

*Please note: This is a working draft of Directive 210.22. This is proposed language and the Bureau has not implemented any changes to the current policy at this time.

840.00, Arrest with Warrant

2nd Universal Review: 12/03/19 – 01/02/20 (clean view)

Refer:

- ORS 133.110 Issuance
- ORS 133.120 Authority to Issue Warrant
- ORS 133.140 Content and Form of Warrant
- ORS 133.235 Arrest by Peace Officer
- ORS 133.575 Execution of Warrant

Definitions:

- Arrest warrant: A written order signed by a magistrate, in the name of the state, that commands the arrest of a person. The warrant must specify the name of the person to be arrested. If the name is unknown, the person may be designated by a fictitious name with a statement therein that their true name is unknown. The arrest warrant must also state a crime in respect to which the magistrate has authority to issue the warrant.

Policy:

1. This directive establishes procedures for serving arrest warrants.

Procedure:

1. Obtaining an Arrest Warrant.
 - 1.1. Members shall consult with the District Attorney's office when seeking to obtain an arrest warrant.
2. Planned Enforcement of Warrants on Self-Dispatched Calls.
 - 2.1. Members may serve an arrest warrant at any time during the normal performance of their duties. However, members shall endeavor to serve warrants for Class B and C misdemeanors, traffic infractions and other similar minor violations or offenses at a reasonable time of day to minimize the impact on the subject and neighboring individuals in the immediate surrounding area.
 - 2.2. Prior to making an arrest, members attempting service of a warrant shall confirm its status in their mobile data computer (MDC) or by contacting the Multnomah County Sheriff's Office (MCSO) warrants unit.
 - 2.3. Members who are unable to locate an individual named in a warrant or confirm the listed address shall document their service attempt(s) in an appropriate police report.
3. Discovery of an Arrest Warrant.
 - 3.1. Members who, during the normal performance of their duties (e.g., traffic stops, subject stops, calls for service), discover that an individual has an arrest warrant, shall confirm the status of the warrant in their MDC or by contacting the MSCO warrants unit prior to making the arrest, when tactically feasible.

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- 3.2. After the warrant has been confirmed and the member reasonably believes the identified subject is the person named on the warrant, the requesting member shall make the arrest and transport the arrested subject to the appropriate booking facility.
 - 3.2.1. Members do not need to obtain a physical copy of a warrant from MCSO prior to attempting service. There is no need for the arresting member to provide a copy of the warrant to the subject at the time of arrest. MCSO staff shall serve a copy of the warrant during the booking process.
 - 3.2.2. Arresting members shall not accept bail money or issue receipts to persons attempting to post bail. Members shall transport the arrested subject to the Multnomah County Detention Center for booking or to post bail.
 - 3.2.3. If the warrant stipulates that a citation-in-lieu-of-custody can be written, and there are no other bookable charges, the arresting member may issue a citation-in-lieu-of-custody. The member shall notify the MCSO warrants unit of the issuance as soon as practicable.
- 3.3. When practicable, members shall, in good faith, always attempt to make arrests for persons they contact with outstanding warrants for their arrest. However, should the member encounter an obstacle that reasonably impairs their ability to safely and effectively execute the arrest warrant, they are permitted to defer arrest to a more appropriate time and place.
 - 3.3.1. If deferring arrest, members shall contact their supervisor whenever practicable and document their actions in an appropriate police report.

Provide feedback [here](#).

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840.00, Arrest Withwith Warrant

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Refer:

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- ORS 133.120 Authority to Issue Warrant
- ORS 133.140 Content and Form of Warrant
- ORS 133.235 Arrest by Peace Officer
- ORS 133.575 Execution of Warrant

Directive Specific Definitions:

- Arrest warrant: An written order-in writing signed by a magistrate, in the name of the state, signed by a magistrate with his/her name of office, that commanding commands the arrest of the defendanta person. An The arrest warrant must specify the name of the defendantperson to be arrested. If the name is unknown, the defendant person may be designated by a fictitious name with a statement therein that his their true name is unknown. An The arrest warrant must also state a crime in respect to which the magistrate has authority to issue the warrant.
- ~~Complainant: For the purposes of this directive, the alleged victim or the individual who reported the alleged offense to law enforcement.~~
- ~~Felony Complaint: A document containing charges against a suspect accused of committing a felony crime.~~

Policy:

1. This directive establishes procedures for serving arrest warrants.

Procedure:

1. Obtaining an Arrest Warrant.

- 1.1. Members shall consult with the District Attorney's office when seeking to obtain an arrest warrant.
- ~~1.2. A complainant or an investigator will appear before a district attorney (DA) and justify the complaint.~~
- ~~1.3. All felony complaints will be handled either by the Detective Division, or by the complainant.~~
- ~~1.4. On a felony complaint, an investigator may accompany the complainant to the DA's office and assist if necessary.~~
- ~~1.5. The investigator may, with the concurrence of a DA, justify a felony complaint without the complainant being present.~~
- ~~1.6. If the complaint is justified:
 - ~~1.6.1. An investigator or the DA shall prepare an affidavit;~~
 - ~~1.6.2. The complainant or investigator shall sign the completed affidavit; and~~~~

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~~1.6.3. The investigator or the DA shall ensure the signed affidavit is notarized and sent to a magistrate.~~

~~1.7. In felony cases, complainants or investigators will accompany the affidavit and swear an oath before the magistrate. The magistrate will examine the affidavit and, if justified, will issue an arrest warrant.~~

~~For cases involving a felony complaint, the DA will have the option of bypassing the magistrate and submitting the complaint directly to the Grand Jury.~~

2. Self-Initiated Arrest Warrant ResponsibilitiesPlanned Enforcement of Warrants on Self-Dispatched Calls.

~~The Multnomah County Sheriff's Office (MCSO) is responsible for the physical maintenance of all warrants within Multnomah County. They will ensure the entry, modification and clearance of warrants into the computer, publish a computer printout of Warrants on File by Precinct and also a Notice of Warrant on File record card. The record card will be used to record the attempt or service of a warrant.~~

~~2.1. Bureau Responsibilities:~~

~~2.2. The Bureau restricts warrant service to the following guidelines:~~

~~2.2.1. a. Major Warrants (felony, Class A misdemeanor, and major traffic offense warrants) can be served on any day, at any hour, when the defendant can be found.~~

~~2.2.2. b. Minor Warrants (Class B and C misdemeanor, violations, traffic infractions, warrants, etc.) will generally be served during hours that will minimize the inconvenience to the defendant.~~

~~2.3.2.1. c. Exceptions, caused by unusual circumstances, require approval by an immediate supervisor. Members may serve an arrest warrant at any time during the normal performance of their duties. However, members shall endeavor to serve warrants for Class B and C misdemeanors, traffic infractions and other similar minor violations or offenses at a reasonable time of day to minimize the impact on the subject and neighboring individuals in the immediate surrounding area.~~

~~2.4.2.2. Prior to making an arrest, members attempting service of a warrant shall confirm its status in their mobile data computer (MDC) or by contacting the Multnomah County Sheriff's Office (MCSO) warrants unit.~~

~~2.5.2.3. Members who are unable to locate an individual named in a warrant or confirm the listed address shall document their service attempt(s) in an appropriate police report.~~

3. Discovery of an Arrest Warrant.

3.1. Members who, during the normal performance of their duties (e.g., traffic stops, subject stops, calls for service), discover that an individual has an arrest warrant, shall verify confirm the status of the warrant in their MDC or by contacting the MSCO warrants unit prior to making the arrest, when tactically feasible.

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~~3.2. The Bureau will actively undertake the service of arrest warrants issued within the City. The MCSO will deliver daily to the Bureau's Records Division, Mail Distribution Section, envelopes addressed to the appropriate precincts. The envelopes will contain computer produced listings of Warrants on File Notices issued the previous day and a Warrant on File Record card for each entry.~~

~~3.2.1. a. Precinct commanders will be responsible for the maintenance of the Warrant File Notices computer listing. The computer listings will be retained by each Precinct for thirty (30) days and will reflect the following information:~~

~~3.2.1.1. 1. The assignment of the Notice of Warrant on File card to a relief officer and the date of assignment.~~

~~3.2.1.2. 2. The final disposition, whether served or an attempt of service is made, and the date.~~

~~3. The date the warrant card is sent back to MCSO (must be ten (10) days of date assigned).~~

~~3.3. b. Assigned district officers will make at least one documented attempt to serve the assigned warrant. The attempt will be noted in the space provided at the bottom of the Notice of Warrant on File card.~~

~~3.4.3.2. e. After the warrant has been confirmed and the member feels confident reasonably believes the checked-identified subject is the person named on the warrant, the requesting member will shall complete-make the arrest procedure and transport the arrested subject to the appropriate booking facility.~~

~~3.4.1.3.2.1. 1. Members do not need to obtain a physical copy of a warrant from MCSO prior to attempting service.- There is no need for the arresting member to physically serve the verified provide a copy of the warrant on-to the arrested subject at the time of arrest. The warrant will be served by MCSO staff shall serve a copy of the warrant during the booking process.2. Unless exceptional circumstances dictate otherwise, members will not pick up warrants from MCSO.~~

~~3.4.2.3.2.2. 3. Arresting members will shall not accept bail money or issue receipts to persons attempting to post bail. The arrested subject will beMembers shall transport the arrested subjected to the Multnomah County Detention Center MCDC for booking purposes of either or to posting bail or booking. Where specified on the warrant, a citation in lieu of custody may be issued.~~

~~3.4.3.3.2.3. 4. If the county warrant stipulates that a citation-in-lieu-of-custody can be written, and there are no other bookable charges, the arresting member may issue a citation-in-lieu-of-custody. The member must adviseshall notify the MCSO warrants base-unit of the issuance of such-as soon as possiblepracticable.~~

~~3.3. When practicable, mMembers shall, in good faith, always attempt to make arrests for persons they contact with outstanding warrants for their arrest. However, should the member encounter an obstacle that reasonably impairs their ability to safely and effectively execute the arrest warrant, they are permitted to defer arrest to a more appropriate time and place.~~

~~3.3.1. If deferring arrest, members shall contact their supervisor whenever practicable and document their actions in an appropriate police report.~~

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~~— d. Members will complete the Notice of Warrant on File Card by noting the served date, time, the name of the serving member and the DPSST number. It will be routed directly to MCSO Detention and Warrant Records by precinct/division members.~~

~~4. In those instances where a member determines a subject has moved to a new address within the city, a supervisor's approval may be requested for travel to another precinct to continue the apprehension effort. The Notice of Warrant on File Card may be transferred to another precinct if the precinct's computer produced Warrant Notice List is updated to reflect the transfer. In all cases, the cards must be returned within ten (10) days to the MCSO.~~

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COMPLETE

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Q1 Please provide feedback for this directive

Comments on Camping and Arrest With Warrant Directives, August 2019

To Chief Outlaw, Capt. Parman, Lieutenant Morgan, PPB Policy Analysts, Compliance Officer/Community Liaison Team, Community Oversight Advisory Board staff, US Dept. of Justice, Independent Police Review, Citizen Review Committee and the Portland Police Bureau:

Below are comments from Portland Copwatch (PCW) on two the Directives posted for review in early August 2019 (at <http://www.portlandoregon.gov/police/59757>). It should be noted that 12 Directives were posted but only eight were mentioned in the Bureau's bulk email. Two of the unlisted ones were pushed to the top of the stack for review after the IPR's audit of the PPB's policies on houselessness, and those are the two we are commenting on here.

One reason we're not revisiting many of the old directives is that the timeline of 15 days to review so much material is seriously inadequate. PCW continues to believe all review periods should last a minimum of 30 days each time a Directive is posted for comment, with flexibility based on factors such as holidays and the complexity of each policy.

Generally speaking, as we wrote in 2018: "Our suggestions on how to make improvements to these policies does not mean we agree with the underlying premises that allow police to, for instance, take houseless people's belongings when those people have nowhere else to go. As long as those underlying laws and policies are in place, we hope to make police aware of the possible harms that come with enforcing them, and find ways to mitigate that harm."

PCW continues to encourage the Bureau to add letters to the Definitions, Policy, Procedure and other Sections to avoid having multiple areas with the same numbers (ie, multiple items called "Section 1"), and return to its earlier practice of numbering each Definition, as is done in City Code and State law. Since Directive 840.00 has not yet been through the revision process, this would be a good place to start.

Our comments below refer to the Procedure section unless otherwise noted.

DIRECTIVE 840.00 ARREST WITH WARRANT

PCW does not have a lot of comment on the mechanics described in the existing Directive. However, we urge the Bureau to follow up on IPR's July policy review ("PPB should identify its role in responding to the City's homeless crisis"). One key takeaway is that the Bureau should offer specific guidelines around when officers need to avoid making an arrest based on a misdemeanor warrant. IPR describes numerous victimless crimes (erecting structures on public property, camping, setting fires on [not to, presumably] City property and drinking in public as examples of warrants for which officers currently use their discretion whether or not to make an arrest. The revised Directive should list these and other crimes and note that if the warrant on one or more of these violations is the only reason the officer might make an arrest, that they should not. This includes when there is a bench warrant based on failure to appear for one of these low level crimes. IPR suggests working with the Multnomah County criminal justice system on this issue, but an easy start would

Directive 840.00 Feedback

be to take away officer discretion when there is a lack of any new or person-to-person crime being investigated.

Furthermore, IPR describes the practice of "warrant checks" against houseless persons, but doesn't get into the question of whether officers were merely running checks on people based on their housing status. Housed people do not have officers come up to their door and ask to see identification so they can run a warrant check. Houseless people should have the same right.

CONCLUSION

Despite the Bureau's belief that their actions do not "criminalize homelessness," Portland Copwatch would like to see more restrictions put on officers-- and contractors who call officers in-- when they move, cite, arrest and ransack the living areas of houseless people. The Portland Committee for Community Engaged Policing (PCCEP) recently noted the community survey of Portlanders asking about Police behavior did not adequately ask for input from the houseless community. PCCEP last met on July 23 and next meets on August 27; these two policies were released for review on August 1 with a deadline to respond of August 16. Thus, as we have pointed out repeatedly, there is no way for them to give meaningful feedback to the Bureau. Please change the substance of these policies, and please change the feedback process if you truly believe in Community Engagement.

Thank you again for the opportunity to comment

Portland Copwatch

Q2 Contact Information (optional)

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