

# GENERAL ORDER

G.O. 8-741

**SUBJECT: LEGAL PROCESS**



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**I. PURPOSE AND RESPONSIBILITY:**

- A. Purpose: To set the policy and establish the procedures for the receipt, recording, service, and execution of legal process at the Monroe Police Department.
- B. Responsibility:
  - 1. It will be the responsibility of all officers of this Department to act in accordance with the specific judicial decisions and statutory provisions in the execution of lawful and valid warrants, court orders, and in the effecting of arrests and/or searches and seizures.
  - 2. It will be the responsibility of the Support Services Division (SSD) Commander, to supervise the storage, accountability, and disposition of all property acquired by this Department pursuant to legal process.

**II. DISCUSSION:**

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- A.     This general order deals with the handling of legal process. Law enforcement agencies are mandated by the state to serve or execute criminal process in support of the judicial function. The functioning of courts is affected by the prompt service of court documents. Thus, the effectiveness and image of the judicial system are dependent, in part, upon the effective and timely service of court documents. Inadequate record keeping and/or inappropriate procedures may subject a law enforcement agency to litigation and civil liability. This directive addresses Department responsibilities in performing and recording its legal process functions. For the purpose of this directive legal process is normally restricted to only those orders or writs emanating from a criminal court. Examples of these court documents are subpoenas, arrest and search and seizure warrants, judgement mittimus, protective orders, restraining orders, and capias. This Department and its officers do not normally become involved in the service or execution of civil process. It is intended that this directive will result in sufficiency and accuracy of information, timeliness, accessibility, and accountability in the delivery of legal process.

### III.    DEFINITIONS:

- A.     CRIMINAL PROCESS: Those writs, summonses, mandates, warrants, orders, or other process issuing from a court of law, compelling a person to answer for a felony or misdemeanor. The term also includes process issued to aid in crime detection or suppression such as search warrants.
- B.     EXECUTION: The performance of an act required by the writ, warrant or other process commanding the seizure of a person or thing, as opposed to mere delivery of an instrument without any concomitant seizure.
- C.     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 or executed by the law enforcement agency.
- D.     SERVICE: The delivery of any item of civil process that is complete with the act of delivery and does not require physical or legal seizure of a person or thing.

### IV.    POLICY:

- A.     It will be the policy of the Monroe Police Department that Department officers will not service or execute civil process in the performance of their official duties.

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- B.     It will be the policy of the Monroe Police Department that arrest warrants will be executed only by sworn officers.
- C.     It will be the policy of the Monroe Police Department to use only necessary and reasonable physical force in the effecting of arrests and the execution of lawful court orders.

**V.    PROCEDURES:**

**A.    RECORDS:**

- 1.     **LEGAL PROCESS RECORD:** This Department shall maintain a record keeping system to document the receipt of legal process, which includes civil process in regards to Department personnel and all criminal process. The record system will include the following:
  - a.     Date and time received;
  - b.     Type of legal process;
  - c.     Nature of document;
  - d.     Source of document;
  - e.     Name of plaintiff/complainant or defendant/ respondent;
  - f.     Officer assigned for service;
  - g.     Date of assignment;
  - h.     Court docket number;
  - i.     Date service due.
- 2.     **RECORDING SERVICE/EXECUTION:** The execution or service of legal process by officers of this Department shall be recorded as outlined:

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- a. Arrest Warrants: The execution of an arrest warrant (original or re-arrest) shall, in addition to the return, be evidenced by the completion of the appropriate Department incident report (initial/supplemental) to include the following:
  - 1. Date and time executed;
  - 2. Name of officer(s) executing such warrant;
  - 3. Identification of subject arrested;
  - 4. Method of execution;
  - 5. Location of execution;
  - 6. Information regarding detention or release of arrestee;
  - 7. Arrestee's initial court appearance date.
  
- b. Search and Seizure Warrants: The execution of a search and seizure warrant involving officers of this Department shall, in addition to the return, be evidenced by the completion of the appropriate Department incident report (initial or supplemental) to include the following:
  - 1. Date and time executed;
  - 2. Names of officers executing the warrant;
  - 3. Identification of persons present;
  - 4. Method of execution;
  - 5. Location.
  
- c. Subpoena: The service of a subpoena by officers of this Department shall, in addition to the return, be evidenced by the completion of a Department incident report by the officer serving this process to include the following:

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1.     Date and time of service;
  2.     Name of officer making service;
  3.     Name of person served;
  4.     Method of service;
  5.     Location of service;
  6.     Initial case number relating to this document.
- d.     Capias/Judgement Mittimus: The execution of a capias or a judgement mittimus will be treated in the same way as the execution of an arrest warrant. Refer to subsection a of this section.

### B.     CRIMINAL PROCESS:

1.     CRIMINAL PROCESS EXECUTION: Sworn officers of this Department may execute the following warrants or criminal process pursuant to Section 7-281 of the Connecticut General Statutes (CGS):
  - a.     Arrest/Re-arrest Warrants: These warrants may be executed at any location within this state. Other restrictions include:
    1.     Time requirements: Felony - five (5) years from date of incident; Misdemeanor - one (1) year from date of incident unless there are reasonable grounds to believe the subject had left the state;
    2.     Alternatives to custodial arrest: Officers of this Department may release a person arrested for a misdemeanor, or for an offense for which imprisonment for not more than one (1) year or a fine not more than one thousand (1,000) dollars, on a summons with a written promise to appear in court. Refer to Section 54-1h CGS and General Order 1-011, Role and Authority; paragraph V, subparagraph F, titled "Alternatives to

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Arrest and Pre-Arrest Confinement";

3. Use of force: Officers executing valid arrest warrants may use reasonable and necessary force to insure the completion of their action and their safety. Refer to General Order 1-012, Use of Force.
- b. Search and Seizure Warrants: Executions of these warrants are to be conducted by the police agency having jurisdiction of the physical location to be searched. Other restrictions include:
    1. Time requirements: Execution must take place within ten (10) days of issuance of the warrant;
    2. Use of force: Officers executing valid search and seizure warrants may use reasonable and necessary force to insure their safety and the successful completion of their mission, including the force to effect entry.
  - c. Capias: A capias is an order of the court to take into custody the body of a witness or defendant who has failed to appear at a criminal court proceeding. Execution of a capias is allowed at any location within the state. Other restrictions include:
    1. Time requirement: A capias may be executed during the time the criminal proceeding for which such process was issued is in progress. The capias shall no longer be valid upon the disposition of the criminal proceeding, or if vacated by the court;
    2. Use of force: Reasonable and necessary force may be used. Refer to General Order 1-012, Use of Force.
  - d. Judgement Mittimus: A judgement mittimus is an order of the court to deliver the body of a named defendant to a correctional facility as a result of the defendant's failure to appear to serve a sentence or to pay a fine. Other restrictions include:

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1.     Time requirement: A judgement mittimus may be executed at any time until such order is vacated by the court;
  2.     Use of force: Reasonable and necessary force may be used. Refer to General Order 1-012, Use of Force.
  3.     Alternatives to custodial arrest: A judgement mittimus may authorize the acceptance of cash in the amount of the fines listed on the mittimus, precluding the requirement of delivery to a correctional facility.
2.    ARREST WARRANT EXECUTION: Arrest warrants will be executed only by sworn officers of this Department.
3.    ARREST WITHOUT WARRANT:
- a.    Officers may effect criminal arrests and take into custody persons for whom probable cause exists to believe have committed a felony, and/or persons who have committed a misdemeanor in the presence of the officer or based on the "speedy information" of others. Refer to Section 54-1f CGS;
  - b.    Criminal arrests by officers of this Department will be made in compliance with the specific judicial decisions of the United States Supreme Court, the Connecticut Supreme Court, other courts, and legislation governing the rights of the accused, procedures for the arrest, and procedures for the search and seizure of evidence:
    1.    Rights of the accused: All persons taken into physical custody and interrogated shall be advised of their "Miranda" warning rights from the warning card provided by this Department. These warnings will be adhered to by all Department employees;
    2.    Procedures for arrest: In all criminal arrests and certain motor vehicle arrests, the accused should be taken into custody and brought to police headquarters for booking. The only exceptions are described in General Order 1-011, Role and

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Authority; paragraph V, subparagraph G, titled "Alternatives to Arrest and Pre-arraignment Confinement". The motor vehicle violations in which an accused should be taken into custody are:

- a. Driving while under the influence of intoxicating liquor and/or drugs;
  - b. Using a motor vehicle without the permission of the owner;
  - c. Evading responsibility;
  - d. Operating a motor vehicle while privilege to drive is suspended or revoked; and
  - e. Any offense involving an accident resulting in death.
3. Procedures for search and seizure incident to arrest: Search incident to a legal arrest is allowable because a custodial arrest based upon probable cause is a reasonable intrusion under the Fourth Amendment:
- a. Wing Span: A search subsequent to a custodial arrest is permitted for the following:
    1. To collect and preserve evidence;
    2. To protect the safety of the arresting and assisting officers;
    3. To prevent the escape of the accused;
    4. To prevent weapons and/or contraband from entering a custodial facility.
  - b. Scope: The scope of the search is limited to the person, the person's clothing, and the area within the subject's



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immediate reach. This includes a wallet or purse. The area of the subject's reach is determined at the time of the search and arrest. If a subject is arrested and taken into custody out of a motor vehicle, the interior of the vehicle should be searched, with the exception of locked containers. The subject cannot be moved from the immediate vicinity before the search, but may be secured in the rear of a police vehicle. As a matter of Department policy, all vehicles that are towed should be searched and inventoried including closed and locked containers. Refer to Section 54-33l CGS concerning restrictions to "Strip Searches";

- c. Time Limit: The search must be conducted as soon as possible following the arrest. Brief reasonable delays such as transporting the subject to police headquarters are permissible for a full custodial search.

## C. PROPERTY MANAGEMENT:

1. PROPERTY RECEIVED: All property received by this Department pursuant to legal process will be recorded, documented and turned over to the PCO. Refer to General Order 9-841, Evidence and Property; paragraph V, subparagraph A.
2. DISPOSITION OF PROPERTY:
  - a. Property acquired by this Department through the legal process function will be disposed of in a legal manner. Refer to Section(s) 54-36a, 54-36c, 54-36e, 54-36g or 54-36h CGS and General Order 9-841, Evidence and Property; paragraph V, subparagraph I, sections 1 through 4.
  - b. The methods to be used in the disposition of property acquired through the legal process by this Department are established and listed in General Order 9-841, Evidence and Property; paragraph V, subparagraph I, sections 1 through 4.