

Issuing Arrest Warrant or Summons Checklist

The following checklist is based on [MCR 6.102](#), [MCR 6.615](#), [MCL 764.1](#) *et seq.*, [SCAO Form DC 225s](#), [SCAO Form DC 225w](#), [SCAO Form MC 200w](#), and [SCAO Form MC 220](#). This checklist applies to both misdemeanor and felony offenses. Any differences in the method of treating misdemeanor and felony offenses are denoted in the checklist.

District court magistrates. A district court magistrate has jurisdiction to issue arrest warrants upon the written authorization of the prosecuting or municipal attorney. [MCL 600.8511\(e\)](#). Written authorization is not required for a vehicle law or ordinance violation within the jurisdiction of the magistrate if a police officer issued a traffic citation under [MCL 257.728](#), and the defendant failed to appear. [MCL 600.8511\(e\)](#).

Issuing arrest warrant vs. summons. The court must issue a summons rather than a warrant except when: (a) the complaint is for an assaultive crime or an offense involving domestic violence; (b) there is reason to believe that the person against whom the complaint was made will not appear upon a summons; (c) the issuance of a summons poses a risk to public safety; or (d) the prosecutor requested a warrant. [MCL 764.1a\(2\)](#). If none of these circumstances apply, the court must issue a summons instead of a warrant. *Id.*

- Ensure that the clerk has prepared a file and has assigned a case number. **Note:** If the accused is in custody pursuant to a warrantless arrest, you may issue a warrant or endorse a finding of probable cause on the complaint. [MCL 764.1c](#).
- If issuing a warrant, ensure that the complaint is in proper form and includes a signed authorization by the prosecutor or that security for costs is filed (except under specific circumstances set out in [MCL 764.1\(2\)\(a\)-\(b\)](#). [MCL 764.1\(1\)-\(2\)](#); [MCR 6.102\(A\)](#).
- If issuing a summons, ensure that the complaint is in proper form. [MCL 764.1a\(1\)](#); [MCR 6.102\(C\)](#).
- Examine the complaint to determine that it:
 - names or describes the person alleged to have committed an offense.

- alleges the commission of an offense and, for felonies, states the name of the offense and the statutory or local ordinance citation of the offense.
- states with reasonable specificity the date of the offense.
- specifies the place where the offense occurred. [MCR 6.102\(E\)](#); [MCL 764.1d](#).
- includes, if required under the Crime Victim's Rights Act, a statement "that the offense resulted in damage to another individual's property or physical injury or death to another individual." [MCL 780.811a](#) (concerning serious misdemeanors described in [MCL 780.811\(1\)\(a\)\(xv\)-\(xvii\)](#), or a local ordinance substantially corresponding to same).
- For purposes of [MCL 764.1a–MCL 764.1d](#), a complaint signed by a peace officer must be treated as made under oath if the offense alleged in the complaint is a misdemeanor or ordinance violation for which the maximum possible penalty does not exceed 93 days in jail or a fine, or both; that was committed in the signing officer's presence *or* that was committed under circumstances permitting the officer's issuance of a citation under [MCL 257.625a](#) or [MCL 257.728](#); and if the complaint contains the following statement immediately above the date and signature of the officer: "I declare under the penalties of perjury that the statements above are true to the best of my information, knowledge, and belief." [MCL 764.1e\(1\)](#).
- Swear and take testimony from the complaining witness or any other individuals necessary to a probable cause determination. [MCL 764.1a\(5\)](#). In felony cases, make a record of any testimony used in the probable cause determination. [MCR 6.102\(B\)](#).¹
- The factual allegations contained in the complaint, testimony, or affidavits may be based upon personal knowledge, information and belief, or both. [MCL 764.1a\(5\)](#).
- You must accept a complaint alleging a violation of [MCL 750.81](#), [MCL 750.81a](#), or a violation of a local ordinance substantially corresponding to [MCL 750.81](#), by the spouse of the victim, a former spouse of the victim, an individual with whom the victim has had a child in common, an individual with whom the victim has or has had a dating relationship, or an individual residing or having resided in the same household as the victim, if the complaint is signed upon information and

¹[MCR 6.102\(B\)](#) applies to cases cognizable in the circuit court and other courts of equivalent criminal jurisdiction. See [MCR 6.001\(A\)](#).

belief by an individual other than the victim. See [MCL 764.1a\(6\)](#).

- You must accept a complaint alleging that a crime was committed and the victim is a vulnerable adult, if the complaint is signed upon information and belief by an individual other than the victim. See [MCL 764.1a\(7\)](#).
- Determine whether there is probable cause to believe that the person accused in the complaint committed the alleged offense. [MCL 764.1a\(1\)](#); [MCR 6.102\(A\)](#). “A finding of probable cause may be based on hearsay evidence and rely on factual allegations in the complaint, affidavits from the complainant or others, the testimony of a sworn witness adequately preserved to permit review, or any combination of these sources.” [MCR 6.102\(B\)](#); [MCL 764.1a\(4\)](#).
- Have the complaining witness sign the complaint before the court.
- Ensure that the warrant or summons:
 - contains the accused’s name, if known, or an identifying name or description;
 - describes the offense(s) charged in the complaint; and
 - if an arrest warrant, commands a peace officer or other person authorized by law to arrest and bring the accused before a judicial office of the judicial district in which the offense allegedly was committed or some other designated court. [MCR 6.102\(E\)](#); [MCL 764.1b](#).
 - if a summons, requires the accused to appear before the court at a stated time and place. [MCR 6.102\(C\)\(1\)](#); [MCL 764.1a\(3\)](#).
- “A misdemeanor case may be initiated by . . . [t]he filing of a sworn complaint in the district court and the issuance of a summons or an arrest warrant.” [MCR 6.615\(A\)\(1\)\(b\)](#). “A citation may serve as the sworn complaint and as the basis for a misdemeanor warrant.” *Id.* The citation may serve as a sworn complaint and as a summons to command the initial appearance of the defendant. [MCR 6.615\(A\)\(2\)\(a\)](#).
- Where permitted by law, specify on the warrant the interim bail that an accused may post to obtain release before arraignment on the warrant. [MCR 6.102\(F\)](#). If the court deems it appropriate, include as a bail condition that the arrest of the accused occur on or before a specified date or within a

specified period of time after issuance of the warrant. *Id.* See [MCR 6.102\(H\)](#) for information concerning release on interim bail.

- Sign and date both the complaint (if not already signed by the court clerk) and warrant/summons. [MCR 6.102\(E\)](#); see also [MCR 6.102\(C\)\(1\)](#).
- If the court is responsible for entering arrest warrants into the Law Enforcement Information Network (LEIN) and an arrest warrant is issued for a parolee, the court must promptly give notice (by telephonic or electronic means) to the Department of Corrections (DOC) of the identity of the person named in the warrant; the belief that he/she is a parolee; and the charge(s) stated in the warrant. [MCL 764.1g\(1\)](#).
- If the court is responsible for entering arrest warrants into the LEIN and delays issuance or entry of a warrant pending a court appearance by the person named in the warrant, the law enforcement agency submitting the sworn complaint to the court must promptly give notice (by telephonic or electronic means) to the DOC of the identity of the person named in the sworn complaint; the belief that he/she is a parolee; the fact that a prosecuting attorney has authorized issuance of a warrant; the charge(s) stated in the sworn complaint; and whether, pending a court appearance by the person named in the sworn complaint, the court has either issued the arrest warrant but delayed entry of the warrant into the LEIN or has delayed issuance of the warrant.² [MCL 764.1g\(2\)](#).
- If issuing a warrant, give it to an officer to execute and return the court file, if any, to the clerk. [MCL 764.1b](#); [MCR 6.102\(G\)](#). Have the officer sign and date the file when he or she takes a warrant.
- If issuing a summons, ensure it is properly served. See [MCL 764.1a\(3\)](#); [MCR 6.102\(C\)\(2\)](#).
- If the accused is in custody, set bond and notify the authorities where the accused is being held that the arrest warrant has been issued.

²While [MCL 764.1g\(2\)](#) references delayed entry of the warrant into the LEIN, it is best practice to enter the warrant into LEIN without any delay. See the Michigan State Police and State Court Administrator's Office letter detailing the policy issues related to entry of warrants into LEIN [here](#) (noting that one of the primary purposes of LEIN is to provide law enforcement officers with the most current and accurate information possible to maintain their safety as well as the publics and explaining that when there is a delay in entering a warrant into LEIN this purpose is thwarted).