

SPRINGFIELD POLICE DEPARTMENT

<input checked="checked" type="checkbox"/> DEPARTMENT DIRECTIVE <input type="checkbox"/> DIVISION DIRECTIVE		DIRECTIVE NUMBER 20-066	OPS-69
<input checked="checked" type="checkbox"/> GENERAL ORDER <input type="checkbox"/> NOTICE <input type="checkbox"/> SPECIAL ORDER <input type="checkbox"/> LEGAL NOTICE			ISSUE DATE
SUBJECT: LEGAL PROCESS	DISTRIBUTION A,B	REVISION DATES 04/20/01, 08/01/01, 01/16/09, 03/13/14	EFFECTIVE DATE
REFERENCES:			RESCINDS: OPS-69/18-065

I. PURPOSE

The purpose of this General Order is to ensure sufficiency of information, accuracy, timeliness, accessibility, and fiscal accountability in the delivery of the legal process service.

II. POLICY

It is the policy of the Springfield Police Department to provide procedures for the service of civil process, when legally mandated, and/or the execution of criminal process in support of the judicial function.

III. PROCEDURES

A. Each item of criminal or civil process will be recorded when it is received by a division within the Department. This recording will be completed by the appropriate Division Commanding Officer or his designee. The information to be recorded will include 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 complainant/plaintiff or defendant/respondent,
6. Officer assigned (if any),
7. Date assigned (if any),
8. Court docket number,
9. Date service due (if any).

B. The Springfield Police Department will maintain a record of the execution or attempted service of legal process documents. Officers attempting to execute or serve legal process documents will follow these procedures:

1. Contact the Sangamon County Combined Dispatch System (SCCDS),
2. Advise SCCDS to enter a call-for-service into the Computer Aided Dispatch (CAD) System regarding the service attempt,
3. Provide the SCCDS the following information to be recorded on the dispatch call:
 - a. Date and time service was executed/attempted;
 - b. Name of officer executing/attempting service;
 - c. Name of person on whom legal process was served;
 - d. Method of service/reason for non-service;
 - e. Address/location of service/attempt.
4. Contact with SCCDS may be made by use of the radio system, telephone, or Mobile Data Computer (MDC),
5. Generally, the information identified by III.B.3 will be provided to the SCCDS prior to the attempt to serve the document,

6. In the event that there are extenuating circumstances or when the attempted service of a legal process document needs to be kept confidential, the officer may advise SCCDS of the required information after the service has been executed,
 7. If service has been attempted but not yet completed and confidentiality is still required, the officer may withhold the required information from SCCDS with the approval of the Watch Command Officer or higher rank,
 8. Once service has been made, the information required by section III.B.3. will be given to SCCDS, including any previous attempts that were made.
- C. The Springfield Police Department may be required to serve civil process documents on occasion. The following guidelines should be followed in the service of these civil process documents:
1. No sworn member of the Department will serve any civil subpoena, writ, or summons, unless directly appointed by the court as a process server, and then directly ordered by the court in writing to make such service,
 2. If so ordered, the sworn officer assigned will advise the SCCDS of the information as required by section III.B.3., and will execute the service and document the service by written police report,
 3. All civil process not specifying a sworn Department member, and presented for service to this Department, will be returned to the originator,
 4. All Subpoena Duces Tecum (subpoena requesting records) received by the Department will be delivered to the Commanding Officer of the Administrative Services Division and notification will be made to the persons named therein. The Commanding Officer of the Administrative Services Division, in consultation with the Legal Advisor, will coordinate preparation of the necessary reports, documents, materials, etc., for delivery or have them available for the subpoenaed person on the stated appearance date, subject to the approval of the Chief of Police or his designee,
 5. Any execution of orders for civil arrest or writs requiring the seizure of real or personal property will only be performed by a sworn law enforcement officer.
- D. Springfield Police Officers may be called upon to serve criminal process documents. These documents include:
1. Arrest Warrants:
 - a. Warrants issued from within the State of Illinois;
 - b. Warrants issued from outside the State of Illinois;
 - c. Federally issued criminal arrest warrants.
 2. Search Warrants:
 - a. Warrants issued from the Seventh Judicial Circuit of Illinois (Sangamon County);
 - b. Federally issued search warrants;
 - c. Other Search Warrants. (Note: Any warrant presented to this Department for service issued by an outside jurisdiction will be referred to the Sangamon County States Attorney for review prior to service).
- E. When a Springfield Police Officer serves an arrest warrant, the following procedures will be followed:
1. Ensure the Warrant is still valid by confirming the information through SCCDS,
 2. Ensure the arrestee is within any geographical limitations that may have been placed on the warrant,
 3. Once the decision has been made to arrest the suspect, ensure that SCCDS dispatch is aware the arrest has been made so that they can notify the appropriate agency to have the warrant removed from LEADS/NCIC,
 4. The following procedures will be utilized when information regarding a wanted person(s) is received from another jurisdiction:
 - a. The warrant will be verified as a valid warrant, ensuring that there are no geographic limitations preventing its service within the City of Springfield,
 - b. Upon verification of the warrant, and if the wanted person is believed to be at a specific address, area or location, SCCDS personnel will enter a call for service and an officer(s) will be dispatched

following current procedures,

- c. If the wanted person is not located, or is not at a specific address, area, or location but is believed to be in the Springfield area, the information will be given to a Springfield Police Department watch supervisor to be read at all roll calls. SCCDS personnel will also air an attempt to locate (ATL). This ATL may be broadcast by radio or by use of MDC. The possibility of the wanted person(s) hearing the radio broadcast should be taken into consideration before deciding how the ATL will be aired,
- d. The information will also be forwarded to the Criminal Investigations Division, who will review it and determine if the information merits a detective to be assigned,
- e. If the wanted person(s) is arrested or detained, the requesting agency will be notified and advised of the details of the arrest(s) and the location of the arrestee(s).

F. When a Springfield Police Officer serves a search warrant the following procedures should be followed:

- 1. Ensure the warrant is still valid (96 hour rule),
- 2. Ascertain if the warrant is a Knock or a No-Knock warrant. If a No-Knock warrant is obtained, the Division Commanding Officer shall be consulted with regarding the service of the No-Knock warrant. A No-Knock warrant shall only be served and executed by ERT in accordance with 725 ILCS 5/108-8 and OPS-87 regarding raids.
- 3. A supervisory officer must be present for the execution of any search warrant at a dwelling,
- 4. Ensure that a copy of the warrant is left at the premises searched or with the person, from whom evidence was seized,
- 5. A search warrant return (inventory) shall be made without unnecessary delay following the execution of the warrant. Any Springfield Police Officer who is the affiant for a search warrant is responsible for ensuring that the search warrant return is done without unnecessary delay,
- 6. Comply with any service requirements on the warrant. Federal Warrants generally have specific hours within which the warrant may be executed. State warrants may also have service restrictions included.

G. All arrest warrants (criminal or civil), search warrants or writs will only be executed by sworn police officers and will be executed in conformance with applicable state, federal, and local laws and court rulings.

H. Notice to Appear:

- 1. Whenever a Springfield Police Officer is authorized to arrest a person without a warrant for a criminal offense, they may instead issue a notice to appear, after receiving authorization from a sergeant or higher rank,
- 2. Springfield Police Supervisory Officers (sergeants and above) may authorize an officer to issue a notice to appear for any offense where they believe a custodial arrest would be inappropriate. Extreme discretion will be used when determining whether to issue a Notice to Appear for violent criminal offenses.

I. Property/Funds Seized:

- 1. Any and all property acquired through the legal process function, i.e. asset forfeiture, will be treated and stored as if it is evidence,
- 2. Any funds seized as a result of the legal process function are to be handled in accordance with current Department orders regarding evidence, seizure and forfeiture orders,
- 3. All property and/or funds acquired through the legal process function will be disposed of pursuant to current legal requirements,
- 4. Motor vehicle seizures based on drug offenses:
 - a. Controlled Substance Arrest:
 - 1) Officer must have reasonable suspicion for traffic stop;
 - 2) Officer must lawfully discover controlled substance in vehicle or on the person of the driver or passenger;
 - 3) Officer must identify the owner of the vehicle as driver or passenger. If the owner is not present in vehicle or the drugs were not on his person, the officer must attempt to establish that the owner was a consenting party to the fact that the vehicle was being used

to transport the controlled substance. If this cannot be established then the vehicle will NOT be seized;

- 4) The officer will contact his supervisor to advise of incident, review for elements of crime, and whether to seize the vehicle;
- 5) The officer will conduct a title search to verify ownership and lien holder status, if any;
- 6) The supervisor will contact Watch Command Officer to request permission to seize the vehicle;
- 7) If permission is granted to seize the vehicle, the vehicle should be towed or driven to the authorized holding area and secured;
- 8) A tow sheet and inventory will be completed. If an officer drives the vehicle to the station, it will be noted on the tow sheet;
- 9) The officer will forward the tow slip, keys to the vehicle, a copy of the report, and an Inter Department Memo (IDM) describing the rationale for the seizure to the towing officer in the Traffic Services Unit;
- 10) The towing officer will process the seizure vehicle, arrange for its secure storage and review all paperwork for completeness:

a) If the vehicle is to be seized:

- (1) The towing officer will do the appropriate title research and contact the lien holder, if applicable, and determine the outstanding balance owed on the vehicle;
- (2) The towing officer will determine the current fair market value of the vehicle;
- (3) The Commanding Officer of the Field Operations Division will review the lien information, age and condition of the vehicle, the market value, and needs of the Department to make the final determination whether it is in the interest of the Department to proceed with the seizure;
- (4) If the Commanding Officer determines to proceed with the seizure, the towing officer will file the appropriate paperwork with the State's Attorney's Office within 52 days;
- (5) The States Attorney will research the case and will make the final determination to file a complaint for forfeiture or return the vehicle.

b) Any time that a decision is made for the vehicle to be returned, the towing section will, as soon as practical, make the proper arrangements to return the vehicle.

b. Cannabis Arrest:

- 1) Officer must have a reasonable suspicion for traffic stop;
- 2) Officer must lawfully discover felony amount of cannabis packaged for delivery in vehicle;
- 3) Officer must identify the owner of the vehicle as driver or passenger. If the owner is not present in vehicle then the officer must attempt to establish whether the owner was a consenting party to the fact that the vehicle was being used to transport cannabis.
- 4) The officer will contact his supervisor to advise of incident, review for elements of crime, and whether to seize the vehicle;
- 5) The officer will conduct a title search to verify ownership and lien holder status, if any;
- 6) The supervisor will contact the Watch Command Officer to request permission to seize the vehicle;
- 7) If permission is granted to seize the vehicle, the vehicle will be towed or driven to the authorized holding area and secured;
- 8) A tow sheet and inventory will be completed. If an officer drives the vehicle to the station, it will be noted on the tow sheet;
- 9) The officer will forward the tow slip, keys to the vehicle, a copy of the report, and an IDM describing the rationale for the seizure to the Towing Team in the Traffic Services Unit;

- 10) The towing section will process the seizure vehicle, arrange for its secure storage and review all appropriate paperwork for completeness;
 - a) If the vehicle is to be seized:
 - (1) The towing officer will do the appropriate title research and contact the lien holder, if applicable, and determine the outstanding balance owed on the vehicle;
 - (2) The towing officer will determine the current fair market value of the vehicle;
 - (3) The Commanding Officer of the Field Operations Division will review the lien information, age and condition of the vehicle, the market value, and needs of the Department to make the final determination whether it is in the interest of the Department to proceed with the seizure;
 - (4) If the Commanding Officer authorizes the seizure, the towing officer will file the appropriate paperwork with the States Attorneys Office within 52 days;
 - (5) The States Attorney will research the case and will make the final determination to file a complaint for forfeiture or return the vehicle.
 - b) Any time that a decision is made for the vehicle to be returned, the towing section will, as soon as practical, make the proper arrangements to return the vehicle.

J. When employees receive court issued subpoenas to appear at a civil proceeding, or in a traffic or criminal proceeding as a defense witness as a direct result of their action as an employee of the Springfield Police Department, the employee will follow these procedures:

1. If an individual or attorney arrives at the Department and attempts to serve a subpoena on a Department employee(s), the person attempting to serve the subpoena identifies the officer(s), and if the officer(s) is working, then the officer(s) should be called to the station to accept the subpoena,
2. If the officer to be served is not working, the on-duty Watch Command Officer will be notified. The person attempting to serve the subpoena has the option to obtain information on when the officer is next scheduled to work and try to make service at that point, or leave the subpoena with the on-duty Watch Command Officer,
3. If the person attempting to serve the subpoena chooses to leave the subpoena with the on-duty Watch Command Officer, the on-duty Watch Command Officer will accept the subpoena for the officer, but notify the person serving the subpoena that it can not be guaranteed that proper service can be achieved,
4. If the Watch Command Officer does accept the subpoena, he should make every effort to insure that the intended officer is notified of the subpoena. Also the Watch Command Officer will make a copy of the subpoena and forward it to the Police Legal Advisor for follow up,
5. If the subpoena includes a check made payable to the employee, the employee will endorse the check, and the notation "Pay to the order of the City of Springfield" will be written on the back of the check,
6. The check, a copy of the subpoena and an Inter-Departmental Memorandum (IDM) explaining the situation regarding the appearance will be forwarded to the Chief of Police through the respective employee's Division Commanding Officer,
7. Springfield Police Department employees who testify as a result of a civil subpoena will be compensated by the City of Springfield in accordance with the Agreement between the City of Springfield and P.B. & P.A. Unit #5, or the applicable City Policy/Agreement.

K. When a person attempts to serve a court-issued summons to an employee of the Springfield Police Department, the employee will follow these procedures (NOTE: This procedure is for court issued summons, subpoenas are described in Section III. J. above):

1. If the court summons names an individual employee, **only** the named employee, the Chief of Police, or

Police Legal Adviser can accept the summons. If the named employee is not available, the person serving the summons will be directed to the Chief of Police or Police Legal Adviser. (Except as just described, under no circumstances will an employee accept a court summons for another employee),

2. If the Springfield Police Department is named in the court summons, **only** the Chief of Police or Police Legal Adviser can accept the summons. In these cases, the person serving the summons will be directed to the Chief of Police or Police Legal Adviser. (Except as just described, under no circumstances will an employee accept a court summons naming the Springfield Police Department),
3. When an employee receives a court issued summons as a direct result of their action as an employee of the Springfield Police Department, the employee will follow these procedures:
 1. A copy of the summons and an IDM explaining the situation regarding the summons will be forwarded to the Chief of Police through the respective employee's Division Commanding Officer,
 2. In addition, the employee will contact the Police Legal Adviser and provide him or her with a copy of the summons no later than the **next business day**. This is to ensure that any time limitations listed in the summons are completed in a timely manner.

KENNETH D. WINSLOW, CHIEF OF POLICE

Reviewed for Legal Sufficiency: _____
Assistant Corporation Counsel