

2.436 LEGAL PROCESS

- A. Agency officers are responsible for serving legal process documents that come within the agency's scope of authority and mission.
 - 1. Agency officers may serve criminal processes consistent with permissive and restrictive authority as described in **1.106 Limitations on Authority**.
 - 2. Although the service of civil process is a primary function of OSPG, agency officers may serve civil protective orders consistent with **2.420.30** and peace orders consistent with **2.447**.
- B. Pursuant to Maryland Rule 4-212, only police officers and sheriffs are authorized to serve criminal processes. Officers whose powers of arrest have been suspended administratively or by operation of law may not serve criminal processes.

2.436.05 Criminal Process Service

- A. The criminal processes obtained and served by agency officers include, but are not limited to:
 - 1. Arrest warrants;
 - 2. Criminal summonses; and
 - 3. Search warrants.
- B. Agency officers may serve criminal processes only within jurisdictional boundaries as described in **1.106.02 Jurisdictional Limitations**.
- C. Agency officers will ensure they serve only valid criminal processes.
 - 1. Arrest warrants are valid indefinitely until they are either served or recalled by the courts.
 - 2. Criminal summonses are valid for only 30 calendar days after issuance. Any agency officer certifying the non-service of criminal summonses may submit same to the Office of the Clerk of the Court for placement on judicial motions dockets where they will be reissued, issued as warrants, or recalled.
 - 3. Search warrants are valid for only 15 calendar days after issuance. Search warrants become null and void after 15 days.
 - 4. The existence of NCIC entered warrants must be confirmed consistent with NCIC procedures.
 - 5. The existence of charging documents turned over to OSPG must be confirmed with OSPG.
 - 6. The existence of charging documents held by this agency must be confirmed through the RMS and by locating the charging document in the Communications warrant file.
- D. Officers will attempt to ensure arrests are made by sufficient numbers of officers in order to efficiently and effectively make arrests.
 - 1. Consistent with *State v. Mayhew*, 2 Gill's Maryland Reports 488 to 503 AAn officer is authorized in cases of necessity or when he has reason to apprehend that resistance will be made, to require any and all persons present to assist in making a lawful arrest. Any person refusing to assist the officer, on demand so made, is himself guilty of a misdemeanor.@
 - 2. Agency officers will not request citizen assistance in making arrests under the authority conferred by *State v. Mayhew* except in the most exigent of circumstances and upon consideration of the enormity of the crime and the character of probable resistance.
- E. The use of force while serving criminal processes will be consistent with **2.800 Use of Force and Weapons**.
- F. Directives contained in **2.204.08 Foreign Diplomats and Consular Officials** and **2.418 Diplomatic Immunity** address provisions respecting those with immunity from arrest.

2.436.10 Criminal Process Access

- A. The agency has 24 hour access to warrant and wanted persons and other criminal process documents held via:
 - 1. The agency's NCIC terminal;
 - 2. PGCJIS and JIS for local wants and warrants; and

- 3. The agency's RMS system and the warrant file for criminal processes held or obtained by this agency.
- B. Agency employees will utilize NCIC functions and disseminate information obtained by NCIC functions in accordance with laws, rules, the NCIC manual, and directives contained in **2.1070 NCIC**. Procedures established for NCIC warrant and wanted person information includes, but is not limited to:
 - 1. Criteria for entering information;
 - 2. Criteria for receiving information from other agencies;
 - 3. Recording information in agency files;
 - 4. Verifying information; and
 - 5. Canceling information.
- C. Officers obtaining warrants may have same entered into NCIC only when charges meet NCIC criteria, extradition and/or transportation requirements are determined, and specific permission is obtained from the chief or bureau commanders.
- D. Charging documents obtained by agency officers may be submitted to OSPG for service upon approval of a supervisory or administrative ranked officer and when:
 - 1. Reasonable attempts to apprehend or contact suspects within the agency's primary or concurrent jurisdiction are, or would be, unsuccessful;
 - 2. Suspects are unwilling to surrender themselves for service of the charging documents;
 - 3. Cooperative, extrajurisdictional attempts to apprehend or contact suspects are, or would be, unsuccessful; or
 - 4. Necessary for extradition and/or transportation purposes.
- E. Officers obtaining criminal process will ensure appropriate information is entered into the agency's RMS system before ending their tours of duty wherein they obtain criminal process documents.
 - 1. The RMS warrants application is utilized to record applicable information that includes, but is not limited to:
 - a. Date and time the document was received;
 - b. Nature of the document, e.g., arrest warrant, criminal summons, search warrant;
 - c. Source of the document;
 - d. Location to be searched;
 - e. Name and description of the defendant;
 - f. Officer primarily assigned for service;
 - g. Date of assignment;
 - h. Court case/tracking number;
 - i. Date service due;
 - j. If and/or when the document was entered into NCIC;
 - k. Criminal process document location;
 - l. Any special notification requests.
 - 2. Officers obtaining criminal process documents for service by this agency will ensure the documents are filed alphabetically in the warrant file.
 - a. The warrant file is stored in Communications and is accessible 24 hours a day.
 - b. Agency employees will not privately retain or store criminal process documents without direct permission of the chief or a bureau commander.
 - c. Agency employees may share information about the criminal process document via departmental email for assistance in serving the document.
- F. Officers serving or attempting to serve criminal process documents will ensure a CCN is initiated and information is recorded that includes, but is not limited to:
 - 1. Date and time service was executed or attempted;
 - 2. Name of officers executing or attempting service;
 - 3. Name of persons on whom criminal process documents were served or attempted to be served;
 - 4. Method of service or reason for nonservice; and
 - 5. Address of service or attempted service.
- G. Directives contained in **2.612 Agency Documents Held by**

OSPG establish procedural and documentation protocols for officers who learn, through court summons or direct notification by OSPG, that their charging documents held by OSPG have been served.

- H. The clearance of local warrants will be documented via third party checks conducted by supervisory or administrative ranked officers. Corroborating documents will be filed by Records Unit personnel.
- I. The CIU Commander will ensure monthly inspections are conducted on all warrants entered into the RMS.