


FORT SMITH POLICE DEPARTMENT

POLICIES AND PROCEDURES

SUBJECT	Legal Process		
NUMBER	1102.17	EFFECTIVE DATE	February 1, 2002
SCHEDULED REVIEW DATE	Annually beginning November 1	ISSUE DATE	February 1, 2002
DATE REVIEWED	March 20, 2025	REVISION DATE	October 14, 2020
APPROVED BY		CALEA STANDARDS	LE74.1.1; LE74.1.2; LE74.1.3; LE74.2.1; LE74.3.1; LE74.3.2

I. Purpose and Scope

- A. The purpose of this policy is to establish procedures for members of the Fort Smith Police Department to execute criminal and civil legal process. The elements of this policy shall apply to all sworn members of the Police Department.

II. Policy

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

III. Definitions

- A. *Legal Process* – Any item of civil or criminal process, whether original, intermediate, or final that is valid on its face and is to be served or executed by a law enforcement agency.
- B. *Criminal Process* – Those writs, summonses, mandates, warrants, or other process issuing from a court of law compelling a person to answer for a crime. The term also includes process issued to aid in crime detection or suppression, such as search warrants.
- C. *Civil Process* – Those writs, summonses, mandates, or other process issuing from a court of law pertaining to a cause of a civil nature. The term includes original, intermediate, and final process to be served by a law enforcement agency in any action involving civil litigants.

IV. Civil Process

- A. Arkansas Rules of Civil Procedure Rule 4(c), states that the service of a civil summons shall be made by the sheriff of the county where the service is to be made, or his/her deputy, unless the sheriff is a party to the action.

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- B. Additionally, all execution of orders for civil arrest or writs requiring the seizure of real or personal property are to be handled by the Sebastian County Sheriff's Department as provided by Arkansas Law.
- C. The Fort Smith Police Department does not routinely handle calls for service involving civil process. If the Fort Smith Police Department receives a call that is determined to involve a civil process, officers shall stand by to keep the peace.

V. Warrant Procedure

- A. The Fort Smith Police Department utilizes an established warrant tracking system provided by Sebastian County's AS/400 computer system. Its function is to provide accurate information regarding the status of each warrant issued in Fort Smith and Sebastian County by the District Court of Sebastian County, City of Fort Smith or State Divisions, as well as Sebastian County Circuit Court. The following information is accessible from this warrant system:
 - 1. Date the warrant was issued.
 - 2. Type of process - criminal warrant.
 - 3. Nature of the document – arrest warrant.
 - 4. Source of the document – issuing court as well as appropriate division is listed.
 - 5. Name of the plaintiff and the defendant
- B. Warrants received from the District Court of Sebastian County Fort Smith Division shall be stamped by date and time received by the Warrant Clerk.
- C. The Warrant Clerk will generate a list of the warrants issued that day from the AS/400 system and then take the following actions:
 - 1. Compare each warrant in hand to the AS/400 system to ensure the warrants are still active.
 - 2. Check the current population of the Sebastian County Detention Center to see if any of the new warrants have been issued for any person currently incarcerated.
 - 3. File the warrant in the Warrant file in alphabetical order.
- D. Arkansas Rules of Criminal Procedure Rule 4.2 states any sworn law enforcement officer may arrest a person pursuant to a warrant in any county in the state. Additionally, A.C.A. § 16-81-301 states any police officer of this state shall have the authority to arrest any person whom he reasonably believes to have committed, or attempted to commit, any criminal offense in the presence of such officer or any person for whom he holds a warrant of arrest for a criminal offense.
- E. The following Arkansas State Statutes or Rules of Criminal Procedure govern the execution of the criminal process by members of the Fort Smith Police Department:
 - 1. Territorial Limits – Frequently, persons are arrested on an outstanding Fort Smith warrant outside the Fort Smith Police Department's jurisdiction. The Criminal Investigations Division Commander or the Warrant Officer, the Prosecuting Attorney's Office, and the Chief of Police shall review the facts of the case before

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extradition efforts are initiated. Some factors that should be considered include the location of the arrest, the nature of the crime, and available manpower.

2. Summoning Aid – A.C.A. §16-81-107 (d) states an officer making an arrest may orally summon as many persons as he deems necessary to aid him in making the arrest.
3. Use of Force - The use of force in the execution of an arrest warrant will be governed by the Fort Smith Police Department's Response to Resistance policy and A.C.A. § 5-2-610.
4. Authority to issue a citation – Rule 5.2 of the Arkansas Rules of Criminal Procedure states a law enforcement officer in the field acting without a warrant who has reasonable cause to believe that a person has committed any misdemeanor may issue a citation in lieu of arrest or continued custody. A citation is defined as a written order, issued by a law enforcement officer who is authorized to make an arrest, requiring a person accused of violating the law to appear in a designated court at a specified date and time.
5. Authority to issue a summons – Rule 6.1 of the Arkansas Rules of Criminal Procedure gives any official with the authority to issue a warrant the authority to issue a criminal summons in all cases in which a complaint, information, or indictment is filed or returned against a person not already in custody. A summons is defined as an order issued by a judicial officer or, pursuant to the authorization of a judicial officer, by the clerk of a court, requiring a person against whom a criminal charge has been filed to appear in a designated court at a specified date time and time.
6. Service of Criminal Summons – Rule 6.3 of the Arkansas Rules of Criminal Procedure states a criminal process may be served by any method prescribed for personal service of civil process or by certified mail, for delivery to the addressee only with return receipt requested. Additionally, A.C.A. § 16-81-105 gives any police officer to whom a criminal summons or warrant of arrest is directed the authority to serve or execute the summons or warrant in any county in the state.
7. Immunity from arrest – A.C.A. § 16-81-102 states the following persons are not subject to arrest:
 - a. The members of the Arkansas Senate and House of Representatives, the clerks, sergeant at arms, and door keepers of each branch of the General Assembly shall be privileged from arrest during the session of the General Assembly and for fifteen (15) days before the commencement and after the termination of each session.
 - b. All persons qualified to vote for representatives in the General Assembly shall be privileged from arrest during their attendance at any election and while on their way to and returning from the election.
 - c. No person shall be arrested while doing militia duty under the order of his commanding officer or while going to or returning from the place of duty or parade.
 - d. No person shall be arrested in the Senate chamber or House of Representatives during their sitting or in any court of justice during their sitting of the court.

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- e. Nothing contained in this section shall be construed as to extend to cases of treason, felony, or breach of the peace or to privilege any person named from being served at any time or place specified in this section with a summons or notice to appear.
- F. Officers will make attempts to serve all active warrants. These attempts shall be documented. Any officer attempting to serve a warrant shall obtain a call for service number for “attempt warrant service.” The documentation shall include the following information:
 - 1. Date and time service was executed/attempted;
 - 2. Name of the officer(s) executing /attempting service;
 - 3. Name of person on whom the warrant service was served/executed/attempted;
 - 4. Method of service/attempted service or reason for non service; and
 - 5. The address of service/attempted service.
- G. When an officer makes contact with a party in reference to serving a locally-issued misdemeanor warrant, the following procedure for confirming the warrant shall be followed prior to placing the subject in question into custody:
 - 1. The officer requesting confirmation shall contact the Communications Unit to initiate confirmation of the warrant.
 - 2. The Communications Unit shall confirm the warrant by first locating the warrant in the AS/400 system, then locating the “hard copy” of the warrant. The Communications Unit shall compare the name, DOB, and warrant number in order to confirm the warrant.
 - 3. The Communications Unit shall then relay the confirmation of the warrant to the requesting officer.
- H. When an officer makes contact with an individual for whom an outstanding warrant is listed in ACIC or NCIC, the following procedure for confirming the warrant **shall be followed prior to placing the subject into custody**:
 - 1. The officer requesting confirmation shall contact the Communications Unit to initiate the confirmation of the warrant.
 - 2. The Communications Unit shall send a Hit Confirmation Request though the ACIC/NCIC terminal to the originating agency.
 - 3. Upon receipt of the Hit Confirmation Response, the Communications Unit shall advise the requesting officer that the warrant is confirmed.
- I. After serving a warrant that is on file at the Fort Smith Police Department, the arresting officer shall retrieve the “hard copy” of the warrant from the Communications Unit and record the following information on the return section of the warrant:
 - 1. County of arrest;

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2. Date and time of arrest;
 3. Name of the arrested person;
 4. Date of the court appearance; and
 5. Arresting officer's signature.
- J. In addition to completing the return on the "hard copy" of the warrant, the arresting officer shall complete an arrest report to be entered into the Police Department's ICIS Records Management System. This report will contain, at a minimum, the following information:
1. Date and time of arrest;
 2. Name of the officer(s) making the arrest;
 3. Name of the arrested person;
 4. Details as to how the warrant was served; and
 5. Location of the arrest.
- K. Warrants originating out of the District Court of Sebastian County do not include the Court's docket number or a due date for service.

VI. Subpoena Procedure

- A. Daily, the court bailiffs for the District Court of Sebastian County, Fort Smith Division, will deliver subpoenas issued through District Court, Juvenile Court, and Circuit Court. Each subpoena will then be recorded on a subpoena log and stamped with the date and time received. The subpoena log contains the following information:
1. Subpoena reference number;
 2. The name of the party being subpoenaed;
 3. The defendant's name;
 4. Which court the subpoena is from;
 5. The court date and time;
 6. The date the subpoena was received by the bailiff;
 7. The date the subpoena was delivered to a designated member of the Fort Smith Police Department or the date it was sent out; and
 8. The date it was returned.
- B. The District Court Bailiffs then hand deliver the subpoenas to the Warrant Clerk's Desk at the Fort Smith Police Department. The Warrant Clerk receiving the subpoenas will sign a receipt for all the subpoenas. This Warrant Clerk will distribute the subpoenas to the appropriate division supervisor who will handle serving subpoenas directed to members of the Police Department in the following manner:

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1. The supervisor will deliver a form with the attached subpoenas, to the designated member of the department:
 - a. Upon receipt of the subpoenas, the member receiving the subpoena will sign and date it, then return it to the supervisor, who signs and dates it as served. That supervisor then places it in the Bailiffs' box.
 - b. The Bailiffs will retrieve the subpoena returns from their mailbox and then handle logging the subpoena as served.
- C. Occasionally a government entity such as the Department of Human Services (DHS) will subpoena a member of the department to attend a hearing. These hearings could be civil or quasi-criminal in nature depending on the government entity and the specific case. These subpoenas issued by the court or an attorney admitted to practice in this State, as an officer of the court are sometimes hand delivered to the Police Department Information Desk. Although members of the department do not typically accept civil subpoenas on behalf of another member of the department, they may be accepted if the member subpoenaed is not readily available to accept the subpoena and the subpoena is issued on behalf of a government entity. If such a subpoena is accepted the member accepting the subpoena will immediately notify an on duty supervisor. The supervisor will take possession of the subpoena and ensure that the subpoenaed member is notified of the subpoena and hearing date as soon as practical.
- D. The court bailiffs may handle the delivery of subpoenas for persons outside the Police Department by one of the following methods:
 1. Personal service;
 2. Mail; or
 3. Telephone.
- E. With the delivery of any subpoena by a member of the Fort Smith Police Department, the designated member shall document the method of delivery on the subpoena. If, for whatever reason, the subpoena is unable to be served, the reason for non service is documented within the subpoena log and the AS/400 computer system.

VII. No Contact Order Procedure

- A. "No Contact Orders" received from the District Court of Sebastian County, the Sebastian County Circuit Court, or any outside court of authority will be stamped with the date and time received by the Warrant Clerk.
- B. "No Contact Orders" will then be filed in the Communications Unit alphabetically.
- C. "No Contact Orders" are sometimes received from the courts that may have already been served. However, they must be kept on file for verification by officers in the field making an arrest for "Violation of a No Contact Order."

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- D. The “No Contact Order” file maintained by the Communications Unit will be reviewed by District Court Business Office personnel on a monthly basis. This review will be documented by a log sheet maintained in the front of the file.
- E. When an officer makes contact with a party on a call for service and discovers there may be a “No Contact Order” against this person, the officer should attempt to confirm the existence of such an order in the following manner:
1. The requesting officer will contact the Communications Unit to request the confirmation of a “No Contact Order.”
 2. The Communications Unit shall locate the “hard copy” of the order and compare the name, date of birth, and other identifiers present with the information the requesting officer has given in order to confirm the order.
 3. The Communications Unit shall then relay the confirmation of the order to the requesting officer.

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