

	Policy & Procedures				No. 1.38	
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CALEA STANDARDS

74.1.1 74.2.1 74.4.1

74.1.2 74.3.1

74.1.3 74.3.2

GENERAL CONSIDERATIONS AND GUIDELINES

An important function of law enforcement is the execution of criminal processes in support of the judicial function. Criminal processes consist of Summonses, Subpoenas, Arrest Warrants, and Search Warrants relating to a criminal case which are issued by any Court of Law within the Commonwealth; and which are sent, delivered, carried, or otherwise conveyed to our Department for the purpose of being served or executed upon the person or place named within. Civil processes are abuse prevention, harassment prevention or other orders issued by Massachusetts District Courts as well as Family and Probate Courts. **74.1.2**

Since the functioning of the courts is affected by the prompt service of these documents, and since the Department has certain legal responsibilities regarding time factors (Search Warrants) and arrests, it is necessary to have precise and appropriate record keeping procedures to minimize potential litigation and liability.

POLICY

It is the policy of this department that:

- A) Legal processes will be documented, and every reasonable attempt shall be made to serve them promptly.
- B) Any arrests made on a warrant must be backed up by documentation that some agency has that warrant in its possession, and that to the best of their knowledge it is still in effect or that the warrant is active in the Warrant Management System (WMS).
74.1.3 (4)
- C) No officer shall make an arrest on a warrant unless he/she confirms the present status of the warrant immediately before make the arrest. **74.1.3 (4)**

PROCEDURES

A. Types of Legal Processes:

- Legal processes for which we have the document in our possession, and where service is to be executed on persons or places within the community;
- Legal processes forwarded from another agency; and
- Legal processes forwarded to another agency, to be served outside the jurisdiction of the department.

B. Information Recording

Legal process documents may be received, such as a summons from the local court; created, such as a 209A order during the handling of a domestic dispute; or printed, such as a WMS warrant from the CJIS system.

The primary investigating officer, or the first police officer handling the legal process document, if different, shall be responsible for creating the Record of Legal Process form to be associated with that document. It shall be completed as fully as possible, so that the source, nature and content of the legal process are clear. The form will serve as a stand-alone record of that legal document after it has been acted upon, served, or otherwise leaves the possession of the department.

- This may be the officer working the desk if a WMS warrant is printed from the CJIS system or if documents are faxed here from the court;
- This may be the Court Prosecutor or officer acting on his/her behalf for documents received from the court system, or
- This may be the investigating officer, when he/she creates or obtains a Restraining Order, Harassment Order or arrest warrant.

Whenever a legal process document is received, created or printed by this department, the following information shall be recorded with the use of the Record of Legal Process Form: **74.1.1 A,B,C,D,E,F,G,H,I; 74.1.3**

- Date and time received; **(a)**
- Type of legal process, civil or criminal; **(b)**
- Nature of document; **(c)**
- Source of document; **(d)**
- Name of plaintiff/complainant or name of defendant/respondent; **(e)**
- Officer assigned for service; **(f)**
- Date of assignment; **(g)**
- Court docket number; and **(h)**
- Date service is due **(i)**

In addition, notations may be made on this form regarding any other useful information which will assist in the service or disposition of the legal process, such as alternate contact information, roommate or friend's name(s), etc.

I. EXECUTION OF CRIMINAL PROCESS: 74.3.1, 74.3.2

Any warrant, summons, or subpoena which is intended to be served on a Canton resident, whether issued by the court on behalf of our Department or for another agency, shall only be executed by sworn law enforcement officers only and shall be handled in the following manner:

1. Upon receipt or notification of any arrest warrant, summons or subpoena, the Court Officer or officer who received the legal process will document on the department computer system all applicable information, including:
 - date and time received
 - person named in the document
 - identify the issuing department or court
 - warrant, summons, docket or subpoena number
2. Search warrants will be documented by the receiving officer in the same manner as outlined above upon receipt or execution of the search warrant.
3. The Court Officer or officer who received the document will then attach a **Record of Legal Process Form** to the document.
4. Upon receipt of the document to be served, The Shift Supervisor will assign an officer(s) to attempt service. The officer assigned will document all service attempts of any legal process by completing the "service attempts" section of the **Record of Legal Process Form** AND by making a log entry. Both the Record of Legal Process form and the completed log entry will note all applicable information, including:
74.1.2 [A – F]
 - a. date and time service was attempted/executed **(a)**
 - b. name of officers(s) executing/attempting service **(b)**
 - c. name of person on whom legal process was served/executed **(c)**
 - d. warrant, summons, docket or subpoena number
 - e. method of service/reason for non-service **(d)**
 - f. address of service/attempt **(e)**
5. Upon execution of the process, the officer who serves it shall completely fill out the "disposition" section of the Record of Legal Process form, as well as any "return of service" required by the court. These will be forwarded to the Shift Supervisor for their review. **74.3.1**
6. If a member of our agency arrests someone for a WMS warrant, our agency must place a 'locate' against all WMS warrants for that arrestee. **74.1.3**
7. The Shift Supervisor shall then place the document in the **COURT BOX** for the Court Liaison Officer.

8. In the event an officer is unable to serve the process he/she shall take one of the following actions prior to returning the process to the Shift Supervisor;
 - a. If no one is at home, hold on to the process and try again if time permits at a later time during the shift;
 - b. At the end of the shift he/she shall fill out the **Remarks** section of the Record of Legal Process form indicating the reason for non-service (subject not living at address, wrong address, etc.) and forward both the document and the signed Record of Legal Process form to the Shift Supervisor.
9. Upon receipt of process that has not been served by an assigned officer the Shift Supervisor who originally issued it shall take one of the following actions:
 - a. If the officer assigned to serve the process was unable to do so because no one was at home at the within named address, the Shift Supervisor shall bring the process and the **Record of Legal Process** to the Roll Call and advise the oncoming Shift Supervisor that service of the process is to be reassigned;
 - b. If any of the officers assigned the service of the process has indicated in the **Remarks** area of the **Record of Legal Process form** that service is impossible then the Shift Supervisor will forward the service to the Court Liaison Officer to return the document to court.

II. ROUTINE WARRANTS CHECKS: 74.1.3 (4)

All positive Massachusetts Trial Court Warrants (WMS) checks made on Mobile data Computers shall be confirmed through Dispatch and verified by the Station Officer prior to arrest.

III. SERVING WARRANTS OUTSIDE OF JURISDICTION: 74.3.1

The law allows any sworn police officer to arrest any person at any place within the Commonwealth providing the officer is aware that there is an outstanding warrant on that person. Whenever a situation arises whereby this action is taken, the Shift Supervisor shall notify the Lieutenant on-duty. As a matter of policy and courtesy, all officers and detectives shall normally contact the local Department that has police jurisdiction in the community where an arrest warrant is to be served and shall ask for their assistance and cooperation in the matter. The agency can make the arrest on our behalf or provide an escort for our officers.

Canton Police Officers have no arrest powers, warrant or otherwise, outside of the Commonwealth of Massachusetts.

IV. MAINTAINING A WARRANT AND WANTED PERSONS FILE: 74.1.3

Warrants based on offenses committed within Massachusetts are created and deleted from the Warrant Management System (WMS) by Massachusetts trial court system personnel.

The criteria and procedures for entering, receiving, recording, verifying and cancelling warrants, either WMS warrants or those generated in other states and made available through the CJIS/NCIC computer system, are strictly governed by the CJIS/NCIC system user agreement maintained by this agency, and must be followed by all personnel.

74.1.3

- The CJIS agreement is signed and maintained by the Chief of Police.
- 24-hour access to the system is mandatory, and is available to all trained personnel.
- Those personnel are required to comply with the CJIS User Agreement and the provisions of department policy.
- The CJIS/NCIC training and operation manuals are available to authorized personnel and are located in the dispatch area.

WMS Warrants

- When a printed CJIS notice is received indicating that a warrant has been issued, a desk officer should print a copy of the warrant and give it to the Shift Supervisor. The Shift Supervisor will fill out a Record of Legal Process form and place it on the roll call board for service.
- If the warrant is unable to be served within a week, the Record of Legal Process form along with the warrant should be forwarded to the Court Prosecutor. The warrant will still be available in the WMS system and we will have record showing we were aware of the warrant but were unable to serve it.
- All employees have access to CJIS/Single Sign-On allowing viewing or printing of any warrant at any time.
- The Court Prosecutor will maintain a file folder for each person who is the subject of a WMS warrant resulting from court activity generated by the Canton Police Department. **74.1.3**

NCIC Warrants

- Canton Police Department warrants listed in the WMS system may be entered into the NCIC system. They will remain active until cancelled by a member of our department. **74.1.3**

CJIS Warrants

- Canton Police Department may enter CJIS Temporary warrants into the CJIS system. Those warrants are valid for only 48 hours. They shall be stored in a folder in the dispatch area. **74.1.3**

Arresting on a warrant from other agencies

- An active entry in WMS constitutes a confirmation that the warrant is valid. **74.1.3**
- All warrants from CJIS or NCIC must be confirmed before any action is taken on the warrant. **74.1.3 (4)**
 - o Desk officers shall transmit a “Hit Confirmation Message (YQ) for all extraditable out-of-state warrants which are received as a result of an inquiry.
- A person who is named in an out-of-state warrant may not be arrested in Massachusetts on that warrant. A warrantless arrest shall be made pursuant to M.G.L.276. S20B, Fugitive from Justice.

CPD warrants executed out-of-state

- Massachusetts police departments may enter extraditable warrants into the NCIC system with the approval of the District Attorney or at the direction of the Trial Court.
 - o No authorization is required from the District Attorney for NOEX (no extradition) warrant entries. NOEX warrants are used to provide officer safety notice to inquiring departments.
- Warrants in NCIC are seen by out-of-state departments conducting record checks.
- If an out-of-state department contacts us about our extraditable warrant, we are required to confirm the warrant and discuss arrangements for extradition and transportation. **74.1.3**
- If an out-of-state department arrests a person based on our NCIC warrant, the desk officer shall immediately cancel the warrant. **74.1.3**

V. CIVIL PROCESS: 74.2.1

There are several types of Civil Processes which may be served by sworn police officers in the Commonwealth of Massachusetts. The following is a list of some of those Processes: Restraining Order, Harassment Prevention Order, Extreme Risk Protection Order, Warrant of Apprehension, Involuntary Committal Orders (Section 12's), Subpoena and other Protective Orders. **74.2.1 (2A-E)**

Receipt of the Civil Process and all attempt(s) at service will be documented in the same manner as outlined on pg.'s 2 -4 of this directive using the Record of Legal Process Form. Documentation on this form will be made upon receipt or execution of the civil process.
74.1.1 (A-I); 74.1.2 (2A-E)

Restraining Orders and most court orders must be served in hand. Only a few exceptions are allowed by the court.

Special attention by all concerned is necessary upon receipt of a Restraining Order or Harassment Order because of the time factor of the restraining period. Immediate service effort is imperative in order to determine the whereabouts of the within named subject. Officers will be required to be fully familiar with their duties and responsibilities under C209A, and shall report any service problems forthwith to the Shift Supervisor so that this service can be accomplished as quickly as possible.

When serving a Warrant of Apprehension, every effort should be made to have at least two officers present while serving. Prior to service, the officer handling the paperwork will ensure that the date on the warrant is current. The individual should be brought to court without delay.

When serving Section 12's (123: 12A) for mental health, a minimum of two officers should be present. In addition, an ambulance from the Canton Fire Department should be on scene for transport. The Shift Supervisor will ensure that all necessary paperwork is filled out and current.

VI. SEIZED OR FORFEITURE OF PROPERTY:

Any property received by this agency through the civil process function or asset forfeiture proceedings shall be recorded, retained, and maintained according to the procedures outlined in the Evidence Collection and Preservation Policy.

In the case of a 209A Civil Process or Extreme Risk Protection Process, officers must seize firearms, Licenses to Carry Firearms (LTC) and Firearm Identification Cards (FID).

Property may be seized as evidence through the legal right contained in a court order (Search Warrant); and instances whereby impounded property is forfeited through the legal rights contained in a court order derived from **MGL C94C-547 (Property Subject To Forfeiture Under the Controlled Substances Act.)**

A copy of **MGL C94C-S47** is attached to this directive. It shall be the responsibility of the Officer in Charge of the Detective Bureau to act as liaison with the District Attorney's Office to ensure that all procedures relevant to the legal forfeiture of property seized under this law are adhered to, and to record and file copies of all documents and dispositions throughout the process. He/she shall report directly to the Deputy Chief regarding these proceedings. **74.4.1**

VII. DUE DATES OF LEGAL PROCESS SERVICE:

Occasionally, a legal process for service is received by our agency on a date that is very close, or even after, a scheduled appearance. It shall be the responsibility of all Shift Supervisors to review each document and to take action to ensure that service is executed in as timely a fashion as possible. Expired documents shall immediately be given to the Court Liaison Officer to bring back to the court of origin or mailed back to the issuing authority.

VIII. ‘NO-KNOCK’ SEARCH WARRANTS: 74.3.1

A “no-knock warrant is a search warrant that does not require a law enforcement officer to knock and announce their presence and purpose before forcibly entering a residence.

Imminent harm is defined as the risk of serious bodily injury that results in: permanent disfigurement, protracted loss or impairment of a bodily function, limb, or organ; or a substantial risk of death to an officer of another identifiable individual.

- A. A “no-knock” warrant will not be submitted for issuance by a judge unless our agency has met the following conditions:
 - Probable cause was established that if the officer(s) announced their presence, their life or the lives of others will be endangered, and
 - The officer filling out the affidavit attests that there is no reason to believe that minor children or adults over the age of 65 are in the home unless there is a credible risk of imminent harm to the minor or adult over the age of 65 in the home.
- B. Officers shall not dispense with the requirements of Bullet A above except to prevent a credible risk of imminent harm.
- C. Any evidence seized or obtained during the execution of a warrant shall be inadmissible if a law enforcement officer violates this section.