



## Fire and Police Commission

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### **FPC Informational Memorandum: Confirmation of Warrants Prior to Arrest**

#### **Issue:**

Under Wisconsin Statute Section 968.07, a law enforcement officer may arrest a person when the law enforcement officer believes, on reasonable grounds, that a warrant for the person's arrest has been issued in this state. The information that a warrant for a person's arrest may exist is usually obtained when an officer "runs a wanted check" either via radio with the district station console operator or through the Computer Aided Dispatch (CAD) laptop squad computer. The district station console operator is usually a civilian office assistant with access to the National Crime Information Center (NCIC), Criminal Investigation Bureau (CIB), and local warrant databases. Once the possibility of an existing warrant is identified through an initial check of the databases by the console operator, it is the responsibility of the officer executing the warrant to determine that the subject is the person for whom the warrant was issued. A person can be identified as the subject named in a warrant by matching various factors such as date of birth, social security number, physical description, fingerprint, photograph, or other means of positive identification.

Once a person is identified as the subject named in the warrant, it must then be confirmed as a valid, active warrant with the police agency that entered the warrant into the database. Confirmation of a warrant is always necessary, since the computer database may not accurately reflect the most current status of the underlying case upon which the warrant was originally issued. The existence of a warrant in the database merely indicates the likelihood of a valid warrant. Authority to make an arrest does not exist until the officer has confirmed the actual existence of the warrant. If the warrant is issued by another police agency, the console operator must contact the originating police agency either telephonically or electronically and request the status of the warrant. The length of time required to confirm the existence of a valid warrant varies but is typically a matter of minutes rather than hours. Since the majority of warrants are confirmed as valid, some officers have made it a practice to take a subject into custody before a warrant is confirmed by the console operator. If the warrant is confirmed, officers continue with the transport and booking process. If the warrant is not valid, the subject is released.

A citizen complaint was filed by a 61-year old female complainant who indicated that during a traffic stop a wanted check revealed that she had an outstanding misdemeanor traffic warrant issued by the Milwaukee County Sheriff's Office. Prior to receiving confirmation of the actual existence of the warrant, the officers handcuffed the complainant and placed her in the back seat of their squad. The complainant informed the officers that she had "dealt with" the warrant months prior and it was "cleared." The officers informed the complainant that they were waiting for confirmation from the console operator and if it was not valid, they would release her from

the district station. The officers left the complainant's vehicle locked and parked on the street and began transporting her to the district station. During the transport, the complainant continued to inform the officers that the warrant was not valid. Approximately two minutes later, and several blocks from the original traffic stop, the console operator informed the officers that the warrant was not valid. The officers pulled their squad over, uncuffed the complainant, and informed her that she was no longer in custody. The complainant initially asked the officers to drive her back to her vehicle but then indicated she would call her husband to pick her up. The officers then drove away.<sup>1</sup> When the complainant did not make contact with her husband, she began to walk back to her vehicle which was several blocks away. While returning to her vehicle, she suffered an asthma attack and began having difficulty breathing. Another police officer on patrol observed the complainant having difficulty breathing and summoned medical assistance for her. The complainant was then transported by ambulance to the hospital and was released several hours later.

**Findings:**

Milwaukee Police Department Standard Operating Procedure (SOP) does not contain specific procedures for the arrest of a subject solely for a warrant that must be confirmed by the district station console operator. Absent a specific policy, some officers arrest subjects prior to confirming the actual existence of a warrant with the originating police agency. While it is not a universal practice, other police agencies surveyed specifically prohibit officers from arresting a subject until a warrant is confirmed with the originating police agency.

When a police officer interrupts the freedom of a community member and restricts their liberty, such actions should be careful and deliberative. An arrest should be based on the existence of a valid warrant, and not on the existence of a person's name in a database that is known to occasionally be outdated and inaccurate. In the scenario above, if the officers would have waited for the response of the console operator to confirm the warrant before arresting the subject, the matter would have been resolved within two minutes and no citizen complaint would have been filed. No significant delay would have occurred by waiting for a warrant confirmation. No officer safety issues existed that necessitated immediate arrest of the subject. The subject did not commit any other offenses that necessitated immediate arrest. Arresting a subject for a warrant that did not exist can jeopardize community trust in its police department and unnecessarily expose the City to civil liability.

Whenever possible, confirmation of a warrant should be completed before a subject is arrested. The SOP should be reviewed to provide clear guidelines as to the procedure for effecting an arrest, especially when it is based solely on a warrant. Consideration should be given to requiring supervisor approval for exceptional circumstances while providing clear guidance for typical citizen encounters that involve a warrant.

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<sup>1</sup> The prudence of the officers' decision not to return the complainant to her vehicle is addressed separately from this informational memorandum.