




Clayton County Police Department PROCEDURES

Subject CRIMINAL PROCESS & ARREST PROCEDURES		Procedure # A8
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I. PURPOSE

To provide guidelines for obtaining and serving criminal arrest warrants and for making probable cause arrests by sworn officers of the Clayton County Police Department (CCPD).

II. POLICY

It shall be the policy of the Clayton County Police Department (CCPD) to execute and return criminal arrest warrants by arresting the defendants listed on the warrants; and to make warrantless arrests of individuals who commit crimes in the officer's presence or immediate knowledge within Clayton County; and to ensure that the rights of the accused are observed.

III. AUTHORITY

Only sworn and certified police officers for the Clayton County Police Department (CCPD) shall have the authority to arrest for violations of the Official Code of Georgia Annotated (O.C.G.A.) occurring within the corporate limits of Clayton County and shall schedule timely hearing of first appearance of the suspect in front of a judge or magistrate as prescribed by law. All police officers shall be responsible for the use or misuse of delegated authority.

A. Pursuant to O.C.G.A. § 36-8-5 provides that county police officers have:

1. The same power to make arrests and to execute and return criminal warrants and processes in the county of their election or appointment only, as sheriffs have; and
2. All the powers of sheriffs as peace officers in the county of their election or appointment.

B. By virtue of the above-cited code section, sworn officers of the Clayton County Police Department have jurisdiction to enforce the laws of the State of Georgia within the jurisdictional limits of Clayton County, Georgia, including municipalities, as outlined in CCPD SOP: A2: *Agency Jurisdiction and Mutual Aid*.

IV. DEFINITIONS

Arrest: An arrest is accomplished whenever the liberty of a person to come and go as the person pleases is restrained, no matter how slight such restraint may be. A person has been arrested when he or she is not free to go, regardless of whether formal words of arrest are used. An actual

touching of a person with a hand is not essential to constitute a valid arrest. If the person voluntarily submits to being considered under arrest or yields on condition of being allowed his or her freedom of locomotion, under the discretion of the officer, the arrest is complete (O.C.G.A. § 17-4-1).

Arrest Warrant: A written order directing the arrest of a party. Arrest warrants are issued by a judge after a showing of probable cause.

Criminal Process: The services performed by law enforcement officers that are sanctioned by the courts and by the law which supports the judicial function relating to criminal matters. These services may include executing arrest warrants, search warrants, and affidavits, administrative warrants, or any other type of service ordered by the courts which directly results from a criminal matter. Only sworn law enforcement officers shall execute arrest or search warrants.

Investigatory Detention: Temporary detention of a person for investigative purposes based upon reasonable suspicion that the person has committed, is committing, or is about to commit a crime, under circumstances that do not amount to probable cause for arrest. Officers have the authority to conduct a pat-down or “frisk” of the outer garments of a suspect when the suspect is the subject of a valid investigatory detention, and the officer has specific articulable facts that the suspect possesses weapons on their person and poses a threat to the officer’s or another person’s safety. Officers shall remain vigilant and strictly adhere to agency training when performing pat-down searches. Terry v. Ohio, 392 US 1 (1968). Only a valid investigative detention based upon reasonable suspicion of criminal activity justifies a pat-down or consent search. If the stop is invalid, the pat-down is invalid.

Probable Cause: Exists when articulable facts and circumstances within an officer’s knowledge are sufficient to warrant a prudent person or one of reasonable caution to believe that the suspect has committed, is committing, or is about to commit an offense.

Within the Officer’s Immediate Knowledge: When, by seeing, or using any other senses, the officer has personal knowledge of the commission of a crime. This excludes reporting of a crime by third party other than another law enforcement officer who has direct knowledge.

V. AUTHORIZATION OF ARRESTS WITH AND WITHOUT WARRANTS GENERALLY

Pursuant to O.C.G.A. § 17-4-20(a):

A. An arrest for a crime may be made by a law enforcement officer:

1. Under a warrant; or
2. Without a warrant if:
 - a. The offense is committed in such officer’s presence or within such officer’s immediate knowledge;
 - b. The offender is endeavoring to escape;
 - c. The officer has probable cause to believe that an act of family violence, as defined in Code Section 19-13-1, has been committed;
 - d. The officer has probable cause to believe that the offender has violated a criminal family violence order, as defined in Code Section 16-5-95; provided, however, that such officer shall not have any prior or current familial relationship with the alleged victim or the offender;
 - e. The officer has probable cause to believe that an offense involving physical abuse has been committed against a vulnerable adult, who shall be for the purposes of this subsection a person 18 years old or older who is unable to protect himself or herself from physical or mental abuse because of a physical or mental impairment; or
 - f. For other cause there is likely to be failure of justice for want of a judicial officer to issue a warrant.

- B. Except where otherwise provided by law with respect to a law enforcement officer's jurisdictional duties and limitations, a law enforcement officer may make an arrest for an offense outside of the jurisdiction of the law enforcement agency by which they are employed without a warrant:
1. If the offense is committed in such officer's presence or within such officer's immediate knowledge;
 2. When in immediate pursuit of an offender for an offense committed within the jurisdiction of the law enforcement agency that employs such law enforcement officer; or
 3. While aiding or assisting another law enforcement officer in the jurisdiction of the law enforcement agency employing such other law enforcement officer.

VI. DISCRETION & ALTERNATIVES TO ARREST

What can be defined as reasonable police action or what constitutes probable cause varies with each situation, and different facts may justify an investigation, a detention, a search, an arrest, or no action at all. There may be a report written and an application for a complaint made, or in some cases, when the offense is of a minor nature, a verbal warning or other direction may be given. Officers may exercise alternatives to a physical arrest, whenever reasonable, either by verbal warning, issuing a *Uniform Traffic Citation (UTC)* or issuing a *Uniform Misdemeanor Citation (UMC)*. The requirement that legal justification be present imposes a limitation on an officer's actions. In every case, an officer must act reasonably within the limits of their authority as defined by statute and judicial interpretation.

- A. Officers shall use their discretion in accordance with departmental policies, and ensure that all arrests are conducted with utmost consideration to the safety of the officer, the arrested person, and the public.
1. The decision not to affect a physical arrest should depend on the following circumstances:
 - a. Seriousness of the offense;
 - b. Officer's evaluation of the offender's intent;
 - c. Requirements of departmental policy; and/or
 - d. Victim's willingness to press charges.
 2. Officers of this Department are authorized to issue a *UTC* or *UMC* as an alternative to a **physical arrest**, if the circumstances meet **all** the following criteria:
 - a. The alleged offense is a misdemeanor or traffic offense; and
 - b. The accused does not pose an immediate risk to the safety of the public or themselves; and
 - c. The full identity of the offender is known and confirmed; and
 - d. The offender does not have a known history of failing to appear in court; and
 - e. The offender does not have a known history of arrest for the same or similar offenses; and
 - f. The issuance of the *UTC* or *UMC* instead of affecting a physical arrest does not violate any departmental policy.
 - g. Supervisors can authorize the use of a *UMC* as the charging document to release in lieu of physical arrest for *UMC* misdemeanor charges. Supervisors must respond to the scene and assess the totality of circumstances.
- B. No officer shall arrest any person under color of a warrant unless they reasonably believe a valid warrant exists and that the person described in the warrant is before them.

- C. No officer shall arrest any person without a warrant when the officer knows that they are without reasonable cause to arrest such person.
- D. No officer shall make a physical arrest for any violations of Clayton County Ordinances. When such violations occur and the officer determines that the individual will be charged, the officer shall issue a *UTC* for each ordinance violation.

VII. LAWS OF ARREST

A. Actions Constituting an Arrest

Pursuant to O.C.G.A. § 17-4-1, an actual touching of a person with a hand is not essential to constitute a valid arrest. If the person voluntarily submits to being considered under arrest or yields on condition of being allowed his or her freedom of locomotion, under the discretion of the officer, the arrest is complete.

B. Arrest with a Warrant:

O.C.G.A. § 17-4-40 (a) Any judge of a superior, city, state, or magistrate court or any municipal officer clothed by law with the powers of a magistrate may issue a warrant for the arrest of any offender against the penal laws, based on probable cause either on the judge's or officer's own knowledge or on the information of others given to the judge or officer under oath. Any retired judge or judge emeritus of a state court may likewise issue arrest warrants if authorized in writing to do so by an active judge of the state court of the county wherein the warrants are to be issued.

1. If application is made for a warrant by a person other than a peace officer or law enforcement officer and the application alleges the commission of an offense against the penal laws, the judge or other officer shall schedule a warrant application hearing as provided in this subsection unless the person accused has been taken into custody by a peace officer or law enforcement officer or except as provided in paragraph (6) of this subsection; provided, however, that a warrant may be denied without the notice required in paragraph (2) of this subsection where the application form and any testimony from the affiant provided at the time of the application do not demonstrate probable cause for issuing a warrant.
2. Except as otherwise provided in paragraph (6) of this subsection, a warrant application hearing shall be conducted only after attempting to notify the person whose arrest is sought by any means approved by the judge or other officer which is reasonably calculated to apprise such person of the date, time, and location of the hearing.
3. If the person whose arrest is sought does not appear for the warrant application hearing, the judge or other officer shall proceed to hear the application and shall note on the warrant application that such person is not present.
4. At the warrant application hearing, the rules of evidence at a commitment hearing shall apply as set forth in paragraph (1) of subsection (d) of Code Section 24-1-2. The person seeking the warrant shall have the customary rights of presentation of evidence and cross-examination of witnesses. The person whose arrest is sought may cross-examine the person or persons applying for the warrant and any other witnesses testifying in support of the application at the hearing. The person whose arrest is sought may present evidence that probable cause does not exist for his or her arrest. The judge or other officer shall have the right to limit the presentation of evidence and the cross-examination of witnesses to the issue of probable cause.
5. At the warrant application hearing, a determination shall be made whether or not probable cause exists for the issuance of a warrant for the arrest of the person whose arrest is sought. If the judge or other officer finds that probable cause exists, the warrant may issue instanter.

6. Nothing in this subsection shall be construed as prohibiting a judge or other officer from immediately issuing a warrant for the arrest of a person upon application of a person other than a peace officer or law enforcement officer if the judge or other officer determines from the application or other information available to the judge or other officer that:
 - a. An immediate or continuing threat exists to the safety or well-being of the affiant or a third party;
 - b. The person whose arrest is sought will attempt to evade arrest or otherwise obstruct justice if notice is given;
 - c. The person whose arrest is sought is incarcerated or otherwise in the custody of a local, state, or federal law enforcement agency;
 - d. The person whose arrest is sought is a fugitive from justice;
 - e. The offense for which application for a warrant is made is deposit account fraud under Code Section 16-9-20, and the person whose arrest is sought has previously been served with the ten-day notice as provided in paragraph (2) of subsection (a) of Code Section 16-9-20; or
 - f. The offense for which application for the warrant is made consists of an act of family violence as defined in Code Section 19-13-1.

In the event that the judge or officer finds such circumstances justifying dispensing with the requirement of a warrant application hearing, the judge or officer shall note such circumstances on the face of the warrant application.

7. No warrant shall be quashed nor evidence suppressed because of any irregularity in proceedings conducted pursuant to this subsection not affecting the substantial rights of the accused under the Constitution of this State or of the United States.
8. Nothing contained in this subsection shall prohibit a judge from denying a warrant based upon the application and testimony heard at the time such application is made without requiring notice to the person whose arrest is sought.

Any warrant for the arrest of a peace officer, law enforcement officer, DFCS case manager, teacher, or school administrator for any offense alleged to have been committed while in the performance of his or her duties may be issued only by a judge of a superior court, a judge of a state court, or a judge of a probate court.

C. Contents of Affidavits Made or Warrants Issued for Arrest of Penal Offenders

Pursuant to O.C.G.A. § 17-4-41:

1. An affidavit made or warrant issued for the arrest of a person who is accused of violating the penal laws of this state shall include, as nearly as practicable, the following facts:
 - a. The offense, including the time, date, place of occurrence, against whom the offense was committed, and a statement describing the offense; and
 - b. The county in which the offense was committed.
2. When the offense charged is theft, the affidavit made or warrant issued shall state, in addition to the requirements of subsection (a) of this Code section, the following facts:
 - a. Name of the property alleged to have been stolen, with a description thereof, including its value; and
 - b. Name of the owner of the property and the person from whose possession such property was taken.
3. It is the intent of these requirements that the accused person shall be informed of the specific charge against him or her and of all basic pertinent particulars pertaining thereto.

VIII. ARREST WARRANTS

Criminal arrest warrants are obtained and secured from the Magistrate Court of Clayton County.

A. Pre-Warrant Review

1. If an arrest is not made at the scene and the officer has obtained enough evidence to establish probable cause for an arrest, the officer should obtain an arrest warrant as soon as possible. This allows for other agencies to be alerted that the subject has committed an offense in Clayton County.
2. Supervisors must ensure warrants are obtained as soon as possible whenever a judge is available and an arrest was not made at the scene.
3. The officer shall complete the *Arrest Warrant Application Form*. The officer will ensure that the appropriate sections are completed, and all required information is listed on the form.
4. The officer shall conduct a pre-warrant review with their supervisor for approval, before applying for an arrest warrant.
5. The reviewing supervisor and officer applying for the arrest warrant will both document the pre-warrant review. The reviewing supervisor shall note whether a warrant should or should not be applied for at the time of review.

B. Execution/Service of Criminal Arrest Warrants

1. Only sworn and certified law enforcement officers will have the authority, pursuant to state law, to arrest an individual pursuant to a valid criminal arrest warrant.
2. Criminal arrest warrants may not be executed by citizens or civilian employees of this Department.
3. Before attempting to serve a criminal arrest warrant at any location, officers shall obtain supervisory approval, unless exigent circumstances occur.

4. Arrest Warrants Executed/Served Within Clayton County

Whenever a non-uniformed (plain-clothed) officer attempts to serve a criminal arrest warrant at any location within Clayton County, the officer will either have Clayton County Police Department (CCPD) uniformed officers present during the warrant execution or be clearly recognizable as a police officer.

5. Arrest Warrants Executed/Served Outside Clayton County

Whenever a law enforcement officer attempts to serve a criminal arrest warrant at any location outside of Clayton County, the officer will have uniform officers from the agency responsible for that jurisdiction present during the warrant service.

6. SWAT Team assistance for High-Risk Warrants

The policies and procedures outlined in CCPD SOP: *D13: Special Weapons & Tactics (SWAT)* shall be adhered to when serving high-risk arrest warrants.

7. On all cases where an arrest is made and/or an arrest warrant is obtained, the arresting officer and/or officer obtaining the arrest warrant will document this information on the official report.
8. Officers attempting to serve criminal warrants will record on the official report the address where service was attempted, date, time and name of officer attempting to serve the warrant, and the reason for non-service.

9. Officers successfully serving criminal arrest warrants must include the following elements in their report:
 - a. Date and time served;
 - b. Location of Incident;
 - c. Defendant's name;
 - d. Name of officers serving and method of service; and
 - e. Property/evidence seized and its disposition.

IX. ARRESTS USING THE WARRANTLESS ARREST PROBABLE CAUSE AFFIDAVIT

A. The *Warrantless Arrest Probable Cause Affidavit (WAA)* will be completed by the arresting officer for all physical arrest cases when the defendant is taken into custody, no arrest warrant has been issued, and the warrantless arrest meets the requirements of O.C.G.A. § 17-4-20 (shown below):

1. The offense is committed in such officer's presence or within such officer's immediate knowledge; or
2. The offender is endeavoring to escape; or
3. The officer has probable cause to believe that an act of family violence, as defined in Code Section 19-13-1, has been committed; or
4. The officer has probable cause to believe that an offense involving physical abuse has been committed against a vulnerable adult, who shall be for the purposes of this subsection a person 18 years old or older who is unable to protect himself or herself from physical or mental abuse because of a physical or mental impairment; or
5. For other cause there is likely to be a failure of justice for want of a judicial officer to issue a warrant.
6. Conditions of Bond

If the officer has probable cause to believe that the offender has violated a criminal family violence order, as defined in Code Section 16-5-95; provided, however, that such officer shall not have any prior or current familial relationship with the alleged victim or the offender.

The officer may enforce conditions of bond issued by a Clayton County Court if the officer takes the following actions:

- a. Verify that the condition(s) of bond exist and are valid;
- b. If the condition(s) is/are verified, and the officer has probable cause to believe that a person has violated such conditions of said bond, **apply for an arrest warrant**; and
- c. Prepare and submit family violence information as part of the *Incident Report*, detailing the circumstances, evidence and verified conditions.
- d. Alternative Resolution of Violations.

Because disputes involving court orders/conditions of bond can be complex, officers should consult with a supervisor if there appears to be a more immediate need for enforcement action and/or prior to making an arrest, if possible.

In the event a violation of conditions of bond has occurred, an alternative resolution may be utilized. As an alternative to completing an *Arrest Warrant Application Form* and applying for an arrest warrant through a magistrate, an officer may pursue the applicable criminal offenses related to the violation of **verified** conditions of bond by completing a *WAA*, when probable cause exists. Examples of such arrest using a *WAA* are listed in CCPD SOP: *D18: Family Violence*.

NOTE: While there is no time limit for making an arrest on a WAA, officers should always obtain a warrant as soon as possible, if an arrest is not made at the scene and probable cause exists. The totality of the circumstances should be considered when arresting a subject on a WAA outside of the immediate time frame of the crime, e.g. the primary officer from the original call which occurred Saturday night (when a judge was not available) returns to the incident location on Sunday afternoon (prior to the officer meeting with a judge) and the offender is now on scene.

- B. The document must be signed by the arresting officer after taking the following Oath: “Do you solemnly swear or affirm that the information and testimony provided in this *Warrantless Arrest Affidavit* is the truth, the whole truth and nothing but the truth? So help you God.” This oath must be taken prior to signing the WAA and given by a notary. The notary shall then sign and attach their seal to the WAA. The WAA will be incomplete without the signatures and the seal and will be rejected by the Magistrate Court.
- C. Notaries may be available at the Clayton County Jail to notarize the WAA. It is the preference of the Department that departmental supervisors who are notaries make every effort to notarize a WAA completed by an officer. Supervisors must consider the knowledge, experience and articulation skill level of the submitting officer before determining if the officer will be authorized to utilize a notary at the jail. Regardless of method, the arresting officer must sign the form in the presence of the notary.
- D. The defendant, together with the notarized WAA, will be delivered to the Clayton County Jail.
- E. For traffic arrests, list all charges on the WAA. Complete a *Uniform Traffic Citation (UTC)* for each charge as well. The other copies of the UTC will be turned in with the WAA and the defendant.
- F. The WAA must contain sufficient information to clearly establish probable cause for the arrest. Failure to do so may result in the dismissal of the charge. Review the applicable code section(s) when filling out the narrative.
- G. On all cases where an arrest is made on a WAA, the arresting officer will document this information on the official report. Additional paperwork may be attached to the WAA as further evidence of probable cause and to assist the Magistrate Court Judge in the Court’s review of the case. Examples of these are copies of the *Incident Report* and/or *Supplemental Reports*, as well as Blood Alcohol Concentration (BAC) results.
- H. Specific procedures for completing a WAA
 1. List the defendant’s name (last name first), address, date of birth (DOB), race, gender, social security number (SSN) or driver’s license/state identification (ID) card number, height, weight, hair color, and eye color in the WAA as indicated.
 2. The arresting officer’s name (the person who will be signing the WAA), agency name, employee number, and case number will be listed.
 3. The date the defendant committed the criminal act, the address the criminal act occurred (to include the county) and the approximate time the act occurred. List the date/time of arrest. Identify any co-defendants, if applicable.
 4. List all charges; include the appropriate code section and short title for each charge. Indicate misdemeanor or felony charge(s).
 5. Following “In that said offender did,” lay out the probable cause for the arrest. This should include the specific conduct observed, statements made by witnesses, etc. Include the relationship of the parties involved, if applicable.
 6. Officers shall ensure all the required fields and appropriate sections are completed.

I. Supervisor Review and Signature

Supervisors will review all WAAs prior to delivery to the jail. This may be done in person, via email, or over the phone. Officers shall not sign the WAA unless they are in the presence of a notary. Once a supervisor has reviewed the WAA and the officer is in the presence of a notary, the oath must be given by a notary and taken by the officer, prior to signing the WAA. The officer will sign and date the form and the notary will complete the notary portion of the form and attach their seal to the WAA. Court sections of the document are filled out by the court.

J. Review of WAA by Magistrate

Upon review of a WAA, a Magistrate has two (2) options after determining that the WAA is defective:

1. The Magistrate may dismiss the charge(s), if they do not believe probable cause exists; or
2. If the forty-eight (48) hour detention period has not expired, the Magistrate may contact the arresting officer (affiant) and allow him/her to correct the WAA.

K. Traffic Offenses

See also CCPD SOP: *D42: Traffic Enforcement*.

O.C.G.A. § 40-13-30, Authority to make arrests, officers of the Georgia State Patrol and any other officer of this state or of any county or municipality thereof having authority to arrest for a criminal offense of the grade of misdemeanor shall have authority to prefer charges and bring offenders to trial under this article, provided that officers of an incorporated municipality shall have no power to make arrests beyond the corporate limits of such municipality unless such jurisdiction is given by local or other law.

1. O. C. G. A. § 40-13-53 (a) and 40-13-2.1.(a):

Subject to the exceptions set out in subsection (b) of this Code section, any officer who arrests any person for the violation of a traffic law or traffic ordinance alleged to have been committed outside the corporate limits of any municipality shall permit such person to be released upon being served with a citation and complaint and agreeing, **by signing the citation**, to appear in court as provided in this article. **(Note: It is the policy of the Clayton County Police Department not to accept a surrendered driver's license in lieu of bail.)** Officers must follow the requirements set out in O.C.G.A. § 40-13-2.1(a), if an arrest is made for noncompliance with the Code Section set out above.

2. All offenses resulting in a physical arrest (i.e., traffic, misdemeanor and felony arrest) must be fingerprinted and photographed as required for reporting purposes of said arrest and dispositions of arrest to the Georgia Crime Information Center (GCIC) and National Crime Information Center (NCIC) by creating an Offender Tracking Number (OTN). Policy and procedure for fingerprinting and photographing is established by the Clayton County Sheriff's Office (CCSO).

X. RELEASE ON COPY USING THE ISSUANCE OF THE UNIFORM MISDEMEANOR CITATION

NOTE: The *Uniform Misdemeanor Citation (UMC)* is to be used as the charging document only when the defendant is being released for the following misdemeanors only; O.C.G.A. § 16-7-21 (Criminal Trespass), O.C.G.A. § 16-8-14 (Shoplifting), O.C.G.A. § 16-8-41.1 (Refund Fraud), or O.C.G.A. § 16-13-30 (Misdemeanor Possession of Marijuana). This form is not to be issued for county ordinances or other non-UMC misdemeanor offenses. If a felony has occurred with traffic, or non-UMC misdemeanor, all charges will be documented on a WAA form.

- A. The UMC will be completed by the arresting officer when the defendant is released on a copy of the following charges; O.C.G.A. § 16-7-21 (Criminal Trespass), O.C.G.A. § 16-8-14

(Shoplifting), O.C.G.A. § 16-8-41.1 (Refund Fraud), or O.C.G.A. § 16-13-30 (Misdemeanor Possession of Marijuana).

- B. The document must be signed by the arresting officer after taking the following Oath: “Do you solemnly swear or affirm that the information and testimony provided in this *Uniform Misdemeanor Citation* is the truth, the whole truth and nothing but the truth? So help you God.” This oath must be taken prior to signing the *UMC* and given by a notary. The notary shall then sign and attach their seal to the *UMC*. The *UMC* will be incomplete without the signatures and the seal and will be rejected by the Magistrate Court.
- C. It is the preference of the Department that departmental supervisors who are notaries make every effort to notarize a *UMC* completed by an officer. Supervisors must consider the knowledge, experience and articulation skill level of the submitting officer before determining if the officer will be authorized to utilize a notary at the jail. Regardless of method, the arresting officer must sign the form in the presence of the notary.
- D. The *UMC* must be completed legibly and contain sufficient information to clearly establish probable cause for the arrest. Failure to do so may result in the dismissal of the charge. Review the applicable code section(s) when filling out the narrative.
- E. Additional paperwork may be attached to the *UMC* as further evidence of probable cause and to assist the Magistrate Court Judge in the Court’s review of the case.
- F. If the defendant is charged with one (1) of the following; O.C.G.A. § 16-7-21 (Criminal Trespass), O.C.G.A. § 16-8-14 (Shoplifting), O.C.G.A. § 16-8-41.1 (Refund Fraud), or O.C.G.A. § 16-13-30 (Misdemeanor Possession of Marijuana); they must be photographed, fingerprinted and checked through the Georgia Crime Information Center (GCIC).

Prior to releasing the offender on a copy of the charge, the arresting officer shall review the offender's criminal record as such is on file with the Federal Bureau of Investigation (FBI) and the GCIC within the Georgia Bureau of Investigation (GBI) and, ensure that the offender's fingerprints are obtained, and shall seek to verify the immigration status of the accused pursuant to Code Section 17-5-100 “Investigation of Illegal Alien Status”.

For additional information on the investigation of illegal alien status, refer to *Section XIII*. of this procedure.

- G. Specific Procedures for Completing a *UMC*
 - 1. Officers will complete the *UMC* and include the defendant, officer, witness, offense information on the *UMC* form.
 - 2. Court dates will be listed “To Be Notified” (TBN) on the *UMC*.
- H. Supervisor Review and Signature

Supervisors will review all *UMCs* prior to submitting originals to the courts and releasing the defendant on copies. This will be done in person. Officers shall not sign the *UMC* unless they are in the presence of a notary. Once a supervisor has reviewed the *UMC* and the officer is in the presence of a notary, the oath must be given by a notary and taken by the officer, prior to signing the *UMC*. The officer will sign and date the *UMC*, and the notary shall then sign and attach their seal to the *UMC*. Court sections of the document are filled out by the court.
- I. Dissemination of Documents
 - 1. The defendant shall receive a copy of the *UMC* upon being released in lieu of a physical arrest.
 - 2. The original notarized copy will be forwarded to Central Records for filing and submission to courts.

XI. JUVENILES

For information regarding juvenile arrests, refer to CCPD SOP: *A10: Juvenile Procedures*.

XII. FOREIGN NATIONALS – ARREST, CONSULAR NOTIFICATION & DIPLOMATIC IMMUNITY

For information regarding the arrest of a foreign national, consular notifications and diplomatic immunity, refer to CCPD SOP: *D39: Diplomatic & Consular Notification*.

XIII. UNDOCUMENTED INDIVIDUALS

Note: The term undocumented individual is synonymous with illegal alien.

A. O.C.G.A. § 17-5-100 “Investigation of Illegal Alien Status”

1. As used in this Code section, the term:
 - a. “Criminal violation” means a violation of state or federal criminal law but shall not include a violation of a county or municipal law, regulation, or ordinance.
 - b. “Illegal alien” means a person who is verified by the federal government to be present in the United States in violation of the federal Immigration and Nationality Act.
2. Except as provided in subsection (f) of this Code Section, during any investigation of a criminal suspect by a peace officer, **when such officer has probable cause to believe that a suspect has committed a criminal violation**, the officer shall seek to verify such suspect’s immigration status when the suspect is unable to provide one of the following:
 - a. A secure and verifiable document as defined in Code Section 50-36-2;
 - b. A valid Georgia driver’s license;
 - c. A valid Georgia identification card issued by the Department of Driver Services;
 - d. If the entity requires proof of legal presence in the U.S. before issuance as evidenced by inclusion in the list compiled by the State Law Department pursuant to paragraph (5) of subsection (b) of Code Section 13-10-91, any valid driver’s license from a state or district of the U.S. or any valid identification document issued by the U.S. federal government;
 - e. A document used in compliance with paragraph (2) of subsection (a) of Code Section 40-5-21;
 - f. A document set forth in subsection (d) of Code Section 42-4-14; or
 - g. Other information as to the suspect’s identity that is sufficient to allow the peace officer to independently identify the suspect.
3. Officers **shall not** consider race, color, or national origin in implementing the requirements of this Code section except to the extent permitted by the Constitutions of Georgia and of the U.S.
4. No person who in good faith contacts or has contact with an officer for the purpose of acting as a witness to a crime, to report criminal activity, or to seek assistance as a victim to a crime shall have their immigration status investigated based on such contact or based on information arising from such contact.

For further information on this type of investigation, refer to O.C.G.A. § 17-5-100 “Investigation of Illegal Alien Status” and any other associated code sections.

- B. Whenever there is suspicion that an arrested party may also be an illegal alien the arresting officer shall notify their immediate supervisor.
- C. If an officer verifies that the individual is confirmed as an illegal alien by a federal immigration detainer or by a federal arrest warrant, and the officer has state charge(s) that is/are a jailable offense, the officer will make note of the immigration status on the *Arrest Booking Report (ABR)*.

- D. If the individual is taken into custody, check with the individual and ask if they would like to have their consular officials notified. For further information on this process, refer to CCPD SOP: *D39: Diplomatic & Consular Notification*.
- E. When an illegal alien is arrested by the Department, the arresting/transporting officer shall provide information regarding the suspect's immigration status to the booking personnel of the receiving detention facility.
- F. If an officer verifies that the individual is wanted by a federal immigration detainer or by a federal arrest warrant, and the officer does **not** have charges that are jailable, the officer will need to confirm the warrant with the local Immigration and Customs Enforcement (ICE) agency.
- G. U.S. Immigration and Customs Enforcement (ICE) Support and Resources for Law Enforcement ICE Law Enforcement Support Center (LESC): The LESL serves as a single, national point of contact – 24 hours a day, 365 days a year – providing real-time immigration status, identifying information on non-citizens, and providing assistance on non-citizens suspected, arrested, or convicted of criminal activity.

Requests for clarification shall be directed to the Law Enforcement Line (802) 872- 6020.

To view the *ICE LESL Brochure* click on the link below.

<https://url.usb.m.mimecastprotect.com/s/4dXbC1VkxrSpOM3PSpi9CVwTM ?domain=qpuejiuab.cc.rs6.net>

ICE Enforcement Removal Operations (ERO): The ERO manages all aspects of the immigration enforcement process, including the identification, arrest, detention and removal of non-citizens who are subject to removal or are unlawfully present in the U.S.

To view the *ICE ERO LESL Fact Sheet* click on the link below.

<https://url.usb.m.mimecastprotect.com/s/oVi-C2GlzvHk6p1BF2sRC5Z-jc?domain=qpuejiuab.cc.rs6.net>

- H. The reporting officer shall prepare and submit an *Incident Report*, detailing the circumstances, verified information and any evidence, if such exists. The reporting officer will ensure the appropriate reports/forms are completed and that the appropriate selection(s) is/are made in the Records Management System (RMS).

XIV. CANCELLATION

This procedure amends and supersedes the following standard operating procedure: *A8: Arrest Procedures*, dated, April 15, 2024.