

PALM BEACH GARDENS POLICE DEPARTMENT		
LEGAL PROCESS		
POLICY AND PROCEDURE 4.2.1.30		
Effective Date : 09/28/09	Accreditation Standards: CALEA 74.1.1, 2, 74.2.1, 74.3.1, 2 CFA 32.03	Review Date: 09/01/2014

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PURPOSE: To provide guidelines in addition to those mandated by state constitution, statute, or ordinance, to serve civil process and/or execute criminal process in support of the judicial function.

SCOPE: This policy and procedure applies to all sworn officers.

REVIEW RESPONSIBILITY: Patrol Operations Bureau Commander

POLICY: Periodically, sworn officers of the department are required to serve legal process. These mainly involve search warrants, juvenile pick-up orders, and civil arrest (or custodial detainment) (i.e., court ordered Baker Act). It is important to document specific information concerning the legal process to ensure adequate record-keeping.

1. PROCEDURE

- a. All applications for criminal process (search and arrest warrants) shall be approved by the respective supervisor prior to contacting the appropriate judicial personnel for the issuance of the process. The division commander shall notify the bureau commander if applicable. Probable cause shall be verified by the Palm Beach County State Attorney's Office. The name of the Assistant State Attorney advising that there is probable cause for an arrest or a search warrant shall be placed upon the incident report or warrant.
- b. Only sworn officers shall:
 - i. Execute court ordered civil arrests.
 - ii. Detain persons on criminal warrants.
 - iii. Serve search warrants.
 - iv. By court order, seize or assist other agencies in seizing real or personal property.
 - v. Serve an injunction for protection against domestic violence.
- c. Non-sworn department members may be present during the serving of legal process, but shall not take any enforcement type action.
- d. Legal process shall not be served outside the jurisdictional boundaries of the City of Palm Beach Gardens unless the service conforms to procedures stated in a current mutual aid agreement; Department policy and procedure 4.1.15, or if authority of that jurisdiction is present.
- e. Only the force necessary to effect the service of the legal process shall be utilized, pursuant to policy and procedure 4.2.1.1 – Response to Resistance.
- f. Officers may arrest pursuant to guidelines set forth in Chapter 901 of the Florida State Statutes and any other Florida State Statute which permits law enforcement officers to take persons into custody for a criminal offense.

- g. Person(s) may be issued a Notice to Appear for a misdemeanor violation or a city ordinance violation citation or at the scene of a search warrant, in accordance with department policy and criminal procedure rule 3.125 of the Florida Statutes.
- h. The requirements outlined in Chapter 251 of the Florida State Statutes and/or the mutual aid agreement shall be followed when requesting aid from or being requested to aid an outside agency.
- i. All respect shall be given to persons covered by diplomatic immunity when such persons are on the scene of a search warrant or the object of a legal process. However, officers shall take all necessary safety precautions and verify any immunity status prior to releasing any person claiming immunity.
- j. Officers serving injunctions for protection against domestic violence shall use service and verification procedures consistent with those of F.S.S. 741.30, and the Palm Beach County Sheriff.

2. REPORTING PROCEDURE

- a. When a search warrant, arrest warrant, or other legal process is applied for, and executed by this department, the following information shall be included in an incident report:
 - i. Date and time received.
 - ii. Type of legal process (civil or criminal).
 - iii. Nature of document.
 - iv. Source of document.
 - v. Name of plaintiff/complainant or defendant/respondent.
 - vi. Officer assigned for service.
 - vii. Date of assignment.
 - viii. Court docket number, if applicable.
 - ix. Date service due.

NOTE: If the information in the report is determined to be part of an on-going investigation, the report will not be released to the public without approval of the respective supervisor.

- b. When service of legal process is attempted, but not completed, a report shall be written documenting:
 - i. The date and time service was executed or attempted.
 - ii. The officers involved.
 - iii. The reason for non-service.
- c. When service of legal process is completed, the following information shall be included in a report:
 - i. Date and time service was executed or attempted.
 - ii. Name of serving officer(s) executing/attempting service.
 - iii. To whom process was served or on whom executed.
 - iv. Method of service/reason for non-service.
 - v. Address/Location of service/attempt.
- d. Officers shall comply with all requirements set forth on the legal process in regards to time, date, or any other restrictive requirements (i.e., mandatory return date of search warrants).

3. GLOSSARY

Legal Process - A summons, written warrant, mandate or other orders issued by a court to acquire or exercise its jurisdiction over a person or specific property.

Notice to Appear - A written order issued by a law enforcement officer in lieu of physical arrest requiring a person accused of violating the law to appear in a designated court or government office at a specific date and time.

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APPROVED:



Stephen J. Stepp
Chief of Police

09/28/09
Date