



HOWARD COUNTY DEPARTMENT OF POLICE

# GENERAL ORDER OPS-64 BANNING NOTICES

EFFECTIVE SEPTEMBER 10, 2020

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This General Order contains the following numbered sections:

- I. POLICY
- II. DEFINITIONS
- III. PROCEDURES
- IV. ISSUING BANNING NOTICES
- V. BANNING ADMINISTRATOR RESPONSIBILITIES
- VI. CANCELLATION

## I. **POLICY**

The Howard County Department of Police (HCPD) shall assist owners and managers of private property with the resolution of quality of life complaints through the enforcement of trespassing laws.

## II. **DEFINITIONS**

- A. Authorized Representative: The owner or a representative of a property owner who is authorized to manage the property, including the banning of subjects.
- B. Banning Administrator: The Sergeant supervising the Neighborhood Community Resource Officer Section or his designee.
- C. Banning Notice: A written notice served upon a subject by the owner of private property or an authorized representative that states that the subject is no longer permitted to enter the listed property for a defined period of time.
- D. Private Property Owner (PPO): The owner of non-government private or commercial property located within Howard County.

## III. **PROCEDURES**

- A. Private property owners interested in participating in the HCPD banning process for the first time shall be provided with an electronic copy of the forms HCPD 1900, Banning Guidelines for Private Property Owners, and HCPD 1910, Banning Notice Template.
  - 1. Property owners should become familiar with the program prior to issuing Banning Notices. By submitting the Banning Notice to the Banning Administrator, a property owner acknowledges and agrees to adhere to the guidelines provided by the Howard County Police Department.
  - 2. Property owners must utilize the standardized Banning Notice template with the owner's or organization's official letterhead or name and address inserted at the top.
  - 3. The property owner shall be required to maintain all documents and files and have them readily available for prosecution or any needed enforcement action on a violation.
  - 4. The property owner shall notify the HCPD via email at [BANNING@howardcountymd.gov](mailto:BANNING@howardcountymd.gov) if he cancels or rescinds the banning notice at any time before it expires.
- B. The HCPD will provide an electronic copy of the official Banning Notice template to requesting parties to ensure the Banning Notice contains the necessary information. Forms will also be made available on the HCPD website.

- C. It is essential that the Banning Notice be filled out as completely and clearly as possible so that the correct individual is identified as the subject who is being banned from the property. Banning notices that are illegible and/or contain incomplete information will be returned to the sender and will not be entered into the HCPD Records Management System (RMS).
  - 1. The owner or authorized representative should obtain photographs of the subject they are banning, if possible.
  - 2. The Banning Notice shall state the reason for its issuance, the location of any incident that caused the notice to be generated, and, if applicable, any HCPD Incident Report number(s) related to the case.
  - 3. The Banning Notice will provide the exact location(s) from which the subject is banned including the street address(es) or a map indicating the locations of the ban.
  - 4. The Banning Notice shall provide the length of time that the subject is banned, not to exceed one (1) year.
  
- D. Before a Banning Notice is effective, there must be evidence that the subject has actual notice that he has been banned from the property in question. Evidence of a banning notice can be the subject's signature or a certified mail receipt for the Banning Notice signed by the subject. The Banning Notice must also be signed by the owner or authorized representative.
  - 1. If the subject refuses or is unable to sign the Banning Notice, that fact shall be documented on the signature line reserved for the subject and will require a witness signature along with printed name, date, and time.
  - 2. An officer may sign a Banning Notice as a witness. If an officer is the witness, he shall complete an Incident Report or supplemental report detailing the facts surrounding the ban.
  
- E. Enforcement
  - 1. If an officer initiates computer checks of a subject and is notified by Communications that the subject has an alert for being banned from a private property, the officer will have Communications confirm from which property the subject is banned and confirm the expiration date of that ban.
  - 2. If the ban is current, and the subject is on the property in question, the officer may make an arrest for trespass. The Officer shall obtain an IR number for trespass and the secondary violation will be a banning violation.
  - 3. In the absence of any banning notice, if the property owner or authorized representative asks the subject to leave the property in the presence of the officer and the subject refuses, the officer may enforce the appropriate trespassing laws by affecting an arrest.
  - 4. Banning Notices issued by property owners that are not in the RMS database may be enforced if the property owner presents a fully executed Banning Notice that includes the subject's signature to the officer.
    - a. To be enforceable, the Banning Notice must include the full name of the subject banned; a valid banning period of one (1) year or less; identification of the location(s) from which the subject is banned; the reason for the banning; and authorized signatures; and some proof that the Banning Notice has been served on the banned subject.
    - b. Officers should review the documents carefully and consult with their supervisor in determining the validity of the documents.

**IV. ISSUING BANNING NOTICES**

A. Adult Subjects

1. When the owner or authorized representative wishes to ban an adult subject from certain property:
  - a. The owner or authorized representative will prepare a Banning Notice and attempt to serve it on the subject, either in person or by certified mail.
  - b. If subject is uncooperative or the owner or authorized representative is having trouble identifying the subject, police may assist with gathering information needed for identification. The officer will provide this information to enable the owner or authorized representative to complete a Banning Notice.
2. If an officer identifies an adult subject whom he believes the owner or authorized representative may want to have banned (i.e. repeat offender):
  - a. The officer will gather the information needed to identify the subject and forward the information to the owner or authorized representative, who may use the information to complete a Banning Notice.
  - b. If the owner or authorized representative wants the subject banned, he will serve the Banning Notice in person or send a Banning Notice to the subject via certified mail.
  - c. The officer shall complete an Incident Report documenting his actions.
3. It is the responsibility of the Authorized Representative to issue and serve the Banning Notice. The HCPD shall not personally serve an individual with a Banning Notice for private property.

Exception: If an officer has personal knowledge that an owner or representative wants an individual banned from the property and the owner or representative has previously completed and signed the HCPD Banning Notice but has not been able to serve it, if an officer comes into contact with the banned individual, that officer may present the Banning Notice to the individual for signature when the owner or representative is not on location. The officer shall document his actions in a supplemental report.
4. If the subject refuses to sign the Banning Notice at the time of banning, no enforcement action shall be taken unless there is probable cause to make an arrest for a criminal offense. The officer shall document in the IR or supplemental report that the subject refused to sign the Banning Notice.
5. If the owner or authorized representative directs the subject to leave the property in the presence of an officer and the subject refuses (§ 6-403 Criminal Law Article), the officer may make an arrest for trespassing. The witnessing officer may be required to complete a supplement if another officer effects an arrest.
6. An officer who witnesses an owner or authorized representative personally serving a Banning Notice on a subject shall write an Incident Report, or a supplemental report if there is a prior incident which resulted in the subject being banned.
7. The owner or authorized representative will scan and email the completed Banning Notice to the HCPD Banning Administrator at [BANNING@howardcountymd.gov](mailto:BANNING@howardcountymd.gov).

8. The HCPD Banning Administrator shall review the Banning Notice for completeness, legibility, and accuracy. The banning notice shall then be placed on the T: drive in the Shared/Banning Notices folder and entered into ILEADS.

B. Juvenile Subjects

1. If a private property owner or authorized representative obtains identifying information as it pertains to a juvenile and the juvenile has been properly served all the guidelines set forth above shall be followed.
2. If an officer assists a PPO with the banning of a juvenile, the officer shall only provide the juvenile's first and last name. No other demographic information shall be provided to the PPO.
3. The owner or authorized representative shall follow Banning Guidelines as outlined in this General Order.

C. Government Property except Public Housing or School Properties

1. For the purposes of this General Order, Public Housing property shall be treated as Private Property.
2. Refer to General Order OPS-50, School Issues, for information on banning individuals from Howard County school properties.
3. Libraries and other government facilities must provide appropriate access to citizens needing services from such sites. Under Maryland's statutory regime for trespass on public building and grounds, § 6-409 of the Criminal Law Article, a notification to stay off property on one occasion does not remain effective for future occasions, so a banning notice is not enforceable.
4. An officer may arrest a person for trespass on government property during regular business hours if an agent or employee of the government has asked the person to leave the government property and:
  - a. The person has no apparent lawful business to pursue at the particular public site; or
  - b. The person is being disruptive to normal business operations; and
  - c. The person refuses to leave.
5. An officer may arrest a person for trespass on government property after regular business hours or in an area of the property not open to the public if an agent or employee of the government has asked the person to leave the government property, and
  - a. The person has no apparent lawful business to pursue at the particular site; and
  - b. The person refuses to leave.
6. If the person who falls into one of these categories has been asked to leave but refuses to do so, the officer can arrest the person for trespass. If the person comes back onto the government property at a later time, the agent or employee of the government would have to make a new determination of the person's right to be on the property and a new request to leave before the person may again be arrested for trespass.

**V. BANNING ADMINISTRATOR RESPONSIBILITIES**

- A. When the Banning Administrator receives a completed electronic copy of the Banning Notice and, if applicable, proof of certified mail receipt from a private property owner or authorized representative, he shall verify the Banning Notice for completeness, accuracy, and legibility.
1. If the Banning Notice is complete, he shall place a copy of the banning notice on the T: drive in the Shared/Banning Notice folder and enter the information in ILEADS.
  2. If the Banning Notice is unacceptable, contact shall be made with the owner or authorized representative requesting appropriate changes.
- B. If a property owner or authorized representative requests to cancel a Banning Notice or rescind the ban, the Banning Administrator shall immediately purge the RMS Alert.

**VI. CANCELLATION**

This General Order cancels and replaces General Order OPS-64 entitled Banning Notices dated December 4, 2018.

AUTHORITY:

  
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Lisa D. Myers  
Chief of Police