

	<h1>Garner Police Department</h1> <h2>Written Directive</h2>	
	Chapter: 700 - Arrest, Detention, & Use of Force	
	Directive: 710.03 - Service of Legal Process	
Authorized by: Chief Brandon Zuidema		Effective Date: October 1, 2015
CALEA Standards: 1.2.5, 74.1.1, 74.1.2, 74.3.1 and 74.3.2		Last Revision: April 1, 2015

710.3.1 - Purpose

The purpose of this directive is to establish policy and procedures for the service of legal process documents in accordance with existing laws.

710.3.2 - Policy

It will be the policy of the Garner Police Department to efficiently and effectively execute all legal process documents issued to its care and custody.

710.3.3 - Definitions

- A. Citation - a directive, issued by a law enforcement officer or other person authorized by statute, that a person appear in court and answer a misdemeanor or infraction charge or charges.
- B. Criminal Process - those writs, summonses, mandates, warrants, or other process issued by a judicial official compelling a person to answer for a felony or misdemeanor violation of the law. The term also includes processes issued to aid in crime detection or suppression, such as search warrants.
- C. Legal Process - a document 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.
- D. Subpoena – a legal process notifying a person to appear in a court of law or furnish certain materials or documents.
- E. Summons – a process notifying a person to appear in a court of law to answer charges of a criminal or civil violation.
- F. Warrant – a criminal process issued to initiate a person being taken into custody and restrained pending review by a judicial official.

710.3.4 - Organization and Administration

- A. The Records Division Staff of the Administrative Bureau will have primary responsibility for the recording, maintenance, and forwarding of legal processes.
 - 1. The day shift patrol supervisor, or designee, is responsible for picking up any legal processes at the Clerk of Court's Office on a daily basis (Monday through Friday) and delivering these processes to the Records staff.
 - 2. Electronic processes entered in the North Carolina Warrant Repository (NCAWARE) will be directly forwarded to the Records staff.

- B. The Patrol Division will have primary responsibility for the service of criminal processes.
- C. The service of legal process, notification of persons served, and the filing of requisite reports will rest with the Department member to whom the process is assigned.

710.3.5 – Records (74.1.1; 74.1.2)

- A. Legal process documents are to be recorded and maintained by personnel of the Records Division. This records system will be maintained in a manner to permit 24-hour access.
- B. Information to be recorded will include, as applicable, the following:
 - 1. Date and time received;
 - 2. Type of legal process, civil or criminal;
 - 3. Nature of document;
 - 4. Source of document;
 - 5. Name of plaintiff/complainant or name of defendant/respondent;
 - 6. Officer assigned for service;
 - 7. Date of assignment;
 - 8. Court document number; and
 - 9. Date service due.
- C. A record on the execution or attempted service of each paper legal process will be maintained through the use of a *Legal Process Tracking Slip* (GPD form 710.3-A). This recording will be conducted through procedures established by the Records Manager. At a minimum, the following information will be recorded:
 - 1. Date and time service was executed/attempted;
 - 2. Name of officer(s) executing/attempting service;
 - 3. Name of person on whom legal process was served/executed;
 - 4. Method of service/reason for non-service; and
 - 5. Address of service/attempt.
- D. Information on the execution or attempted service of a legal process will be recorded and maintained electronically in the North Carolina Warrant Repository (NCAWARE) database.
- E. Officers executing a warrant will complete an electronic *Arrest Report* (GPD form 510.5-B).

710.3.6 - Criminal Process (1.2.5; 74.3.1; 74.3.2)

- A. Only sworn officers will execute criminal processes issued to the Garner Police Department. These documents will include arrest warrants, summonses, and search warrants.

1. The execution of criminal process documents will be conducted by sworn departmental personnel only within their legal jurisdiction, and within time limitations set forth by a process and relevant statute.
 2. Criminal process execution in locations outside departmental jurisdiction must be conducted in accordance with requirements of state law and the governing agencies involved. When it is necessary to arrest persons outside the department's jurisdiction, officers of the agency having jurisdiction are to be utilized for the actual execution of the criminal process.
 3. When a suspect subject to a criminal process is located outside of North Carolina, the investigating officer must complete and submit an *Extradition Approval Form* (GPD form 710.3-B) through the chain-of-command to the District Attorney's Office to request permission to proceed with extradition procedures.
- B. Immunity guaranteed by federal law must be considered in any arrest situation. Supervisory personnel are to be notified anytime that an arrestee claims immunity from arrest.
- C. Upon the execution of an arrest warrant, an officer will transport the person arrested to a judicial official without unnecessary delay.
- D. Officers may arrest violators without a warrant, as provided by law. Upon arrest, the officer will transport the arrested person to a judicial official to obtain the necessary legal process, providing that a criminal citation may be issued, at the officer's discretion, for a misdemeanor violation.
- E. During the arrest process, the officer and/or processing agent will be responsible for:
1. Completing a departmental *Arrest Report* (GPD form 510.5-B) and all forms required by the Magistrate's office, City-County Bureau of Identification (CCBI) Processing Unit, and the Wake County Detention Facility.
 2. Ensuring that all arrestees are fingerprinted (except those only charged with a Class 2 or 3 traffic offense) and photographed. The fingerprinting and photographing of arrestees will be conducted by the CCBI Processing Unit personnel pursuant to their agency's directives and state law. Fingerprints and photographs are maintained on file by CCBI.

710.3.7 - Service of Process

- A. Department supervisors will establish priorities regarding the service of criminal process and other outstanding arrest warrants to facilitate the prompt apprehension of persons posing a threat to the community and those who may attempt to flee.
- B. Criminal process that requires a higher priority for service includes, but is not limited to, those that involve the following offenses:
1. Homicide,
 2. Rape,
 3. Robbery,
 4. Other offenses of a violent nature,
 5. Failure to appear in court, and
 6. Other charges against persons who may be expected to flee prosecution.

- C. Officers who establish probable cause to obtain arrest and/or search warrants or who have obtained arrest warrants will not intentionally delay obtaining or serving arrest or search warrants without supervisory approval.
- D. Warrant Service Procedures:
 - 1. A minimum of two officers are required when serving or attempting to serve a criminal process for the following;
 - a. Any felony warrant for a crime against a person,
 - b. Any violent misdemeanor,
 - c. Any person with a history of violence or assault on law enforcement,
 - d. Any habitual offender, and/or
 - e. Any person whom the agency has reason to believe will resist arrest or flee custody.
 - 2. The above requirement for a minimum of two officers may be waived at the officer's discretion, when a person agrees to voluntarily surrender to the officer at the police station.
 - 3. Prior to any service attempts of criminal process requiring a custodial arrest, officers shall notify Raleigh Emergency Communications Center (RECC) of their location via radio transmission.
- E. All Criminal Summons shall be served via personal service by a sworn officer.

710.3.8 - Mental Commitment Process

- A. The service of mental commitment process documents will normally be initiated through the Magistrate's Office and will not require recording of the process by the Records staff.
- B. Officers assigned to serve mental commitment processes will exercise all safety precautions necessary to affect the service of the document and to protect themselves and other parties from injury. The officer will remain cognizant of the fact that the individual named in the process is not being taken into custody for a criminal violation.
- C. Upon service of the process, the officer will transport the individual to the medical facility directed within the document.
 - 1. Officers may also be directed to transport the individual to a secondary facility, in accordance with mental commitment procedures.
 - 2. Officers may be required to transport the individual back to his/her residence if not committed by the medial facility.
- D. Following the individual's disposition by medical authority, the serving officer is to complete and return all documents related to the involuntary commitment to the Magistrate's Office in accordance with GPD directive 820.11 – *Interaction with the Mentally Ill*.
- E. Officers will be required to complete an Incident Report, as well as an Arrest Report (GPD form 510.5-B) through the RMS system when serving a mental commitment process.

710.3.9 - Subpoenas

- A. Subpoenas for citizens

1. Upon receipt from the court subpoenas will be logged in the records management system and the applicable information required by this Directive recorded. A *Legal Process Tracking Slip* (GPD form 710.3-A) will then be completed and attached to each subpoena to track attempts at service.
 2. Subpoenas will be categorized and forwarded for service in the following manner:
 - a. Subpoenas having no telephone number for the person named within will be forwarded to the Patrol Division for service; and
 - b. Subpoenas with a telephone number for the person named within will be assigned to Records Division for service.
 3. Upon service or upon determining that service is not possible subpoenas are to be returned to the Records Division for disposition.
 - a. Out-dated subpoenas received by the Department will be dated-stamped and returned to the Clerk of Court's Office.
 - b. Subpoenas received for persons outside the jurisdiction of the Department will be returned to the Clerk's Office or the forwarding agency.
- B. Subpoenas addressed to Department employees will be assigned to the individual's immediate supervisor for service.

710.3.10 - Property

- A. Property received or confiscated as a result of execution of legal process will be disposed of in accordance with relevant state statutes and GPD Directive 510.01 – *Evidence and Property Submission*.
- B. Property seized pursuant to the execution of a search warrant requires a state inventory form (AOC-CR-206) be completed in addition to the requirements of GPD Directive 510.01 – *Evidence and Property Submission*.