impractical to keep the item with the subject, (e.g. bicycle, etc.) the officer will submit the item to the Forensics Unit property section in accordance with the appropriate department procedure.
3. Contraband items coming into the officer’s possession as a result of the legal process shall be submitted as evidence and handled in accordance with Department evidentiary procedure.
4. The execution of legal process to seize property, including search warrants and asset forfeitures, shall be made by the assigned investigating officer in accordance with Department procedures.