




COLUMBIA POLICE DEPARTMENT

"Policing Excellence through Community Partnerships"

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Subject: <i>Legal Process and Court Appearances</i>		
Amends/Supersedes: <i>Section 05, Chapter 09, Legal Process, revised 2008</i>	Chief of Police: 	
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1.0 DIRECTIVE

It is the responsibility of all Department employees to execute and record the execution of legal process as directed in this directive.

2.0 POWER OF ARREST

Sworn members of the Columbia Police Department have the power of arrest within the City of Columbia as provided by South Carolina Code §5-7-110. Officers also have the power of arrest within three (3) miles of the city limits, when in pursuit of a suspect, as provided by South Carolina Code §17-13-40.

3.0 WARRANTLESS ARREST

An officer may make a warrantless arrest under the following circumstances:

1. For a felony, whether committed in his presence or not, if it is based upon probable cause.
2. for misdemeanors not committed in his presence if one of the following applies:
 - a) When the officer obtains facts through his senses (sight, touch, hearing, smell, or taste) which cause him to believe a crime has been or is being committed by the person to be arrested.
 - b) If two (2) or more officers individually observe a person commit part of a misdemeanor and keep them informed by radio or other communications then each of those officers are considered to possess knowledge of the whole event and may effect the arrest.
 - c) If a misdemeanor arrest warrant is in the possession of an officer, then any officer who has radio or other contact with the officer, may affect the arrest.
3. for misdemeanors committed in his presence.

Following an arrest for a felony as stated in section number one (1) above or for a misdemeanor under the circumstances stated in section number two (2) above, an arrest warrant will be obtained. A City Court level misdemeanor arrest for an offense that is committed in the presence of the officer may be recorded on a Uniform Traffic Citation in lieu of a warrant (South Carolina Code section §56-7-15). Regardless of whether an arrest warrant is drawn or a Uniform Traffic Citation written, an incident report will be completed for the arrest.

4.0 ARREST WARRANTS

All General Sessions Bench warrants and City of Columbia warrants are sent to the Telephone Response Unit (TRU) by the court system. Upon receipt, TRU personnel will conduct an inquiry on the Interstate Identification Index (III) to obtain any physical descriptors, identifying numbers, aliases, arrest, and custody/supervision data that might provide investigative leads. The warrant is then entered into NCIC, logged in and filed at the TRU. Arrest warrants will only be executed by sworn police officers.

4.1 Distribution of Arrest Warrants

Telephone Response Unit will make copies of the warrants that are ready to be sent to the field for execution and put them in Watch Commander's box. The Watch Commander will notify the Region supervisor to pick up warrants that are to be executed in their assigned areas. Telephone Response Unit personnel will record the name and payroll number of the officer receiving the warrant, the date and time received and the location of the warrant. Telephone Response Unit personnel will then update the computer files to indicate the change of possession.

For warrants sent outside the city limits, the records will indicate to whom the warrant was sent, the date and time, and the location it was sent. Warrants sent within the state may be mailed or hand delivered to the proper law enforcement agency. No original warrant will be sent out of state.

4.2 Execution of Arrest Warrants

The following priorities will be adhered to for the execution of arrest warrants:

1. Felonies against persons will have first priority for execution
2. Felonies against property will take precedence over misdemeanor warrants
3. High court misdemeanors will take precedence over all other misdemeanors
4. Misdemeanors against persons will take priority over misdemeanors against public peace or property.

The execution of Bench Warrants is a responsibility of the Municipal Court Bailiffs. Columbia Police Officers observing an individual who the officer knows has an outstanding Bench Warrant will confirm with the Warrant Division that the Bench Warrant is still outstanding and will then make the arrest of that individual.

All execution attempts will be recorded on the "Execution Attempt" form that is attached to each warrant. Information on the execution attempt form will include the address, date and time, officer's name, payroll number and reason for failure to execute. Before any warrant is returned, the officer will attempt to contact the complainant for additional information if available and the date and time of contact or attempt to contact will be recorded on the "Execution Attempt" form. All warrants that are returned for inability to execute will be filed and securely stored at the TRU.

All warrants are available on a twenty-four (24) hour basis.

Upon execution of an arrest warrant, the arresting officer must complete an investigative report containing the following information:

- Date and time executed
- Name of officer executing

- Method of execution
- The location of warrant execution
- The name of the person on whom the warrant was executed

The method of execution for arrest warrants will either be by a sworn Columbia Police Officer or by a sworn officer from an outside jurisdiction.

If a departmental warrant is executed by an officer from an outside agency, the receiving CPD officer responsible will be for clearing the warrant and will be responsible for completing an investigative report which must include the above information which will be obtained from the outside agency officer.

The executing officer will sign and date the warrant in the appropriate space and will be responsible for notifying the complainant of the suspect's court date for City Court offenses. Officers will include the docket number on the "Booking Report".

4.3 Execution of Outside Jurisdiction Arrest Warrants

All arrest warrants received for execution within the City, from an agency not having jurisdiction in the City of Columbia, must be countersigned by a Municipal Judge or Recorder before the warrant can be executed within the City of Columbia.

It is the responsibility of the arresting officer to notify the outside agency or the complainant that the defendant has been arrested and that the defendant needs to be picked up by the outside agency or inform the complainant of the court date is the case is to be heard in Municipal Court.

4.4 Execution of Departmental Arrest Warrants Outside Our Jurisdiction

In accordance with South Carolina Code §22-5-190, the magistrate or judicial officer of the county in which the process is to be served must countersign any arrest warrant originating from a City of Columbia Recorder or Judge that is to be executed in a foreign jurisdiction. The law enforcement agency having jurisdiction will be responsible for executing the warrant.

4.5 Concurrent Jurisdiction Warrants

All requests for assistance from Columbia Police Officers in the execution of any warrant by an agency with concurrent jurisdiction must be brought to the attention of the Watch Commander. Requests will be approved by the Watch Commander prior to the execution of the warrant. The Watch Commander will review the warrant to insure its validity. The Watch Commander will not delegate this responsibility.

An Operational Plan will be prepared by the Watch Commander and forwarded to the Major of the Community Policing Operations Bureau for approval. Upon completion of the warrant execution, an After Action Report will be completed by the Watch Commander detailing the operation and noting any improvements needed in future operations of this nature and outlining expenses, if any.

If exigent circumstances exist and there is not sufficient time to have an Operational Plan approved, the Watch Commander will review the warrant, assign resources to assist in the execution of the warrant and prepare an After Action Report detailing the operation.

Upon execution of a concurrent jurisdiction warrant, the assisting officer must complete an incident report titled "Assisting Another Agency" containing the following information:

1. Date and time executed
2. Name of officer(s) executing from concurrent jurisdiction

3. The name of the person on whom the warrant was executed
4. The location of warrant execution
5. Name of Watch Commander reviewing the warrant

5.0 SEARCH WARRANTS

It is the directive of this Department that a search warrant will be obtained before searching a place or an object except for searches incident to a valid arrest, searches conducted under emergency conditions, and searches conducted after valid consent has been obtained.

5.1 Constitutional Requirements for Search Warrants

A search warrant is valid only if issued pursuant to an affidavit that sets forth facts establishing probable cause of a crime to search particular premises for particular items. While there is no constitutional bar to adding to an affidavit by making a sworn oral statement to the judge or recorder who issues the warrant, the better practice is to include all elements necessary for probable cause in the affidavit.

The officer requesting a search warrant must describe in detail the place or persons to be searched and the things to be seized. In South Carolina, search warrants are limited to:

- (1) stolen or embezzled property;
- (2) property, the possession of which is unlawful;
- (3) property which is being used or has been used in the commission of a criminal offense or is possessed with the intent to be used as the means for committing a criminal offense or is concealed to prevent a criminal offense from being discovered;
- (4) property constituting evidence of crime or tending to show that a particular person committed a criminal offense;
- (5) any narcotic drugs, barbiturates, amphetamines or other drugs restricted to sale, possession, or use on prescription only, which are manufactured, possessed, controlled, sold, prescribed, administered, dispensed or compounded in violation of any of the laws of this State or of the United States. SC. Code Section 17-13-140.

5.2 Service of Search Warrants

A search warrant issued on the basis of old or stale information is invalid. Old or stale information fails to establish probable cause that the items to be seized are still on the premises to be searched. Longer delays greatly increase the chance that information will be stale.

Once a search warrant is obtained it must be executed within ten (10) days. Search warrants must be executed as promptly as possible because even execution within the ten (10) day time limit may be deemed unreasonable if there are not good reasons for delaying its service.

The seizure of items not listed in a search warrant but which are in "plain view" of the officers executing a Search Warrant is permissible.

Upon service of a search warrant, the officer serving the search warrant must complete an investigative report containing the following information:

- | | |
|--|----------------------------|
| 1. Date and time served | 4. The location of service |
| 2. Name of server | 5. Method of service |
| 3. The name of the person who was served | |

The method of service for a search warrant will be by a sworn Columbia Police Officer. The Departmental officer responsible for clearing the warrant will be responsible for completing an investigative report that must include the above information.

The officer serving the search warrant must insure that the return on the search warrant is completed with the items seized listed and the date and time served recorded.

The search warrant must be returned to the Warrant Section where a copy of the warrant will be maintained and the date and time returned to the Warrant Section will be recorded. The original warrant will be maintained by the officer in his case folder.

6.0 WARRANTLESS SEARCHES

6.1 Searches Incident to Arrest

An officer may, without a warrant, at the time of a custodial arrest, or immediately after the arrest, search the arrested person and the immediate area into which the arrested person can reach. If the arrest takes place in an automobile, the officer may, incident to the arrest, search the passenger compartment and any containers found inside, provided they are not locked or sealed. A search incident to arrest may be made for weapons, evidence, or means of escape and for the purpose of inventorying the contents of the vehicle or other property prior to storage. A thorough search of an arrested person is also justified for purposes of securing them and taking them into custody. Locked or sealed containers found incident to an arrest, must have a search warrant issued before they can be opened under most circumstances.

6.2 Automobile Searches

An officer can make a warrantless search of a car, RV, boat, airplane, truck, etc. which was in motion, or at least mobile when seized, and which the officer has probable cause to believe contains contraband or evidence of a crime and if taking the time to obtain a warrant would delay the search to the extent that a suspect will escape or evidence may be lost or destroyed. If an officer does not obtain probable cause to search a car until after it has lost its mobility or has been taken into custody, the officer must obtain a warrant before conducting the search.

6.3 Emergency Searches

An officer may make a warrantless search of anything, whether personal belongings, a vehicle, or a building, anytime that the officer has good reason to believe it is necessary to save a life or prevent injury or serious property damage.

6.4 Consent Searches

An officer may conduct a search of a person or property without a warrant or probable cause if the officer has obtained the prior consent of the person who will be affected by the search or of someone who has the right and authority to act for the person who will be affected by the search.

The person being asked for consent must give their consent freely and the consent must be given in a positive manner. Silence does not imply consent. Whenever possible, a written waiver will be obtained from the person in lawful possession of the premises or the object to be searched.

6.5 “Terry” Search

An officer may stop and conduct a limited or “Frisk” search of an individual under circumstances where the officer has an articulable reason to fear for his/her safety.

6.6 Inventory Searches

Any time a person or conveyance is placed into custody that person or conveyance must be searched for the purpose of securing contents for safe keeping. A written inventory must be made at the time and place of arrest, all items of significant value that are found will be tagged into evidence if possible or placed into arrestee’s

personal property. Items of lesser value may be secured in the vehicle's interior or trunk compartment. A copy of the inventory will be submitted with the incident report and will state the location of any property that was removed.

7.0 CIVIL PROCESS

No sworn member of the Department will serve any civil subpoena, writ or summons unless directly appointed by the court as a process server and then directly ordered by the court in writing to make such service. If so ordered, the sworn officer assigned will execute the service and document the service by written incident report.

All civil subpoenas, writs or summons not specifying a sworn departmental member, and presented for service to this Department, will be forwarded to the originator or to the Sheriff of the proper county (SC Code of Laws §23-15-40) for service.

8.0 DISPOSITION OF CONFISCATED PROPERTY ACQUIRED THROUGH LEGAL PROCESS

The disposition of vehicles acquired by confiscation for DUI 4th or DUS 4th charges will be in accordance with established procedures in the DUI Enforcement Directive.

The disposition of property acquired through drug or narcotics seizure will be in accordance with South Carolina Codes §44-53-520 and §44-53-530.

The disposition of all other property will be in accordance with South Carolina Code §27-21-20.

9.0 COURT APPEARANCES

The success of a criminal prosecution is determined not solely by the quality and quantity of evidence but by the manner in which it is presented by law enforcement officers in a court of law. An officer's appearance, demeanor, attitude, and ability to accurately convey evidence in a fair and professional manner are essential in efforts to bring a criminal prosecution to a just conclusion. Therefore, it is the policy of this agency that officers adhere to court scheduling, preparation, appearance, and testimonial guidelines provided herein.

9.1 Subpoenas

Subpoenas are documents issued by a court compelling that a person appear at a date and time and provide testimony or documents to help determine a matter in controversy.

- Documents:
No CPD officers or employees shall accept subpoenas for documents. All subpoenas for documents shall be served on the City Clerk at City Hall.
- Court appearances:
All officers who being required to attend a court hearing or a tribunal shall accept subpoenas and shall appear in the designated place at the time required by document. Avoidance of service is strictly prohibited, and offending officers are subject to disciplinary action.
- This agency shall establish a system of accountability for subpoenas from point of receipt from the court to point of officer testimony. This includes but is not limited to:
 - a) recording the receipt of subpoenas by maintaining a copy in the appropriate case file;
 - b) recording the service of subpoenas to named officers by shift supervisors or other designated personnel noting dates received, served, and returned to the court authority; and

- c) Ensuring that notification is made as soon as possible to the designated court authority when officers cannot be served in accordance with established time frames or cannot appear on the designated court date.
- Officers served subpoenas or given other official notice to appear before a criminal court by means other than the foregoing are responsible for complying with this directive and for providing agency notification as soon as possible of the need for appearance. Such subpoenas shall be recorded in a manner consistent with this policy.

9.2 Preparation for Trial

- Officers shall fully cooperate with requests from the prosecutor in preparation of cases for trial and may seek pre-trial conferences whenever the seriousness of charges or complexities of cases dictate.
- Officers shall be familiar with the basic rules of evidence and shall seek clarification of any legal issues that may arise during the trial prior to court appearance.
- Prior to trial, arresting or other officers designated for court appearance shall review case documentation to ensure that they are completely familiar with the facts involved. In addition, officers shall provide all reasonable assistance necessary to or requested by the prosecution to ensure that
 - a. necessary evidence will be available at trial;
 - b. witnesses have been notified of the date, time, and place of trial and have adequate means of transportation;
 - c. witnesses have been adequately informed of what is and can be expected of them during testimony, that they have been advised not to offer personal opinions or conjecture, and to respond to all questions accurately and truthfully; and
 - d. any legal questions of witnesses are referred to the prosecutor for clarification when appropriate.
- In pretrial conferences with the prosecutor, officers are responsible for providing all information relevant to the case even though it may appear beneficial to the defendant. No detail should be considered too inconsequential to reveal or discuss.
- If a case has been assigned to a Prosecutor, there shall be no communication between officers and defense attorneys with regard to that case without express approval of the prosecutor's office.

9.3 Appearance in Court

- Officers shall receive compensation for appearance in court during off-duty hours at the rate designated by this agency and in accordance with established means of calculation. Compensation shall be paid only when officers comply with procedures established by this agency for court appearance, to include but not limited to supervisory notification/approval and adherence to documentation procedures for overtime pay.
- Officers who are late for or unable to appear on a court date shall notify the appropriate court authority as soon as possible, providing name, defendant's name, court designation, and reason for absence or tardiness. The reason for absence or tardiness shall be reviewed by the officer's supervisor or commander and may be referred for disciplinary review.
- Officers' physical appearance, personal conduct, and manner shall conform to the highest professional police standards.
- At all times in the Courtroom, Officers will maintain professional decorum. Even while not testifying, each officer is representing the CPD to the court and the public at all times in the Courtroom and conduct himself in accordance with the established conduct requirements of the department.

9.4 While testifying, officers shall

- restrict remarks to that which is known or believed to be the truth;

- respond directly but only to questions asked and avoid volunteering information or going beyond the scope of the question;
- speak naturally and calmly in a clearly audible tone of voice;
- use plain, clearly understood language and avoid using police terminology, slang, or technical terms; and display a courteous attitude and maintain self-control and composure.

9.4 Evidence

Officers shall bring to court with them any and all evidence which was collected in the case being tried and are responsible for ensuring the integrity and safety of the evidence in their possession, including issues of chain of custody.

Upon the conclusion of the trial or hearing, the Officer who is in charge of the evidence shall return the evidence to the Evidence Room.