



LEGAL PROCESS

General Order Number: 15.1

Effective Date: July 6, 2017

POLICY:

It is the policy of the Brookline 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 warrants, abuse orders and harassment 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.

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 Division personnel maintain precise and appropriate record keeping procedures to minimize potential litigation and liability. Information regarding each item of legal process shall be recorded and maintained, and shall include, at a minimum, the following:

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. officer assigned for service;
7. date of assignment;
8. court docket number; and
9. date service due.

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 made by sworn personnel and shall 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. TRAFFIC/RECORDS DIVISION PERSONNEL:** Sworn and civilian members of the Traffic/Records Division are responsible and accountable for the processing and recording of the legal processes for the department as described below. Unless otherwise

noted, all records/logs are now computerized using Criminal History, Warrant, and Document Service 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 Town of Brookline;
 - B. Legal processes in the possession of another agency (local, state, or federal);
 - C. Summonses;
 - D. Processes to be served outside of our normal jurisdiction
2. **PATROL DIVISION/COMMUNICATIONS:** Sworn and civilian members of the Patrol Division and Communication Center are responsible and accountable for the processing and recording of the legal processes for the department as described below:
- A. **SERVICE** of civil process under Mass. Gen. Law, Chap. 209A (Abuse Law), Chapter 258E (Harassment Prevention Orders) and under Mass. Gen. Law, Chap. 273A (orders of notice) and summonses as requested from the Traffic/Records Division.
 - B. **RECORDING:** The receipt of the following documents shall be recorded in the appropriate computer application by Communications division personnel:
 - 1. ABUSE PREVENTION RESTRAINING ORDERS – 209A
 - 2. HARASSMENT PREVENTION ORDERS- 258E
3. **INFORMATION TO BE RECORDED:** Computer records and log books shall contain the following information, if appropriate:
- A. Date issued
 - B. Nature of document (summons or 209A, etc.)
 - C. Source of document (issuing court, etc.)
 - D. Name of defendant
 - E. Officer assigned for return of service
 - F. Date of service
 - G. Court docket number (warrant number, etc.)
 - H. Disposition (mailed, served, recalled, returned, or unserviceable)
 - I. Address of service
4. **RECORD ON THE EXECUTION OR ATTEMPTED SERVICE:** Computer records and log books 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.
5. **ACCESS TO RECORDS:** Members of the department shall have computer access to department criminal records twenty-four hours a day. Members shall comply with CORI laws.
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 Commanding Officer of the Detective Division. (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:**
 - 1. Warrants shall be served as follows:
 - a. The Commanding Officer - Platoon on Duty shall check the warrant to ensure that it is fair on its face and that the necessary information was placed on the warrant.
 - 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 Brookline 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.
- d.** Officers attempting to serve arrest 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.
- e.** If officers are successful in serving an arrest warrant, they shall make the proper "return" and submit the warrant to the Commanding Officer - Platoon on Duty. The Commanding Officer - Platoon on Duty shall ensure that the Communications Dispatcher cancels or locates the warrant in the CJIS Computer. Service Division personnel shall record the date of the arrest and the names of the arresting officers in the computerized warrant application.
- f.** When an arrest warrant is issued to a member of the Detective Division, the detective who obtains the warrant shall immediately notify the Patrol Division of the warrant's existence. If, due to the sensitive nature of an investigation or emergency circumstances such notification is deemed inappropriate, the Commanding Officer - Detective Division shall be so advised and shall make the decision on when such notification shall be made.
- g.** Prior to service of any arrest warrant for a student attending a Brookline School, the Juvenile Officer(s) shall be contacted to determine how service is to be made.
- h.** The warrant unit will continually review warrants issued for Brookline residents and for crimes occurring in Brookline and prioritize warrants for service. The warrant unit Officers will attempt to clear outstanding warrants through investigation, notification, turn-ins and ultimately by serving warrants. Warrant unit Officers will work with the Detective Division and partner with outside law enforcement agencies to serve prioritized warrants in a timely fashion.

E. ARREST WARRANTS FOR NON-BROOKLINE RESIDENTS: Warrants for Non-Brookline 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 Commanding Officer - Platoon on Duty, or their designee, shall contact the police department having jurisdiction where the defendant resides and request service be attempted on the warrant.
- b. Brookline police officers who service a warrant outside the Town limits shall notify the police department having jurisdiction and request assistance.
- c. The warrant unit will partner with outside law enforcement agencies to regularly serve warrants outside of Brookline.

F. PROCESSING OF SUMMONSES: All summonses received from court shall be processed in the following manner.

1. When a summons is received by our department for service in Brookline on a Brookline resident the following procedure shall be followed by Traffic/Records Division personnel:

- a. An entry shall be made in the spreadsheet including: date of issue, docket number, name, address, issuing department, and date of court appearance.
- b. If the summons is to be mailed to the defendant, an entry in the log book shall be made as such.
- c. If the summons is to be served in hand or to be left at the last and usual place of residence, the Traffic/Records Division shall place it with the Commanding Officer – Platoon on Duty for service.
- d. When the summons is served, the officer making service shall make the return on the summons and return the summons to the Traffic/Records Division. Traffic/Records Division personnel shall note in the spreadsheet the date of service and the officer making service. They shall then return the summons to court.
- e. If a summons cannot be served for any reason (no longer at address, no such person, etc.), the officer attempting service shall complete the Return of Service form and return it to the Commanding Officer, who will make entry in the log book and submit the form to the Deputy Superintendent of the

Traffic/Records Division. The summons shall be returned to court by Traffic/Records Division personnel.

- f. In situations involving juvenile matters, both the juvenile and the parent or guardian shall receive a summons.

G. When a summons is to be served on a person residing outside the Town of Brookline, the following procedure shall be followed:

1. It shall be processed in accordance with the procedures set forth in this policy.
2. The summons may be mailed to the defendant's last and usual place of residence.
3. If circumstances require the summons to be delivered in hand, the Traffic/Records Division personnel shall mail /fax/email the summons to the police department where the defendant resides (and be 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 spreadsheet: the date of service and the department making service on the summons. Traffic/Records Division personnel shall then return the summons to court.

H. ABUSE ORDERS

1. When an abuse order is received by this Department, the Commanding Officer – Platoon on Duty shall record the following information in the Restraining Order log sheet:
 - a. Name and address of the defendant;
 - b. Department or court issuing the order;
 - c. Violation;
2. A copy of the abuse order shall be placed in the abuse order file cabinet located in dispatch
3. **If the abuse order is to be served by this Department:**
 - a. The Commanding Officer - Platoon on Duty, shall see that they are served 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 Commanding Officer - Platoon on Duty or their designee shall place a copy of the abuse order in the abuse order file cabinet in the Dispatch Area. Abuse Orders shall be filed alphabetically, by the **DEFENDANT'S 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 Commanding Officer - Platoon on Duty for further attempts at 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 Detective Division-Domestic Violence Unit. Domestic Violence unit personnel shall make diligent efforts to obtain necessary information for service of the order. In any case the abuse order shall be returned to the Commanding Officer – Platoon on Duty for further attempts of service.