


<b>NORTHAMPTON POLICE DEPARTMENT</b>		
<b>Administration &amp; Operations Manual</b>		
<b>Policy: Serving Legal Process</b>		<b>AOM: O-144</b>
Massachusetts Police Accreditation Standards Referenced: [74.1.1], [74.1.2], [74.2.1]		Issuing Authority <hr/> Jody Kasper Chief of Police
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### I. Introductory Discussion

An important function of police departments is the execution of legal process in support of the judicial function. 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 and arrests, it is necessary to have precise and appropriate record keeping procedures to minimize potential litigation and liability.

### II. Definitions

- A. Legal Process: Any item of civil or criminal process, whether original, intermediate, or final that is valid on its face and is to be served and executed by the Department.
- B. Criminal Process: Those summonses, orders, subpoenas or other process issuing from a court of law compelling a person to answer for an offense or a non-criminal magistrate hearing, or to be a witness for the Commonwealth.

1. Refer to ***AOM 0110 Arrest*** for procedures regarding the service of arrest warrants.
  2. Refer to ***AOM 0201 Search & Seizure*** for procedures regarding the service of search warrants.
- C. **Civil Process:** Those writs, summonses, mandates or other process issuing from a court of law or equity pertaining to a cause of action of a civil nature and involving civil litigants.

### III. Service of Legal Process

- A. Any item of legal process which is received by the NPD for service, whether issued by the court on behalf of our department or for another agency, shall be handled in accordance with the following procedures.

#### 1. Duties of the Court Administrator

- a. Receive all items of legal process and record all required information onto the *Verification of Service Form (VOS)*. [74.1.1]
- b. Complete the shaded sections of *Verification of Service Form (VOS)* and paperclip them to each item of legal process and place them in the appropriate tray for service.
- c. The Court Administrator shall be responsible for checking the legal process tray in the Ready Room at the start of their tour of duty to ensure that all returns of legal process documents served on the previous shifts are obtained.
- d. File all *VOS* forms in order by the date received by this department and ensure that such forms are maintained for a period of at least three months.

#### 2. Duties of the Officer-in-Charge (OIC)

- a. At the start of the shift, review all outstanding legal process documents and assign them for service.
- b. Record all appropriate information (i.e. officer assigned, date/time of assignment, OIC initials, etc.) onto the *VOS* prior to assignment. [74.1.2]
- c. Prior to the end of their tour of duty, the OIC shall review all legal process documents that were assigned for service to ensure that the *VOS* form was appropriately completed. The OIC shall record the date and their initials and identification number indicating that all requirements were met. If the requirements were not met, they shall take necessary action to correct the deficiencies.
- d. After completing all reviews, the OIC shall take one of the following actions:
  - 1) If the document was served, leave it in the legal process tray in the Ready Room for the Court Administrator/Court Officer;
  - 2) If the document was not served, submit it to the OIC of the next shift for reassignment; or

- 3) If the document was not served and all avenues for service were exhausted, indicate such in the “Remarks” section of the *VOS* form and place the document in the legal process tray in the Ready Room for the Court Administrator/Court Officer.

### 3. OIC Duties in the Absence of the Court Administrator

- a. Whenever an item of legal process is received by this department for service and the Court Administrator is not available, the OIC shall take one of the following actions:
  - 1) If the document requires immediate service (i.e. 209A), the OIC must complete the shaded section of the *VOS* form and staple it to the legal process document prior to assigning it for service. If the document is a 209A for our department, a copy needs to be entered and/or placed in the 209A Book.
  - 2) If the document does not require immediate service, the OIC must complete the shaded section of the *VOS* form and staple it to the legal process document prior to assigning it for service. If the document is a 209A for our department, a copy needs to be entered and/or placed in the 209A Book.

### 4. Duties of the Officer Assigned To Serve Legal Process

- a. When serving legal process, officers shall comply with all instructions written on the front or back of the document being served.
- b. In the event that items of legal process have the wrong address, the officer shall make every attempt to locate the person to be served by:
  - 1) Checking department records for the correct address;
  - 2) Checking with managers of apartment complexes for the correct address; and/or
  - 3) Locating a forwarding address if the person has moved (i.e. checking with the post office, RMV etc.).
- c. Upon service of the process, the officer shall completely fill out the “return” portion of the document and record all appropriate information indicating service on the *VOS* form. [74.1.2]
- d. The officer shall ensure that the *VOS* form is stapled to the return portion of the document and shall return the document to the legal process tray in the Ready Room for OIC review.
- e. When the officer cannot/does not serve the legal process document(s) assigned to them, they shall record all appropriate information indicating such on the *VOS* form prior to returning it to the legal process tray. [74.1.2,d]

## **IV. Civil Process** [74.2.1]

Generally, police officers in the Commonwealth of Massachusetts are not empowered to serve civil process. However, there are three exceptions which are as follows.

1. Restraining orders as issued under MGL Ch. 209A.
  - a. Special attention by all concerned is necessary upon receipt of a 209A process 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, and for the protection of the complainant.
  - b. Upon receipt of a written notice from the Court, stating that a domestic abuse order has been vacated and directing the Department to destroy all record of such vacated order, the notice shall be forwarded to the Court Administrator who will see that said vacated order is destroyed as directed.
2. Uniform reciprocal enforcement orders of support as issued under MGL Ch. 273A (authority: MGL Ch. 273A §6).
3. Temporary restraining orders or preliminary or permanent injunctions ordering a defendant to refrain from entering or remaining in a public or subsidized housing development or from harming a witness, as issued under MGL Ch. 121B §32C (authority: MGL 121B, §32F).