

City of Johns Creek Police Department

<i>Subject:</i> Legal Process		<i>Number:</i> 04-08
<i>Reference:</i> See also “Records: Distribution/Dissemination”		<i>Amends:</i>
<i>Effective:</i> 04/08 <i>Revised:</i> 03/10	<i>Review Date:</i> Annually	<i># of Pages:</i> 3

PURPOSE:

Ensure legal process services are delivered in the proper manner.

DEFINITIONS:

Criminal Process: Services which support the judicial function relating to criminal matters, including executing arrest warrants, search warrants and affidavits, administrative warrants, or any other type of service ordered by the courts which directly results from a criminal matter. Only sworn law enforcement officers shall execute arrest or search warrants. (O.C.G.A. 17-4-20, 17-5-24)

Civil Process: Services which support the judicial function of the Court of the City of Johns Creek relating to criminal matters. Any process deriving from civil cases should be referred to the Sheriff of the county, except as provided in this section.

POLICY: (04-08)

The Department will serve and/or execute legal process in support of the judicial function as required by Federal and State Constitutions and state statutes. All court documents, or legal process, received by this Department shall be executed in good faith, in a timely and efficient manner, pursuant to Federal, State, and local laws, and in accordance with Department policies and procedures. The Department will provide training as needed to ensure that officers remain knowledgeable of changes relating to the field of arrest, and search and seizure.

PROCEDURES:

Jurisdiction (04-08-01)

Department Law Enforcement officers shall only be responsible for executing criminal arrest and/or search warrants within the City of Johns Creek. Any execution of the criminal and/or civil process in and for other counties of the State, or any other state or foreign jurisdiction, shall be accomplished through the Fulton County Sheriff's Department or the local authority having venue, unless the officer has been sworn and bonded by the Fulton County Sheriff's Department.

Authority (04-08-02)

Officers of the Department shall have the authority to perform searches and seizures and to arrest persons for violations of City Ordinance or State Law pursuant to the Official Code of Georgia Annotated, occurring within the jurisdictional limits of the City of Johns Creek. This authority is outlined in the Johns Creek Code of Ordinances as well as in the Official

Code of Georgia Annotated or under the authority granted by a mutual aid agreement.

Property Received Through Legal Process (04-08-03)

Any time property comes into the possession of the Department through either an arrest or search, or through orders by the courts, the officer responsible for said property will immediately place said property in the Evidence Room and/or into the custody of the evidence/property custodian. For specific instruction on the disposition of property and evidence, refer to the Property and Evidence Section.

Execution of Criminal Process (04-08-04)

Upon receipt of any warrant, whether issued by the Municipal Court of The City of Johns Creek or issued by another jurisdiction for service *within* the City of Johns Creek, said warrant shall be processed and receive prompt attention by the Department and/or an assigned police officer. Only sworn and certified police officers are permitted to execute or serve arrest warrants and/or make arrests in the State of Georgia. (O.C.G.A. 17-4-20)

All Warrants shall be forwarded to the appropriate agency for administrative processing, filing and distribution. The Warrant will be classified and assigned a sequential number through the Electronic Warrant Interface (E.W.I.) or will be issued by a judge or clerk of courts of the City of Johns Creek. In most instances, the number shall be identified as a warrant number, but may also be referred to as a "case" number or "docket" number. Docket numbers are generally only assigned after the case is filed in court and may not apply to warrants encountered.

Each warrant received by this Department and distributed to an officer for service or execution shall document all information regarding the warrant in the records management system or incident report. Said reports and records shall be used to track service attempts, locations, etc., and is the department's permanent record the document was received and the disposition of the document. The report shall be kept with a copy of the warrant (maintained in Records) and with the original warrant throughout its existence and, after execution, maintained in a permanent record in central records. The report shall contain, at a minimum, the following information:

- A. Date and time received;
- B. Type of warrant;
 - 1. Felony or misdemeanor;
 - 2. Type crime committed;
 - 3. Georgia code number;
- C. Source and date of issuance of warrant;
- D. Name of wanted person;
- E. Address of wanted person;
- F. Biographical information;
- G. Name of victim/affiant;
- H. Officer assigned for service (if applicable);
- I. Date of assignment;
- J. Warrant (or case or docket) number;
- K. Desired time frame for service (where applicable);
- L. Service (or attempts) information should contain;
 - 1. Date and time of each attempt for service;
 - 2. Date, time and location of arrest/executing of the warrant;
 - 3. Name of officer(s) executing or attempting each service/execution;
 - 4. Any reason(s) for non-service (i.e., moved out of state, etc.)
 - 5. Address(s) of attempt/execution.

Any arrest warrant is a "command" by the court to an (arresting) officer to arrest the named person, take him/her into custody, and deliver him/her before that particular court. The "Statutes of Limitation" are tolled once a warrant has been issued and the wanted person has removed him/herself from the immediate jurisdiction of the issuing court, cannot be located, and cannot be brought before the court of jurisdiction. Only the issuing court of

record on the warrant may recall the warrant.

Every reasonable and expedient effort to locate and arrest the person named in the warrant shall be made by the assigned officer(s), if applicable. If unable to locate, the assigned officer may only place the warrant in an inactivate status until the individual can be arrested and brought before the court. (Refer to "Arrests" and "Force Allowed".)

Service of Subpoenas (04-08-05)

The Municipal Court of the City of Johns Creek subpoena shall document the following:

1. The case number
2. The Subpoena number
3. The Recipients name;
4. What the Recipient is required to produce;
5. The Date and Time of when the Recipient must produce the requested items by;
6. How the Recipient should provide the requested items;
7. The signature of the Clerk of the City of Johns Creek Municipal Court, or his designee;
8. The date issued by the Clerk of Court.

The following procedures will be followed when obtaining a subpoena through the City of Johns Creek Municipal Court:

1. Obtain a subpoena number from a sequential numerical list, maintained and updated by the Criminal Investigations Division Commander or his/her designee. This number will be placed on the subpoena in the required fill labeled as "Subpoena #".
2. Properly fill out the subpoena with the required fills, ie; Recipient name, Address of Recipient, what information is being subpoenaed to court, and Court Date
3. Request the City of Johns Creek, Clerk of Courts or his designee to sign the document.
4. A copy of this completed document will be placed in a secure file labeled as "Subpoena". This file is updated and maintained by the Criminal Investigations Division Commander or his/her designee.
5. Upon service of the subpoena (either by fax, email, mail, or service by hand), the case Detective will place a copy of the subpoena in his/her case file to maintain the record. In addition, the Detective will return the original or a copy to the Clerk of Court. It should be noted that some recipients require the original subpoena. Therefore, the original copy is not always available to return to the Clerk of Court.
6. The case Detective will complete a supplemental report documenting the issuance, service, and outcome of the subpoena.

Service of Civil Process (04-08-05)

This Department has no jurisdiction in matters pertaining to service of civil papers, writs, or other legal papers commonly known as "civil process" with the exception of subpoenas issued by and/or for the Municipal Court of the City of Johns Creek. All other "process" must be served (only) by the Sheriff or the Marshal of Fulton County or other State or Federal officials with proper jurisdiction, or their authorized deputies.