

 Lexington Police Department	Subject:					Policy Number:	
	Legal Process handling					73C	
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By Order of: Mark J. Corr, Chief of Police							

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GENERAL CONSIDERATIONS AND GUIDELINES

A police department has specific responsibilities in the service of legal processes as established by law. These legal processes include but are not limited to summonses, subpoenas, arrest warrants, search warrants and abuse/harassment orders. Each legal process serves as a directive to the members of the Lexington Police Department when issued by any court of law within the Commonwealth; and which are sent, delivered, carried, or otherwise conveyed to this Department for the purpose of being served or executed upon the person or place named therein.

Since the functioning of the courts is affected by the prompt service of these documents, and since the Department has certain legal responsibilities regarding such service, it is necessary to have precise and appropriate record keeping procedures to minimize issues of liability or loss of evidence.

The Lexington Police Department will receive legal processes as a result of activities initiated by this Department, or by other persons or agencies. Specific guidelines have been established to insure the proper handling of each legal process, depending on how the document was received, and where it will be served or executed. Typically, one of the following situations will exist:

- The legal process is in our possession, and the service will be executed on persons or places within Lexington;
- The legal process is in the possession of another agency, and the person named in the process is located in Lexington;
- The legal process is in our possession, and the service of the process would occur outside our jurisdiction (including portions of Hanscom Air Force Base within Lexington);

- Seizure of property or money according to M.G.L. Chapter 94C, Section 47 (property subject to forfeiture under the Controlled Substance Act) and M.G.L. Chapter 276, Section 3 (disposition of property seized under a search warrant).
- Service of civil process under M.G.L. Chapter 209A (Abuse Law), M.G.L. 258E, and M.G.L. Chapter 273A (Uniform Reciprocal Enforcement of Support).

The procedures outlined in this policy are designed to ensure adequacy of information, accuracy, timeliness, accessibility, and accountability in the delivery of legal processes. Department personnel will adhere to guidelines listed below to ensure information is transmitted completely and accurately both to and from outside agencies when it comes to serving legal processes.

PROCEDURES

A. Accountability and Control

1. The Captain of Administration, or designee, shall be responsible for administering and managing the Department's legal process system.
2. Personnel from the Central Records, under the direction of the Captain of Administration, will record and otherwise process each warrant, summons, subpoena or other legal process.
3. Other personnel, as directed in this policy, may be responsible for various duties associated with the handling of legal processes.

B. Record Keeping

1. Access to Records
 - a. Every officer shall have access to the Department's criminal records file system 24 hours a day by requesting the assistance of a command staff officer or personnel assigned to Central Records.
 - b. Abuse orders shall be entered into ProPhoenix and hard copies filed at front desk for immediate 24-hour access to all officers and Dispatch personnel.
 - c. Arrest warrants are available 24-hours a day in the Warrant Management System (WMS) available on-line. [\[74.1.3\(f\)\]](#)
2. Legal processes to be served by the Department shall be forwarded to the Prosecutor.
3. Recording Information
 - a. Warrants, Summonses & Subpoenas : [\[74.3.1\]](#)

73C – Legal Process Handling

- i. All warrants, summonses and subpoenas will be forwarded to the Commanding Officer on duty for service. Execution of the legal process should be completed without delay and a log note will be created. Once served (or if service is not possible), the process will be scanned into the ProPhoenix system and hard copy should be returned to the Prosecutor tray.
 - ii. All computer entries will contain the following information, when appropriate (detailed information will typically be recorded on the scanned copy attachment)
 - a. Date and time legal process was received; [74.1.1(a)]
 - b. Type of legal process (civil or criminal); [74.1.1(b)]
 - c. Nature of document (warrant, summons, etc.); [74.1.1(c)]
 - d. Source of document (court, police department); [74.1.1(d)]
 - e. Name of plaintiff, defendant, complainant or respondent; [74.1.1(e)]
 - f. Officer assigned to make service; [74.1.1(f)]
 - g. Date of assignment; [74.1.1(g)]
 - h. Court docket number (warrant or abuse order number); [74.1.1(h)]
 - i. Date service due; [74.1.1(i)]
 - j. Offense; and
 - k. Disposition (mailed, served, recalled, etc.).
 - iii. Lexington will use the WMS system for recording all warrants.
 - iv. As needed, arrest warrants obtained when the Courts are closed will be entered into the Criminal Justice Information System (CJIS) and the National Crime Information Center (NCIC).
 - v. The Captain of Administration will direct the entry into CJIS or NCIC any WMS warrant that Lexington wishes to have served outside the Commonwealth of Massachusetts.
- b. Abuse Orders:
- i. All abuse orders, which involve a plaintiff who lives or works in Lexington, will be **immediately** entered into ProPhoenix
 - ii. Entry of abuse orders will be done by the Desk Officer or a designee.
4. No money shall be accepted or disbursed by the Lexington Police Department for the purposes of serving or administering the legal process system.
5. Seized Property or Money:

- a. Property seized as a result of a search warrant shall be recorded, retained, maintained and disposed of as required by M.G.L. Chapter 276, Section 3. See the Department policies **83B - Property and Evidence Control** and **41M - Search and Seizure**.
- b. Property seized under the provisions of the "Controlled Substance Act", shall be recorded, retained, maintained and disposed of as required by M.G.L. Chapter 94C, Section 47. See the Department policies **83B - Property and Evidence Control** and **41M - Search and Seizure**.
- c. M.G.L. Chapter 41, Section 98 states in pertinent part:
 - i. **"The Chief and other police officers of all cities and towns shall have all the powers and duties of constables except serving and executing civil process."**
 - ii. Property will not be seized by the Lexington Police Department by means of a civil process.
 - iii. Abuse Law, Harassment Law, and Uniform Reciprocal Enforcement of Support Law are two statutory exceptions that require police officer service. These matters are addressed later in this policy.

6. Warrant Auditing:

- a. The Captain of Administration, or a designee assigned to CJIS, shall audit on a monthly basis the Department's warrant file in accordance with procedures outlined by the Commonwealth's Criminal History Systems Board.
- b. The Captain of Administration will require the annual inspection of all Lexington arrest warrants which have not been served. This inspection process should include, at a minimum:
 - i. Examining available resources (i.e. RMV records, telephone books) to determine if the wanted person can be located;
 - ii. Checking each warrant for accuracy and completeness; and
 - iii. Identifying any warrants that may be non-prosecutable (i.e. death of the wanted person).

C. Record of Service

1. Whenever a legal process is attempted/served the following information will be recorded:
 - a. The date and time attempted/served; [74.1.2(a)]
 - b. Name of server; [74.1.2(b)]
 - c. To whom the process was served or on whom executed; [74.1.2(c)]
 - d. Method of service (i.e. in hand) or reason for non-service; [74.1.2(d)]
and
 - e. Location of service. [74.1.2(e)]

2. Each attempt to serve and/or a successful service will be recorded. The primary location for this is a log entry in the central computer system.
3. The completed service with signed "Return of Service" will be scanned into the ProPhoenix system and hard copy should be returned to the Prosecutor tray.

D. Arrest Warrants

1. Arrest warrants executed by the Lexington Police Department shall be served by sworn police officers only. [\[74.3.2\]](#)
2. Rendition
 - a. Warrants entered into N.C.I.C.: The Lexington Police Department, in cooperation with the District Attorney's Office, may seek rendition of any person wanted in connection with a serious crime from outside the Commonwealth of Massachusetts. These warrants shall be entered into the N.C.I.C. computer system.
 - b. Warrants entered into L.E.A.P.S.: Warrants entered into the Commonwealth's L.E.A.P.S. computer system give Commanding Officers the authority to dispatch personnel to pick up and return the person named in the warrant to Lexington.
3. Jurisdiction
 - a. The General Laws of Massachusetts grant any sworn police officer the authority to arrest any person with a warrant within the Commonwealth.
 - b. Lexington Police Officers **will not** arrest persons outside the boundaries of Lexington unless one of the following conditions exist: [\[74.3.1\]](#)
 - i. The officer is on-duty and has been instructed to serve the warrant by a command staff officer; or
 - ii. An emergency or exigent circumstances exist.
 - c. As a matter of policy and courtesy, officers should contact the local police department having jurisdiction in the community where an arrest warrant or search warrant is to be served. Whenever possible, that department should be asked for their assistance and cooperation in serving the warrant. [\[74.3.1\]](#)
 - d. Absent fresh and continued pursuit, Lexington Police officers have no arrest powers (with or without a warrant) outside the Commonwealth of Massachusetts.

4. Warrants -- Served in Lexington

- a. Whereas all documentation on warrants is managed by WMS, the Commanding Officer on-duty will print an updated version of the warrant before attempting to service any and all arrest warrants.
- b. The Patrol Division will attempt to serve the warrant in a manner consistent with the Department's policy on "Arrest Warrants."
- c. Reasonable attempts should be made to serve a warrant unless circumstances indicate that the warrant cannot be served (i.e. incorrect address, person moved away).
- d. Successfully served warrant: The Commanding Officer on-duty, or a designee, shall:
 - i. Cancel the warrant from the central computer system, LEAPS, and NCIC, as necessary; and
 - ii. Attach the warrant, with completed return of service, to the arrest papers.

5. Lexington Warrants -- Hanscom Air Force Base

- a. The service of Lexington warrants on Hanscom Air Force Base (HAFB) is governed by jurisdictional issues and an interagency agreement between the Chief of Police, the District Attorney and the Base Commander.
- b. The following procedures will apply:
 - i. Prior to service, the HAFB Legal Office will be notified of the warrant during regular business hours, Monday through Friday, 0700 to 1800 hours.
 - ii. A copy of the warrant must be delivered or faxed [617-377-3729] to the Legal Office for review.
 - iii. If no problems are found, a security police officer will assist by locating the wanted person and escorting Lexington officers serving the warrant.
 - iv. Unless exigent circumstances exist, a warrant cannot be served outside regular business hours.

6. Warrants of Apprehension: Warrants of apprehension (section 35) shall be promptly executed when the subject can be immediately brought before a judge of the district court (during court hours only).¹ [74.2.1]

E. Summons & Subpoenas [74.3.1]

1. Lexington Summons or Subpoena [74.3.1]

- a. All summonses and subpoenas received from a court for Lexington matters will be forwarded to the Central Records for recording and processing.
- b. After intake procedures have been completed, the summons or subpoena will be mailed whenever permissible. The date of mailing will be recorded.
- c. When necessary, the Commanding officer on-duty will be given the summons or subpoena for service by the Patrol Division. Attempts to serve the summons or subpoena should be made when people would ordinarily be found awake (0600 to 2200 hours), unless specific reasons can be given why service was necessary outside the hours given.
- d. Continuous attempts should be made to serve a summons or subpoena up to 24 hours before the return date and time, unless circumstances indicate that the process cannot be served (i.e. incorrect address, person moved away).
- e. The serving officer should complete the **"Return of Service"** portion and scan into the ProPhoenix system log note, the original signed copy should be returned to the Prosecutor tray.
- f. Summonses and subpoenas remaining un-served should be submitted to the Prosecutor with the log note attached stating why it couldn't be served.

2. Juveniles or "In-Hand" requirements. If the subject named in the summons or subpoena is a juvenile, or an "In-Hand" requirement is ordered, then the process will be mailed/faxed to the police department in whose jurisdiction that person can be found.

3. Lexington Summons or Subpoena – Hanscom Air Force Base

- a. The service of Lexington summonses and subpoenas on Hanscom Air Force Base (HAFB) is governed by jurisdictional issues and an interagency agreement between the Chief of Police, the District Attorney and the Base Commander.
- b. The procedures for serving a summons or subpoena are the same as those previously outline for serving warrants at Hanscom AFB.

F. Civil Process: Restraining Orders (209A), Harassment Orders, Section 12's (Pink Slips) Involuntary Committals [74.2.1]

1. Generally
 - a. Abuse Orders refer to restraining orders, no contact orders and orders to vacate issued under M.G.L.:
 - i. Chapter 208;
 - ii. Chapter 209;
 - iii. Chapter 209A; or
 - iv. Chapter 209C.ⁱⁱ
 - b. Harassment Orders are similar in nature to Abuse Orders, however they fall under M.G.L. 258E
 - c. Careful attention should be paid to such court orders to determine:
 - v. Effective date;
 - vi. Expiration date;
 - vii. Due date for return to court;
 - viii. Any specific instructions as to where or when the orders are to be served or enforced;
 - ix. Information regarding the person(s) named as plaintiff(s);
 - x. Protected parties; and
 - xi. Other details.
 - d. For further information, see Department policy **41E - Domestic Violence**.
2. Receipt of Order: When Abuse or Harassment orders are received at this Department; the following information shall be documented in our in house computer system (ProPhoenix).
 - a. Name and address of the defendant;
 - b. Department or court issuing the order;
 - c. Order type
 - d. Date of court appearance; and
 - e. If emailed or faxed to another jurisdiction, name of department and date emailed or faxed.
3. Service of Order
 - a. Abuse and Harassment orders shall be promptly served and the return of service returned to the issuing court.ⁱⁱⁱ
 - b. The officer assigned to serve an abuse order shall make a concerted attempt to serve the order. Abuse orders must be served in hand unless otherwise authorized by the issuing court.
 - c. If the address is incorrect, the officer shall attempt to obtain a new address and make the service. If the subject is located in another

jurisdiction, the order shall be faxed or emailed to that jurisdiction for service.

- d. Officers who are unsuccessful in serving an abuse order shall, prior to the end of their shift, turn the abuse order into the officer-in-charge for further attempts at service.
- e. Every attempt to serve an abuse order, whether successful or not, shall be documented in the Department ProPhoenix system.

4. Return of Service

- a. A journal note will be created upon successful service of either an abuse order or harassment order. The signed “return of service” shall be scanned into the log note in the ProPhoenix system.
- b. When an abuse or harassment order has been served, the officer making the service shall sign the “return of service “ portion of the document and place it in the prosecutor’s tray to return to the correct court.
- c. If serving the order for another police agency, the officer will still sign the return of service, however the signed document may be faxed back to the agency requesting the service.

ⁱM.G.L. c. 123, §35.

ⁱⁱ M.G.L. c. 208, §§18, 34B, 34C; M.G.L. c. 209, §32; M.G.L. c. 209A, §§3, 4, 5; M.G.L, §§15, 20.

ⁱⁱⁱ M.G.L. c. 209A, §7.