

Truro Police Department

LEGAL PROCESS

Policy Number: OPS-8.01
REFERENCE:

Effective Date: January 25, 2001

Accreditation Standards: 74.1, 74.12, 74.2.1, 74.3.1, 74.3.2

Mass. Gen. Law: Chap. 94C, Sec. 47, & 209A, & 276, Sec. 3, 23A, 29, 30, 31, & 32,

Other:

POLICY:

It is the policy of the Truro Police Department to give strict attention to the documenting and serving of legal processes. An important function of law enforcement is the execution of legal process in support of the judicial function. Legal processes consist of summonses, subpoenas, arrest warrants, search warrant, and abuse orders 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. A sworn law enforcement officer shall serve all criminal process.

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 that Records Unit personnel maintain precise and appropriate record keeping procedures to minimize potential litigation and liability.

The procedures outlined in this section are designed to ensure sufficiency of information, accuracy, timeliness, accessibility, and accountability in the service of legal processes. Any arrests made on a warrant must be backed up by documentation that some agency has that warrant in their 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).

PROCEDURES:

- 1. TELECOMMUNICATIONS PERSONNEL:** Are responsible and accountable for the processing and recording of all legal processes for the department as described below. Unless otherwise noted, all records/logs are now computerized using Criminal History, Court Tracking Warrant, and Master Card Applications:
 - A. Legal processes for which we have the document in our possession, and service is to be executed on persons or places within the community;
 - B. Legal processes in the possession of another agency (local, state, or federal);
 - C. Processes to be served outside of our normal jurisdiction;
 - D. Seizure of property or money according to Mass. Gen. Law, Chap. 94C - Sec. 47 (Property subject to forfeiture under the Controlled Substance Act) **and Mass. Gen. Law, Chap. 276 - Sec. 3, (Disposition of property seized under a search warrant)**; The recovery of monies and drugs seized shall be under the supervision of the officer having control of the monies and drugs.
 - E. Service of civil process under Mass. Gen. Law, Chap. 209A (Abuse Law) and under Mass. Gen. Law, Chap. 273A (orders of notice).
- 2. ACCESS TO RECORDS:** Members of the department shall have access to department criminal records twenty-four hours a day through computer access. Members shall comply with CORI laws.
- 3. RECORDING:** The receipt of the following documents shall be recorded in the appropriate computer application by Telecommunicators:
 - A. WARRANTS - WARRANT APPLICATION (records officer)
 - B. SUMMONSES – LOG ENTRY
 - C. SUBPOENA – LOG ENTRY
 - D. ABUSE ORDERS – LOG ENTRY AND 209A CLIPBOARD
- 4. INFORMATION TO BE RECORDED:** Computer records shall contain the following information, if appropriate:
 - A. Date and time received
 - B. Type of legal process (Civil or Criminal)
 - C. Nature of document (warrant summons etc., default, capiases, etc..)
 - D. Source of document (issuing court, etc.)
 - E. Name of plaintiff, defendant, complainant, or respondent
 - F. Officer assigned for service
 - G. Date of assignment
 - H. Court docket number (warrant number, etc.)

- I. Date service due
 - J. Offense
 - K. Disposition (mailed, served, recalled, returned, or unserviceable).
5. **RECORD ON THE EXECUTION OR ATTEMPTED SERVICE:** Computer records shall contain the following information for the execution or attempted service of legal process documents:
- A. The date and time service was executed or attempted.
 - B. The name of the officer executing or attempting service.
 - C. The name of the person on whom the legal process was served or executed.
 - D. The method of service or reason for non-service.
 - E. The address of service or attempted service if not otherwise listed on the document.
6. **WARRANTS:**
- A. **DESCRIPTION:** Massachusetts Warrants are issued in two mediums, Paper and Electronic. Paper Warrants are prepared on paper. Electronic Warrants are entered into the Warrant Management System (WMS) of the Massachusetts Trial Courts which exchanges data with the Massachusetts Criminal Justice Information System (CJIS). Statute (M.G.L. Chapter 276, sections 23A, 29, 30, 31, and 32). District courts may issue paper warrants during non-business hours and/or for special circumstances. For the purpose of this section, the term warrant shall include paper warrants and WMS warrant printouts.
 - B. **PRIORITIZING OF WARRANTS:** Warrants that are received by the department shall be categorized according to the priority in which they shall be processed. Warrants that are issued for violent crimes, sex offenses, OUI, or violations of the Abuse Law shall have priority for service over warrants of a non-violent nature. Attempts to serve priority warrants should be made as soon as possible.
 - C. **RENDITION:** The determination of whether the department will rendite an individual shall be the responsibility of the Chief of Police (All decisions of this nature shall have the approval of the Chief of Police and consultation with the District Attorney's Office.)
 - D. **ARREST WARRANTS FOR TRURO RESIDENTS AS A RESULT OF TRURO POLICE INITIATION:** Any arrest warrant which is received by the Records Unit to be served on a Truro resident shall be processed in the following manner:
 - 1. Records Unit personnel or a Telecommunicator I shall enter the paper warrant into the CJIS Computer if possible. A computer entry shall be made in the Warrant Application for all warrants, and include the name of the case officer.

2. The warrant shall then be delivered to the Police Prosecutor or Patrol Division for service.
3. Warrants shall be served as follows:
 - a. The Shift Commander shall check the warrant to assure that it is fair on its face and that the necessary information was recorded.
 - b. Officers are to attempt service on warrants on no less than three different occasions and are to adhere to the *Policy and Procedures entitled "ARREST," in the Truro Police Department Manual*. At a minimum, attempts to serve warrants shall be made on three different shifts (day, first, last) unless information received by the officers attempting service indicates that further attempts would be fruitless or that another time may be more appropriate.
 - c. No attempt of service of a WMS warrant shall be made without verification of the warrant in the Warrant Management System immediately prior to the attempt of service. Verification is having Operations print a hard copy of the warrant from LEAPS computer.
 - e. Officers attempting to serve warrants are to make a concerted effort to serve such. If it is found that the subject of the warrant no longer lives at the given address, officers are to check with neighbors, landlords, Registry of Motor Vehicles, etc., to determine a new address. All pertinent information is to be documented on the arrest warrant service report, and followed up if applicable.
 - f. If officers are successful in serving a warrant, they shall make the proper "return" and submit the warrant to the Telecommunicator on duty, or desk officer to ensure that they cancel or locate the warrant in the CJIS Computer. The Telecommunicator on duty shall record the date of the arrest and the names of the arresting officers in the computerized warrant application.
 - h. Prior to service of any arrest warrant for a student attending The Truro Central School, or either of the regional schools, the Juvenile Officer(s) of said jurisdiction may be contacted to determine how service is to be made.
 - I. Warrants not served shall be returned to the Records officer and filed unless it is indicated that further attempts should be made on the warrant.

- j.** Records Unit personnel shall review warrants not served. Warrants that have an issue date of three months or longer should be checked by inquiries into the LEAPS Computer (license checks, listings etc.) to determine if a change of address may have been made by the defendant who is listed on the warrant. If a change of address was made by the defendant, and the new address is within the town, the warrant should be put back out for service with a new arrest warrant service report attached.
- k.** From time to time, the Police Prosecutor may print a warrant list of all active straight and default warrants held by the department.

 - 1. This list shall be posted in the Squad Room board, and mentioned at shift change. Officers should attempt service when practical on the most recently issued warrants for Truro residents.
 - 2. All warrants shall be verified in the LEAPS system just prior to service. Verification is having a Telecommunicator print a hard copy of the warrant from the LEAPS computer. The Telecommunicator on duty must check the printout to see if the warrant is still active and this paper warrant will be signed by the arresting officer at booking.

E. OUTLINE OF WMS WARRANT SERVICE:

- 1. New warrants issued by the court shall be handled on a daily basis, if practical, by the Patrol Division. A list shall be printed from the LEAPS computer when necessary to be read at all shift changes.
- 2. Officers are expected to use all reasonable means to locate the person named in the warrant and will file a report on their progress.
- 3. The Police Prosecutor shall continue to prioritize all warrants and will make attempts to contact defendants in priority #2 category both by telephone and mail. The priorities assigned are as follows:

 - a. Priority #1:** Crimes of violence, Felonies, Abuse Law Violations, Assault & Battery.
 - b. Priority #2:** All Others
 - c. Priority #3** Persons in Jail.

- d. **Priority #4** Persons Out of State or Parts Unknown.
 4. Priority #1 warrants, (violent crimes and felonies) shall be reviewed and given special attention by the Patrol Division.
- F. ARREST WARRANTS FOR NON-TRURO RESIDENTS:** Warrants for Non-Truro residents shall be processed in accordance with the procedures set forth in this policy and in addition:
1. Warrants described in 6B above shall be served as follows:
 - a. The Shift Commander or Police Prosecutor shall contact the police department having jurisdiction where the defendant resides and request service be attempted on the warrant
 - b. A complete entry in the log will be made, and a report shall follow if needed.
 2. Warrants not included in section E1 above shall be processed as follows:
 - a. The Police Prosecutor shall attempt to contact the defendant by telephone and advise him of the existing warrant. A notation in the log of the attempt to contact.
 - b. The warrant shall then be returned to records for proper recording.
- G. PROCESSING OF SUMMONSES:** All summonses received from court shall be processed in the following manner.
1. When a summons is received by our department from court, or another department for service in Truro on a Truro resident, the following procedures shall be followed:
 - a. A log entry shall be made in the including: date of issue, docket number, name, address, plaintiff, defendant, type of process (civil or criminal) and issuing department.
 - b. Telecommunicators shall update the Police Server record
 - c. (MasterCard) with the following information: name, residence, date of birth (if available), date of issue, docket number, offense, date of court appearance, issuing court. If additional information is available - such as social security number, occupation, alias, place of birth, mother, father, height, weight, complexion, color of eyes, color of hair, etc. it too shall be entered.

- d. If the summons is to be mailed to the defendant, an entry in the log shall be made as such.
 - e. If the summons is to be served in hand or to be left at the last and usual place of residence, a record of such service shall be made.
 - f. When the summons is served, the officer making service shall make the return on the summons and return the summons to the Police Prosecutor, indicating the date of service and the officer making service. They shall then return the summons to court.
 - g. If a summons cannot be served for any reason (no longer at address, no such person, etc.), the officer attempting service shall notify the Telecommunicator and the Police Prosecutor. The summons shall be returned to court.
 - h. In situations involving juvenile matters, the juvenile and/or the parent and guardian shall receive a summons.
- H. When a summons is to be served on a person residing outside the Town of Truro, the following procedure shall be followed:
- 1. It shall be processed in accordance with the procedures set forth in this policy.
 - 2. The summons shall be mailed to the defendant's last and usual place of residence. If the summons is directed to a person living in a neighboring community, the Police Prosecutor shall deliver the summons to the appropriate jurisdiction.
 - 3. If circumstances require the summons to be delivered in hand, the Prosecutor shall mail, or cause the summons to be delivered to the police department where the defendant resides, and served by them in the appropriate manner. If the summons has not been returned in a prescribed period of time, a follow-up letter shall be mailed to that department.
 - 4. When the summons is returned to our department from other police jurisdictions, the following information shall be recorded in the form of a log entry ,which shall include the date of service and the department making service on the summons. The Police Prosecutor shall then return the summons to court.
- I. **SUBPOENA'S FOR WITNESSES:** Shall be processed in the following manner:

1. When a subpoena is received from court for service in Truro on a Truro resident or on a person working in Truro, the following procedure shall be followed:
 - a. The following information shall be recorded in the the log, which will include the date of issue, docket number, name, address of witness, issuing department, defendant's name, officer serving subpoena, date to appear in court, and date of return of service.
 - b. If the subpoena is to be mailed to the witness, an entry in the log shall be made indicating that it was mailed.
 - c. If the subpoena is to be served in hand or left at the last and usual place of residence, the Police Prosecutor shall note this on the subpoena shall be placed in the summons/209A service box for service.
 - d. When the subpoena is served, the officer making service shall make the return on the subpoena. The Telecommunicator shall make a log entry.
 - e. If the subpoena cannot be served by the officer for any reason (no longer at address, no such person, etc.), the officer attempting service shall advise the Police Prosecutor. The Police Prosecutor shall return the summons to court.

- J. When subpoenas are to be served on people residing outside the Town of Truro, the following procedure shall be followed:
 1. The following information shall be logged: date of issue, docket number, defendant's name, issuing department, witness name, witness address, officer mailing subpoena, date to appear in court, and date of return of service.
 2. When a subpoena is mailed to a witness, an entry in the log shall indicate that it was mailed. The name of the officer mailing the subpoena shall be recorded as the officer making the return of service.
 3. If circumstances require the subpoena to be delivered in hand, Police Prosecutor shall mail the subpoena or cause it to be delivered to the police department where the witness resides. The department receiving the subpoena will serve it accordingly.
 4. When a subpoena is returned to our department from another police jurisdiction, the following information shall be recorded in the log: the date

of service and the officer or department making service on the subpoena. The Prosecutor shall then return the subpoena to court.

K. ABUSE ORDERS

1. When an abuse order is received by this department, the Telecommunicator, and/or Police Prosecutor shall record the following information
 - a. Name and address of the defendant;
 - b. Department or court issuing the order;
 - c. Violation;
 - d. Date of court appearance (expiration date);
 - e. If mailed to another jurisdiction, name of department and date mailed.
2. A copy of the abuse order shall be placed in the abuse order clipboard in Communications Center.
3. If the abuse order is to be served on a Truro resident:
 - a. Service will be made without delay.
 - b. Officers shall make a concerted effort to serve the abuse order and obtain a new address if necessary for service. Officers who are successful in serving the abuse order shall make the return on the back of the original abuse order. The Telecommunicator shall place a copy of the abuse order in the abuse order clip board in the Communications Area. The original order will be returned to the Police Prosecutor, or the records officer. Abuse Orders shall be filed alphabetically, by the **DEFENDANTS LAST NAME**. The entry in the Restraining Order Application will be completed with the name of the officer making service and the date of service. The Original Abuse Order will then be returned to the originating agency or court.
 - c. Officers that are unsuccessful in serving the abuse order shall, prior to the end of their shift, turn the abuse order into the Shift Commander for further attempts at service. It shall be passed on to the next shift for service. After a reasonable number of attempts or after determining that the defendant has vacated the premises, the abuse order shall be returned to the Police Prosecutor. The Police Prosecutor, or officer assigned if on a weekend, shall make diligent efforts to obtain necessary information for service of the order. In any case the abuse order shall be returned for further attempts of service. If further attempts fail, the order shall be kept 209A/summons box in the Communications Area.

L. ABUSE ORDERS ISSUED BY ORLEANS DISTRICT COURT FOR SERVICE OUTSIDE OF ORLEANS.

1. Upon receipt of an Abuse Order for service outside of Truro, the desk officer or Telecommunicator shall make a log entry.
2. They will then note the following information in the log: date received by our department, name and address of defendant, department mailed to, violation, court date, and date mailed.
3. When the abuse order is returned from the department to which it was mailed, the following information will be recorded in the Restraining Order Application: officer making service and return of service date. The order shall then be returned to court.
4. A copy of the abuse order will then be placed on the Abuse Order clipboard in the Communications Area.