

CHAPTER 74 LEGAL PROCESS

DISCUSSION: This Chapter provides information on how the criminal legal process is recorded and served by the Hattiesburg Police Department. The MS Code 21-23-5 limits the jurisdiction of Municipal Court to violations of municipal ordinance and state misdemeanors. The Sheriff and constables have a direct relationship with the county court system. They are required by law to "serve all process and execute all writs" (MS Code 9-9-29, 19-25-37 and 19-19-5). There is a corresponding direct relationship with the municipal police and municipal court. A similar relationship allows for the processing of felonies, because of venue, between the municipal police and the county court system through the District Attorney. The limiting jurisdiction of municipal court combined with the mandated function of the Sheriff within the county court system leaves the municipal police only serving legal process for criminal action.

74.1 RECORDS

74.1.1 Information Received and Processed

- A. An incident marks the beginning of the legal process, reports are taken (incident, custody and/or citation) and the information is recorded into the AS400 computer system. These reports may be filed as a result of citizen compliant or officer action and form the basis for an affidavit. Once a report is routed to Records the information is captured in "data fields" as the incident report is entered into the AS400.
 - 1. The date and time of the incident.
 - 2. The type of legal process. (criminal or traffic)
 - 3. The nature of the document including a narrative of the violation. (type of crime)
 - 4. The source of the document:
 - a. Officer
 - b. Citizen
 - 5. The name of plaintiff/complainant or the name of the defendant/respondent.
 - 6. The name of the reporting officer.
- B. A court clerk enters the following information from the incident report/affidavit into the Warrant Maintenance File.
 - 1. Type of affidavit (nature of the document - criminal offense).
 - 2. Status of warrant/mittimus
 - a. Active is used after the judge issues the warrant based on information provided in the report/affidavit.
 - b. Pending is used for affidavits prior to judicial review and warrant issuance.

- c. Recalled is used to record the recall and date of recall of a previously issued warrant by the court.
 - d. Served denotes that the process has been served, which officer preformed the service and the date of service
 - e. Non-collectable is assigned to warrants/mittimus after all leads have been exhausted.
 - f. SPP/SPC Served per police and served per Collection agency. Mittimus that are given to a collection agency after 60 days without service by the Department. The status code indicates which agency (Police or Collection) actually served the process.
 - g. PPA/PPC Partial Payment Agency and Partial Payment Collection. The municipal court judge may allow individuals to pay fine amounts in installments. This status code reflects the collecting body. Failure to follow the installment schedule and/or other court orders may result in the entire balance of the fine amount due, arrest and/or additional charges from the court.
 - 3. The original incident number is used to cross-reference and link the incident report/affidavit to the warrant. The warrant is assigned a reference number (warrant number) generated by the AS400 at the time it is entered into the system.
 - 4. Descriptors of defendant/respondent (Name, address, height, weight, etc) along with other data (see A above) acquired from the original incident report.
- C. A Municipal Judge may then issue a warrant (active status) based on the merits of the affidavit by entering his/her assigned number and date of issue. Date of issue is also considered the date of assignment and is in the system to be served at first opportunity.
- D. Additional information is also recorded in the Warrant Maintenance File.
- 1. Name for other agency receiving a copy and date sent.
 - 2. Teletype number, cancel number and dates for each.
 - 3. A statue/charge code
 - 4. A bond amount
 - 5. Comments
- E. Service due dates
- 1. Arrest warrants/mittimus are due from the time the warrant is issued and have no return or due date. Warrants remain active until served collected recalled or otherwise purged by the court.
 - 2. Search warrants are to be returned not later than seven (7) days form the date of issuance of the warrant.
- F. Assignment of service

1. Administrative Assignment: All municipal court processes are assigned to the Warrants Unit under the direction of the Direct Support Division Commander. Service of the document is attempted by an officer assigned to the Warrants Section. The warrant or mittimus may be served by any sworn officer. Squad leaders shall receive a weekly updated list of processes to be served by that Squad. The Supervisor may use his/her discretion in delegating methods and persons responsible for service of process.
2. Assignment On View: Officers come in contact with a variety of people during the course of daily work activities. During these contacts officers may discover an outstanding process. In these "on view" situations it becomes that officer's assignment to serve the process.
3. Assignment by Request: Officers may receive information from the general public contacts, informants, other agencies or even the complainant regarding the location of a person on which a process is outstanding.
4. Assignment by Investigation: During an investigation enough evidence is obtained to acquire an arrest warrant. This process usually involves detectives when investigating felony cases. Detectives are free to pursue warrants of this nature independent of the Warrants unit.

G. Docket numbers are assigned by the court upon receipt of completed arrest reports.

74.1.2 Record of service

- A. Whenever an officer attempts to serve the process a record of the attempt or execution is maintained in the AS400, including the following:
 1. The date and time of the execution or attempt.
 2. The name of the officer(s) executing or attempting the service.
 3. The name of the person on whom the legal process was served/executed.
 4. The method of service or reason for non-service.
 5. The address of which the process was attempted or served.
- B. An officer attempting to serve a process may receive information updates such as change of employment, address or etc. that would be helpful in the future. This information is to be placed in one of the five (5) update sections provided in the AS400. (The same file as used to record the attempt to serve)

74.2 CIVIL PROCESS

74.2.1 Service of civil Process Documents

The Hattiesburg Police Department is only responsible for serving criminal process. Civil Process Documents are served through the Forrest County Sheriff and the county court

system.

74.2.2 Execution of Orders

Execution of Orders for civil arrest or writs requiring the seizure of real or personal property is served by the county court system.

74.3 CRIMINAL PROCESS

74.3.1 Directives Governing the Execution of the Criminal Process

Procedures governing officer action during the service of process is a multifaceted topic that involves policy from several areas. Procedures and other information for the various types of warrants are located in AOM 1.2.3; the arrest itself can be found in AOM 1.2.4. Chapter 71 provides guidelines for the transportation of prisoners.

- A. The following types of warrants are served as soon as possible by sworn personnel with-in the city limits:
 - 1. Misdemeanor / Traffic Warrants
 - 2. Bench Warrants
 - 3. Mittimus
 - 4. Felony Warrants
 - 5. Capias Warrants
- B. To serve a warrant in another jurisdiction:
 - 1. If the suspect is not yet in custody, the officer will contact the other jurisdiction for assistance in serving the warrant.
 - 2. If the suspect is in custody, the Warrants Section will send a copy of the warrant to that jurisdiction to place a hold on the suspect until the warrant officer can take physical custody of the suspect
- C. Alternatives to physical arrest
 - 1. Traffic Tickets
 - a. Traffic tickets serve as affidavits and summons.
 - b. First Appearance court date and/or plea dates are recorded on the traffic ticket and serve as a trial notice.
 - 2. Post Arrest Release Forms (Chapter 101 Release and Bail)
 - a. Serve as a summons to court.
 - b. Are used for misdemeanor violations and warrants when it is likely the suspect will appear in court.
 - c. Serve as a time and cost saving alternative to detaining and booking a

suspect into the jail.

C. All arrests are supported by the following elements:

1. Incident Report
2. Affidavit
3. Warrant (except officer initiated arrest through observation)
4. Custody Report (not required for mittimus and bench warrant)
5. Summons
6. Chain of Custody
7. Property Sheets

74.3.2 Arrest Warrants

- A. The execution of arrest warrants is done solely by sworn officers.
- B. Temporary custody by a citizen is sometimes necessary when a crime has been committed and the suspect detained until an officer arrives (i.e. shoplifting).