

TITLE: LEGAL PROCESS

CODIFIED: 54.1

EFFECTIVE: 07/23/04

RESCINDS/AMENDS: P 16.1

PAGES: 6

PURPOSE

The purpose of this directive is to establish guidelines for the service of civil legal process and civil arrest procedures.

DISCUSSION

The functions of the courts are 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.

POLICY

It is the policy of the Santa Fe Police Department to record the service or attempted service of all legal process assigned to or obtained by this agency. The Central Records system of the Santa Fe Police Department allows for twenty-four (24) hour access to verify and update all information regarding service of legal process and maintenance of the computerized warrants log.

PROCEDURE

LEGAL PROCESS

54.1.01 The following types of Legal Process may be handled by sworn members of the Santa Fe Police Department:

- A. Arrest warrant;
- B. Search warrant;
- C. Subpoenas for Municipal, Magistrate, District and Federal Courts;

- D. Subpoenas for Administrative hearings;
- E. Grand Jury Indictments;
- F. Pick-up orders;
- G. Restraining orders and Temporary Restraining Orders;
- H. Ex-Parte custody orders;
- I. Orders to Confine (New Mexico National Guard)

54.1.02 All orders for civil arrest or seizure of real/personal property shall be executed by sworn members of the agency having jurisdiction. Members of this Department shall not serve these types of orders, but may assist other agencies in a support capacity.

A. An Offense/Incident report to document the assistance will be required if directed by a commander/supervisor. In cases where documentation is not required, the commander/supervisor may direct that the call be entered into the computer (E.I.C.) to document assistance, as per EIC procedures.

54.1.03 All attempts to serve legal process, whether successful or not, will be documented by the following method:

- A. The return portion of each document shall be completed by the officer serving the document.
- B. The responsible officer shall complete a supplemental report which details the following information:
 - 1. Date and time the document was received;
 - 2. Type of legal process (civil or criminal);
 - 3. Nature of the document (arrest warrant, search warrant, etc.)
 - 4. Source of document and agencies, to include issuing authority.
 - 5. Court docket number;
 - 6. Date and time served;
 - 7. Name of officer serving the document;
 - 8. Name of the person(s) to whom process was served and location of service; and
 - 9. Method of service.

- C. In situations where attempts to serve the document failed, a supplemental report must be submitted to document the date, time, officer, and location of the attempt.

ARREST WARRANTS/GRAND JURY INDICTMENTS

54.1.04 Upon a person being taken into custody by virtue of an arrest warrant, the arresting officer shall be responsible for completion of the following steps:

- A. Furnish the arrestee with a copy of the warrant. If the warrant has criminal complaints or a Grand Jury Indictment attached, copies shall be given to the arrestee.
- B. Fill out the warrant return.
- C. If the warrant is issued on a Santa Fe Police Department case, the officer shall complete a supplement on the original case. If the warrant is issued on another agency's case number, a new case number shall be assigned, and completion of an Offense/Incident Report form will be required to document the arrest.
- D. A copy of the warrant/fax/official confirmation and intent to extradite will be included in the officer/detective's report.
- E. The arresting officer shall, through police Dispatch, check for other outstanding wants and warrants through the National Crime Information Computer (NCIC), New Mexico Crime Information Computer (NMCIC) and in-house computer files.
1. Should an NCIC or NMCIC record be located that is associated with the Santa Fe Police Department arrest warrant, the officer shall have radio dispatch clear the record for that arrestee.
 2. If Emergency Dispatch Services notifies an officer that there is an outstanding warrant in NCIC or NMCIC, which was entered by another agency, the officer shall request that Dispatch obtain an official confirmation of the warrant and intent to extradite, or a

facsimile (fax) of the warrant and intent to extradite prior to making the arrest.

3. Once the Teletype or fax is in hand and the arrest is made, the officer will notify Dispatch to send an official teletype to the originating agency to cancel the warrant.
 4. A copy of the originating agency's response/removal from NCIC or NMCIC will be attached to the Offense/Incident Report form and submitted to the Records Section. Another copy shall be routed to the District Attorney Liaison Detective.
- F. Original copies of District and Magistrate warrants will be turned over to the District Attorney Liaison or NCIC Terminal Agency Coordinator (TAC).
- G. Original copies of Municipal warrants shall be submitted to the Public Safety Liaison. A copy of the municipal warrant shall be attached to the officer's supplemental report and routed to the Police Records Section.
- H. A risk assessment packet will be completed for ALL arrest warrants which an officer or detective is going to actively pursue.

COMPUTERIZED WARRANT LOG

54.1.05 Arrest warrants that are obtained and maintained by the Santa Fe Police Department are entered into the Central Records computer master files, which allow access on a twenty-four-- (24) hour basis. The District Attorney's Liaison Detective and Public Safety are responsible for entry, verification, maintenance and cancellation of warrant information.

- A. Upon receiving an arrest warrant, the responsible officer shall deliver the warrant to the District Attorney Liaison or Public Safety Liaison for entry into the computer. The Liaison will then forward the Warrant to Emergency Dispatch Services for filing.
1. Warrants are filed alphabetically after entry into NCIC or NMCIC and a copy is routed back to the Liaison.
- B. Emergency Dispatch Services is also responsible for maintaining a handwritten log, which reflects the status of all warrants filed.

- C.** Officers or detectives who serve a warrant must log the name of the person served, the warrant number, the officer's name, and the date.
- D.** Emergency Dispatch personnel will verify the information and initial the log to indicate the warrant is no longer in their possession.
- E.** Original warrants will only be removed from dispatch files at the time of service
- F.** If the warrant is served, Dispatch personnel will remove the warrant from NCIC or NMCIC, and the Liaison will verify removal.
 - 1.** Copies will be disseminated as outlined in this directive.
- G.** Under no circumstances, will any officer/detective retain in their possession any original arrest warrant that has not been served.
- H.** Any discrepancies or inconsistencies between the computer log and existing files will be directed to the DA Liaison or Public Safety Liaison, in writing, by the on-duty commander or Dispatch supervisor.

SEARCH WARRANTS

REFER TO DIRECTIVE 55.1.16 FOR PROCEDURE

SERVICE OF SUBPOENAS

54.1.06 It shall be the responsibility of the District Attorney Liaison or his/her designee to sign for subpoenas issued by the Courts or Administrative Boards and log the date of receipt. Subpoenas shall then be given to the Special Investigations Administrative Secretary for in-house logging and tracking purposes prior to service. Special Investigations Administrative Secretary shall then deliver the subpoenas to the respective section commander who shall be responsible for actual service.

- A.** All subpoenas shall be served in a timely fashion, with consideration being given to regularly scheduled days off.

- 1.** This is to allow proper and sufficient notice to the officer under subpoena. Should service of the named person not be available for prompt service, said subpoena should be returned to the Liaison as soon as possible, in order for him/her to notify the appropriate Court.
- B.** Personnel who need to be excused from a subpoena shall make arrangements with the Court as outlined in the Department Directive entitled, "Court Appearance Mandated and Rules".

54.1.07 Service of Subpoenas (Department Personnel)

- A.** The Liaison will make attempts to immediately serve subpoenas when possible, service will be in person.
- B.** All commanders and supervisors shall serve subpoenas on persons under their command. He/she will immediately serve that subpoena, in person if possible, and document service on the team subpoena log.
- C.** The commander/supervisor making service will fill out the return portion and route the subpoena back to the District Attorney Liaison, who will have the Special Investigations Administrative Secretary log the return of service in the in-house data-base. The District Attorney Liaison shall then make return to the proper court.

54.1.08 Service of Subpoenas/Summons (Other than Department Personnel)

- A.** The Liaison will sign for subpoenas issued by the Courts or issuing agency and log the date of receipt.
- B.** All summons/subpoenas shall be served by sworn members of this Department.
- C.** Service shall be in person.
- D.** The serving officer/detective shall fill out the return portion, provide the person with the original summons/subpoena and return the copy to the Liaison.

- E. The Liaison will return the copy to the appropriate court/agency.

PICK-UP ORDERS

54.1.09 All pick-up orders shall only be served by sworn members of this Department.

- A. Pick-up orders may be issued by:
1. Department of Corrections, Probation and Parole Division; or
 2. Juvenile Probation.
- B. Officers/detectives shall take the following steps, when serving pick-up orders:
1. Have the order in hand, or
 2. Verify validity through issuing agency/department.
 3. Make the arrest and provide the arrestee with a copy of the order.
 4. Complete an Offense/Incident report and attach a copy of the order.
 5. Route one copy of the order to the Liaison Detective.

RESTRAINING ORDERS/DOMESTIC VIOLENCE

54.1.10 Restraining orders and Domestic Violence Orders shall only be served by sworn, certified officers.

- A. The District Attorney Liaison will obtain the orders from the Court representative and log them in for service before distributing them to on-duty commanders, who will determine a risk level factor, and note it on the face sheet of each order. Risk levels are as follows:
1. Level 1 - Low-risk; only one officer will be required to serve the order unless back-up is requested.
 2. Level 2 - Medium risk based upon known facts such as possession of weapons and medium risk of resistance; Two officers will be required for service.

3. Level 3 - High risk - High level of resistance and use of weapons may be anticipated. In these cases, no less than two officers will be sent and extra security precautions will be taken by the officers when service is attempted.

- B. In situations where sworn members of this Department serve the orders, the officers/detectives shall take the following steps:

1. Upon reaching the location specified in the order, the officer will advise Emergency Dispatch Services that service of the order is being attempted, and provide them with the respondent's name and the address or location where service will be attempted or made.
2. Provide the person being served with a copy of the order and read the specific order/stipulations to the respondent, to include the date and time that they are mandated to appear in Court regarding the order.
3. In the event that there are stipulations which require the respondent to remove personal effects or require the removal of children from the premises, the officer(s) will stand by until the respondent leaves the residence.
 - a. If children are to be removed, the Children, Youth, and Family Department shall be notified and officers shall adhere to the procedures set forth in the Departmental Directive entitled, "Juvenile Matters".
4. If the respondent refuses to leave or comply with stipulations in the order the serving officer(s) will place the person under arrest and fully document all actions in an offense/incident report.
5. Complete the return portion of the order and route the return to the District Attorney Liaison at the end of shift.
6. If service was not made for any reason, advise Emergency Services Dispatch of the specific reason upon return to service, and

document said reasons on an official supplement form.

- C. Under no circumstances will an assigned officer fail to attempt service of each document assigned. If service is not possible during the assigned shift, the officer shall return all outstanding orders to the on-duty commander, who will assign an officer from the on-coming shift to make service.
- D. In the event that service is attempted but unsuccessful during the 72-hour period, the order will be returned to the D.A. Liaison Detective who will be responsible for obtaining an extension from the court.
- E. In situations where sworn members serve orders that were not obtained and documented by the DA Liaison, service shall be documented on an offense incident report and a copy of the service receipt and OI returned to the DA Liaison.

EX-PARTE CUSTODY ORDERS

54.1.11 Ex-Parte custody orders are signed and issued by a Judge and direct that juveniles be taken into protective custody, as per the New Mexico Children's Code. Normally, personnel from Children Youth and Family Services will have the order in hand and be assisted by the Juvenile Services Unit or on-duty sworn personnel.

- A. Sworn personnel serving an ex-parte order shall take the following steps:
 1. Serve the parent, guardian, or person having custody of the child (children).
 2. Leave a copy of the order with the custodial person;
 3. Take the children into custody and turn them over to the CYF personnel;
- B. If the order resulted from an investigation conducted by this Department, a supplemental report will be completed under the original case number.
 1. A copy of the order and supplement will be sent to Juvenile Services.

- C. If the order resulted from a case handled by another agency, complete an Offense/Incident report with a new case number, classified as assisting other agencies.

1. A copy of the order and supplement will be sent to Juvenile Services.

- D. Additional copies of the order will be distributed as follows:

1. One copy to the CYF personnel;
2. One copy will be routed to the Records Section with the report or supplemental.

ORDER TO DETAIN (NEW MEXICO NATIONAL GUARD)

54.1.12 New Mexico State Statutes require that any peace officer in the county in which a National Guard Unit is maintained assist to arrest and confine National Guard members who fail to report for training assembly, drill, or annual training when so ordered. Failure of a peace officer to assist shall render the peace officer guilty of a misdemeanor.

- A. Upon receipt of a request by a National Guard Unit Commander to arrest and confine a National Guard member, the responsible officer shall:

1. Notify the on-duty commander or supervisor;
2. Proceed to the location of the National Guard member, accompanied by National Guard personnel.
3. Place the National Guard member in custody and transport him/her to either:
 - a. The location directed by the National Guard Unit Commander;
 - b. The Santa Fe Police Department; or
 - c. The Santa Fe Adult Detention Center if he/she refuses to report for duty/training.
4. Complete a booking sheet and attach a copy of the written request of the Unit Commander.
 - a. Check the blocks for citizen's arrest and cite NMSA, Section 20-12-12 (Absence

without leave; confinement during period of duty).

- b. Note on the booking sheet that the detainee is a county prisoner, as per the Statute.
- 5. Prepare an Offense/Incident report to document your actions and attach the original request of the unit commander and a copy of the Booking Form.
- 6. Direct a memorandum to the Accounting Supervisor, and attach a copy of the booking sheet to allow monitoring of jail charges.

JURISDICTION FOR SERVICE OF LEGAL PROCESS

54.1.13 Any on-duty sworn member of the Santa Fe Police Department may serve those items of legal process listed in this Directive as long as service occurs within the Santa Fe City limits.

A. A sworn member of the Santa Fe Police Department may serve criminal process within the State of New Mexico only on those occasions that they are accompanied by a full-time, salaried law enforcement officer that has legal jurisdiction in the area in question (i.e. New Mexico State Police, Santa Fe County Sheriff Department, etc.).

- 1. Prior to entering any foreign jurisdiction(s), officers and detectives shall take steps to contact their immediate supervisor to assure proper clearance from this Department.
- 2. Prior to entering a foreign jurisdiction, the officer shall contact officials of the agency having jurisdiction in the area in question, and request their presence and assistance for service.
- 3. The officer/detective shall, when executing criminal process, or participating in any job related function, in another jurisdiction, abide by the laws of this state and any rules set forth by the agency having jurisdiction.

B. Any sworn member of this Department may assist another agency in the service of their legal process documents, when a formal request is

made and approval is obtained from the on-duty commander/supervisor.

- C.** An Offense/Incident report to document the assistance will be required if directed by a commander/supervisor. In cases where documentation is not required, the commander/supervisor may direct that the call be entered into the computer (E.I.C.) to document assistance, as per EIC procedures.

54.1.14 All listed types of legal process shall be recorded and maintained as follows:

- A.** Date and time received;
- B.** Type of process;
- C.** Nature of document;
- D.** Source of document
- E.** Name of plaintiff, complainant, defendant or respondent
- F.** Officer assigned for service (when applicable)
- G.** Date of assignment;
- H.** Method of service;
- I.** Date of service or return.
- J.** Court docket number.

Drafted (awm) 01/03

APPROVED: 
BEVERLY K. LENNEN
 Chief of Police

DATE: 07-23-04