





POLICIES AND PROCEDURES MANUAL

	LEGAL PROCESS	
	POLICY NUMBER: 74-1	ISSUING AUTHORITY 
	EFFECTIVE DATE: January 1, 2025	Christine A. Elow Police Commissioner

I. GENERAL CONSIDERATIONS AND GUIDELINES

Standards in this chapter address the department's responsibilities in performing and recording its legal process functions, including records, civil process, criminal process, financial requirements, and property management. The standards are designed to ensure sufficiency of information, accuracy, timeliness, accessibility, and fiscal accountability in the delivery of court documents.

Legal processes served by Massachusetts police departments are primarily criminal processes including arrest warrants, search warrants, summonses, and subpoenas issued by any court within the Commonwealth. The only civil processes normally served by Massachusetts police departments are abuse prevention orders issued by Massachusetts District Courts, as well as Family and Probate Courts.

The types of legal documents to be served or executed vary among jurisdictions depending on the source of legal authority. Also, the timely service of court documents is an essential function in facilitating the effectiveness of the Commonwealth's criminal justice system.

II. POLICY

It is the policy of the Cambridge Police Department that:

- A. legal processes will be documented, and every reasonable attempt made to serve them promptly;
- B. prior to making an arrest on an outstanding warrant, officers will confirm that the warrant is valid and in effect;
- C. all reasonable efforts will be made to protect the privacy and confidentiality of any person being served; and
- D. arrest warrants shall only be served by sworn, full-time police officers of the department with the legal authority to make such arrests.

III. DEFINITIONS

- A. *ECD*: Emergency Communications Department.
- B. *No knock*: An immediate, forcible entry, or one gained by a ruse or trick, is authorized and the usual knock and announce procedure disregarded if probable cause exists that the lives of police officers and/or others will be endangered if officers announce their presence before entry. The searching officers must have no reason to believe that minor children or adults over the age of 65 are in the home; or there is a credible risk of imminent harm to a minor or adult over 65 on the premises. No knock warrants must be authorized by a judge, not a clerk magistrate.
- C. *WMS*: An electronic depository for Massachusetts warrants where Massachusetts courts, police departments, and the Registry of Motor Vehicles have instant, paperless access to warrant information.

IV. PROCEDURES

- A. 74.1.1 (M) When legal process is received by the department, civil or criminal, the following information regarding each item of legal process shall be recorded in the department's Records Management System:
 - 1. date and time received;
 - 2. type of legal process, civil or criminal;
 - 3. nature of document;
 - 4. source of document;
 - 5. name of plaintiff/complainant or name of defendant/respondent;
 - 6. officers assigned for service;
 - 7. date of assignment;
 - 8. court docket number; and
 - 9. date service due.
- B. 74.1.2 (M) A record of the execution or attempted service of legal process documents shall be maintained and shall include the following information:
 - 1. the date and time service was executed/attempted;
 - 2. the name of the officer executing/attempting service;
 - 3. the name of person on whom legal process was served/executed;
 - 4. the method of service/reason for nonservice, such as:
 - a. delivered in hand

- b. left with a responsible person
 - c. by mail
 - d. left a voicemail message
- 5. the address of service/attempt.
- C. 74.1.3 (M) Procedures for maintaining a warrant and wanted persons file are as follows.
 - 1. The Massachusetts Warrant Management System is only available to Massachusetts police departments. The ECD must enter their warrants into NCIC for extradition and officer safety reasons. ECD personnel are responsible for maintaining warrants and wanted persons files in the department's Records Management System to include all of the following actions.
 - a. Entering notices in local, regional, state/provincial, and national information systems.
 - b. Receiving information from other jurisdictions.
 - c. Recording the information in the electronic Records Management System.
 - d. Verifying information.
 - 2. The Crime Analysis Unit distributes information to department personnel by publishing a crime bulletin every Monday, Wednesday, and Friday.
 - 3. Personnel in the ECD are responsible for canceling warrant and wanted persons information once the warrant has been executed.
 - 4. The ECD operates on a 24/7/365 schedule and has access to the WMS at all times.
- D. 74.2.1 (M) Procedures governing the service of civil process documents, including restraining orders and harassment prevention orders, are as follows.
 - 1. The civil process paperwork is received from the court in the Criminal Investigation Section by fax. The documents are then prepared for service to include transcribing or entering the documents into the Records Management System.
 - 2. The civil process paper documents are then brought to the Shift Commander for assignment of service.
 - 3. Once the documents are served, they are faxed back to the originating court with the date, time, and name of the officer executing service.
 - 4. If the first attempt at service fails, the documents are returned to the Shift Commander or the log maintained at the front desk with a note explaining the reason for failed service.
 - 5. The department will make several attempts to serve court documents depending on the circumstances and will notify the originating court of the results.
- E. 74.3.1 (M) Procedures governing the execution of criminal process documents are as follows.
 - 1. The types of warrants to be executed, including search warrants and arrest warrants, are as follows.

- a. Complaint Warrant: Most arrest warrants are issued under a complaint filed in district court, alleging that an arrestable offense has been committed.
 - b. Indictment Warrant: A judge of the Superior Court may issue an arrest warrant when the grand jury issues an indictment. Normally, bail is not available.
 - c. Bench Warrant: This type of warrant is sometimes referred to as a *capias* warrant. It is used when a person who has been served with a summons to appear in court fails to do so; the judge may issue a bench warrant.
 - d. Default Warrant: These warrants are issued when a person fails to appear in court after having been released on personal recognizance or bail. Normally, bail is not available on this type of warrant.
 - e. Alias Warrant: If a warrant is returned to the issuing court and the accused is located or apprehended at a later date, a new warrant, called an *alias* warrant, may be issued for that person's arrest.
 - f. Detainer Warrant: If a person sentenced on a given crime has outstanding arrest warrants for other offenses, the outstanding warrants may be used to *detain* the individual until arrangements are made for trial or other disposition of the outstanding charges.
 - g. Probation Warrant: Arrest warrants may be issued by the court upon application of probation officials for violations of probation. Normally, bail is not available.
 - h. Parole Warrant: The parole board may issue parole violation warrants.
 - i. Governor's Warrant: The governor may issue warrants for the arrest of persons subject to interstate rendition.
 - j. Temporary or Emergency Warrant: A temporary or emergency warrant is normally sought under exigent circumstances when the court is not in session. The purpose of this type of warrant is to effectuate an arrest immediately. This type of warrant will normally remain in effect until such time as the court is back in session, when a complaint warrant would be issued.
2. Territorial Limitations
- a. Only Massachusetts arrest warrants are entered into CJIS; arrest warrants from other states are entered into NCIC by the initiating department with territorial limitations established by the initiating department.
 - b. Warrants that require rendition are executed outside of Massachusetts with guidelines specified in NCIC. Warrants that require extradition are executed outside of the United States.
3. Time Requirements for Execution
- a. Arrest warrants do not expire and have no time limits for execution; search warrants must be returned to the court no later than seven days after issuance.

4. Provisions for Summoning Aid
 - a. If an officer serving legal process of any kind encounters a subject in need of aid, the officer will call for law enforcement or medical aid as soon as possible and if safe to do so.
 - b. An officer in need of aid will use regular channels of communication to do so.
5. Procedures for the Issuance of a Summons in Lieu of Arrest
 - a. Depending on the facts of the case, the Clerk of Courts may decide not to issue a warrant but will issue a summons in lieu of arrest instead.
6. No Knock Warrants
 - a. Officers shall apply to a judge, not a clerk-magistrate, for a *no knock and announce* warrant if they have probable cause to believe that the lives of police officers and/or others will be endangered if the officers announce their presence before entry.
 - b. The affiant must also include: (1) there is no reason to believe that minor children or adults over the age of 65 are in the home; or (2) there is a credible risk of imminent harm to a minor or adult over 65 on the premises.
 - c. Officers in possession of a *no knock* warrant may immediately, forcibly, or by ruse or trick, enter a dwelling and disregard the usual knock and announce procedure.
 - d. If the circumstances that would justify disregarding the knock and announce rule are no longer present when the warrant is executed, the knock and announce rule must be followed.
7. Use of Force
 - a. Officers shall use only that force that is proportional and reasonable, based on the totality of the circumstances, according to department policy.
8. Statutory Provisions for Immunity from Arrest
 - a. Diplomats who are foreign nationals may be entitled to immunity from arrest. Officers should perform the following. (See policy 1-2 Consular Notifications.)
 - (1) Detain the diplomat until they verify their status. Officers are not permitted to arrest or charge the individual, no matter how serious the crime.
 - (2) Do not handcuff the diplomat, unless they pose an immediate safety threat.
 - (3) Do not search or frisk the diplomat's person, vehicle, or personal belongings unless it is necessary for officer safety.
 - (4) Document exactly what happened. Records of police encounters are reviewed by the US Department of State if questions ever arise about the incident.
 - (5) Stop and cite diplomats for traffic violations.

- b. Juveniles under 12 years of age may not be arrested or charged with a crime.
- c. Foreign nationals have no immunity from arrest but must be processed in accordance with guidelines provided by the US Department of State.

F. Service of Process for Court Appearances and Records

1. The department will facilitate proper service of summonses and subpoenas when officers are witnesses in civil and criminal cases in connection with their official duties.
2. Massachusetts Rule of Criminal Procedure 17 (d)(1) states that, "A summons shall be served upon a witness by delivering a copy to him personally, by leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or by mailing to the witness' last known address."
3. Massachusetts Rule of Civil Procedure 45 (c) in part provides that, "A subpoena may be served by any person who is not a party and is not less than 18 years of age. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person, or by exhibiting it and reading it to him, or by leaving a copy at his place of abode...."

G. Service of Summonses for Witnesses in Criminal Matters

1. When a person appears at the police station and informs the front desk officer or officer in charge that they are attempting to serve legal process on an officer, the desk officer or officer in charge will check to see if that officer is on duty. If the officer to whom the summons is directed is on duty, the officer in charge will call for the officer to come to the front desk to be served personally pursuant to the applicable rule.
2. If the officer is not on duty, the person attempting to serve process will be informed when the officer will be on duty (date and time), so that the process server can return on a scheduled working day of the witness.
3. Officers are to be cooperative in facilitating the personal service of criminal and civil process. Officers must except all subpoenas legally served.
4. The Court Prosecutor's Office will provide counsel for defendants with information concerning the officers' scheduled working days when requested by counsel or by the Court.
5. When an officer receives a summons, they will notify the immediate supervisor and prepare a P-650 to be submitted through the chain of command to the Commissioner or designee, with a copy of the subpoena and any relevant reports attached.
6. If the officer or a supervisor believes there is a legal reason the officer should not attend the proceedings, an explanation will be offered in writing on a P-650 and the matter should be directed to the Legal Advisor. A motion to quash or modify the subpoena will be considered, if legally proper.
7. Summonses for testimony require that the officers give testimony. They do not compel officers to contact or be interviewed by the party requesting their presence. Officers

appearing pursuant to a summons by a criminal defendant should proceed directly to the Court Prosecutor's office on the appearance date.

H. Service of Subpoenas in Civil Cases

1. When a process server appears to serve a subpoena for a police officer witness in a civil matter, the front desk officer will follow the procedures set forth in this policy.
2. When an officer receives a summons, they will notify the immediate supervisor and prepare a P-650 to be submitted through the chain of command to the Commissioner or designee, attaching a copy of the subpoena and any relevant reports. The officer will indicate if this court appearance is a result of a work-related activity.
3. When a process server appears at the police station to serve a subpoena for records or documents, that person should be directed to the supervisor in charge of the Records Unit.
4. All witness fees will be submitted to the Records Unit and a receipt will be provided.
5. Officers and non-sworn members of the department shall not volunteer to testify in civil actions arising out of their departmental employment and shall not testify unless legally subpoenaed.
6. If the subpoena arises out of action or alleged action taken as part of an officer or non-sworn employee's departmental employment or if the officer or employee is informed that they are a party to a civil action arising out of their departmental employment, they shall promptly notify their supervisor of the service or notification, and of the testimony they are prepared to provide.
7. Officers and non-sworn employees shall not enter into any financial agreement for appearances as witnesses prior to any court proceedings, except as established by current departmental policy.
8. Officers and non-sworn employees shall confer with their supervisors prior to providing a deposition or affidavit on a civil case.

I. Court Appearances

1. Officers shall not discuss open criminal or civil cases with defense attorneys, except with explicit permission from the District Attorney's Office and/or the officer's supervisor.