



OFFICE OF THE COUNTY SHERIFF
Montgomery County, Maryland
Darren M. Popkin, Sheriff



GENERAL OPERATIONAL PROCEDURES

<u>Subject:</u> Service of Process	<u>Number:</u> 3.07	<u>Effective Date:</u> 11/15/21
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Policy: It is the policy of this Office to serve or attempt to serve all civil and criminal process in a lawful and expeditious manner.

Contents:

- I. Civil Process
- II. Service of Criminal Process Other Than Arrest Warrants
- III. Service of Foreign Process
- IV. Office Regulations
- V. Cancellation

I. Service of Civil Process

Civil process is a written order issued by a Court in a civil action to secure compliance with its commands or to require action by a person. Civil process includes summonses, subpoenas, *protective orders*, *peace orders*, *emergency petitions*, or other writs. A civil action is a judicial proceeding involving claims by one individual or group against another and are distinguished from criminal prosecutions in which the State prosecutes an individual for violation of criminal law. Deputies will serve all process as prescribed in the Maryland Rules. Rules beginning with two (2) denote rules pertaining to Circuit Court civil process. Rules beginning with three (3) denote rules pertaining to District Court civil process.

II. Service of Criminal Process Other Than Arrest Warrants

Criminal process is a written order issued by a Court in a criminal action to secure compliance with its commands or to require action by a person and includes summonses, subpoenas, or writs. Subpoenas and summons on witnesses and defendants in criminal actions will be served pursuant to the Maryland Rules. Rules beginning with four (4) denote provisions pertaining to criminal matters.

- A. Indictment, Criminal Information Summons, Criminal Witness Subpoena - A diligent effort will be made by deputies to effect personal delivery of the process. If service is successful, a return will be made as indicated in Section IV, Office Regulations. If personal delivery of a Montgomery County, MD indictment, criminal information summons or criminal witness subpoena is unsuccessful by the expiration date, the deputy will leave the defendant's copy of the process with another person at least 18 years of age at the defendant's residence. If no one is at the residence, the deputy will fasten the defendant's copy of the process to the door of the residence or other place where the defendant is being sought. The Record of Service will be marked "non-est, defendant's copy was left with a certain named person" or "non-est defendant's copy was fastened to the door of the residence or place where the defendant is being sought." This only applies to indictments, criminal information summons, and criminal witness subpoenas issued by the States Attorney's Office of Montgomery County. All other criminal process shall be served in accordance with the Maryland Rules.
- B. Juvenile Summons - These summonses will be served pursuant to Maryland Rule 2 -124 & 3 - 124, (a) and (b). A Juvenile Summons, when directed to a minor, must be served on the minor, and on a parent, guardian, or other person having care or custody of the minor. Extra copies should be provided for this. In Montgomery County cases, after a diligent effort to effect service has been made without success by the expiration date, a copy will be posted on the juvenile's residence or served to another person in the same manner as service of an indictment, criminal information summons, or criminal witness subpoena. The Record of Service will be marked "non-est, juvenile's copy was left with a certain named person" or "non-est juvenile's copy was fastened to the door of the residence or place where the juvenile is being sought."

III. Service of Foreign Process

All process received from jurisdictions outside of Maryland is considered foreign process. The service of foreign process will be executed in accordance with the Maryland Rules, Office Regulations and any other special rules attached to the process by the sending jurisdiction. Deputies will:

- A. Read the cover letter before attempting service.
- (1) Many states authorize substitute service or posting if one is evading service.
 - (2) Many states require the deputy serving process to furnish a detailed description of the person served.
- B. Out of state process will not be served on Sundays or holidays unless approved by the Section Supervisor.

IV. Office Regulations

A. Times of Service

- (1) The service of process by Civil Section and Child Support Section deputies will be between the hours of 0700 and 2200 unless an appointment has been scheduled or extenuating circumstances require otherwise, **and the section supervisor gives their approval.**
- (2) Domestic Violence Section deputies will serve process twenty-four (24) hours a day, seven (7) days a week.

B. Inspection of Process - All process will be thoroughly inspected by deputies before leaving the office to insure the:

- (1) process is assigned to the proper bailiwick;
- (2) correct number of copies for service are provided; and
- (3) Record of Service displays the correct name, address and expiration date.

C. Manner of Service - Upon the deputy's first contact, when serving process, they must identify themselves. When serving process, the deputy will address the defendant or other persons by using their full name. Discretion will be utilized when divulging information to individuals not named in the process.

D. Return of Service

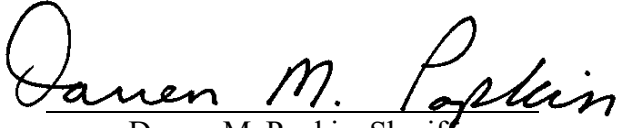
- (1) When process other than Domestic Violence is served, the Sheriff's Office Record of Service or District Court Writ of Summons will be marked served and include the:
 - (a) Name of individual served, **including description, if required;** or
 - (b) Name **of individual served for alternative service, or name** and title of individual served if service was made on a corporation;
 - (c) **Date** and time of service; and
 - (d) **Signature** and I.D. number of the deputy.
- (2) When **domestic violence** process is served, the Sheriff's Office Record of Service will be **signed**, marked served, and include the following:
 - (a) **Date**, time, and place of service;
 - (b) Name and ID of involved deputies;
 - (c) **Demeanor** of defendant served;
 - (d) **Was the defendant arrested;**
 - (e) **Petitioner notification;**
 - (f) **If** weapons were confiscated; and
 - (g) **Recommendations** for backup.

- (3) When the process has not been served by the expiration date, the Sheriff's Office Record of Service or District Court Writ of Summons will be marked with:
 - (a) non-est. (a valid reason must be given for the non-est.)
 - (b) the date and time of the non-est.
 - (c) the signature and I.D. number of the deputy.
 - (4) Countermand - Written authority from the issuing party must be attached to the Record of Service before the process is countermanded.
 - (a) Landlord Tenant cases for Failure to Pay Rent and Tenant Holding Over cases will not be countermanded unless approved by the Section Supervisor.
 - (5) All process will be turned in the next working day after disposition or at the end of the shift upon the deputies' return to the Sheriff's Office.
 - (6) All writing will be legible and will not contain abbreviations.
 - (7) All attempts of service will be noted on the Sheriff's Office Record of Service or District Court Writ of Summons.
- E. All logs will be filled out accurately, timely and truthfully.
- (1) All dates and times of service or attempts will be noted on the process log when the deputy serves the process or makes an attempt.
 - (2) Logs will be **signed and** turned in to the Section Supervisor on the next working day.

V. **Cancellation**

This directive cancels and replaces General Operational Procedure 3.07, Effective Date **11/18/08**. Shred replaced directive.

AUTHORITY:


Darren M. Popkin, Sheriff
11/15/2021