

# WINTER HAVEN POLICE DEPARTMENT

## GENERAL ORDER 74.1

### LEGAL PROCESS

#### ACCREDITATION STANDARDS:

EFFECTIVE DATE: MARCH 25, 1996

RESCINDS: G.O. 74.1 January 5, 2018 and all applicable Amended/Temporary Orders prior to March 18, 2020

LAST REVISED DATE: March 18, 2020

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#### CONTENTS

This General Order contains the following numbered sections:

- I. Process Service
  - II. Court Liaison
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#### POLICY

It shall be the policy of the Winter Haven Police Department to establish guidelines relating to information contained in, accuracy and accessibility of, and the delivery of legal process.

#### PURPOSE

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

#### SCOPE

This General Order shall apply to all Department members.

#### PROCEDURES

- I. **Process Service**
  - A. Information regarding criminal arrest warrants is provided to this Department by the Polk County Sheriff's Office and is accessible on a twenty-four hour basis through Communications. This is a function of the Polk County Sheriff's Office.
  - B. Only sworn members shall serve search warrants and detain persons on criminal arrest warrants.

1. Before placing a person under arrest for an active arrest warrant, the member shall utilize the procedures outlined in General Order 1.4. Once confirmation of the warrant has been established, the member shall inform the person to be arrested of the cause of the arrest as outlined in Florida State Statutes 901.16 and 901.17.
- C.** Members may arrest pursuant to guidelines set forth in Chapter 901 of the Florida State Statutes and any other Statute which permits Law Enforcement Officers to take persons into custody for a criminal offense and pursuant to General Orders 1.3 and 1.4.
1. Only the force necessary to affect the service of the legal process shall be utilized, pursuant to General Order 1.5.
  2. When appropriate, Notice to Appear (NTA's) may be issued as outlined in General Order 1.3.
- D.** Respect shall be given to persons covered by diplomatic immunity when they are on the scene of a search warrant or the subject of a legal process. Members shall take all necessary safety precautions and verify any immunity status prior to releasing any person claiming immunity.
- E.** Applications for criminal process (search and arrest warrants) shall be approved by the member's Bureau Commander prior to contacting the appropriate judicial personnel for the issuance of the process.
1. When a search warrant is applied for and received by a member of this Department, that member shall complete and forward to the Records Division a Criminal Warrant Process Report (whpd-57a).
  2. When service of a search warrant is attempted by a member of this Department, that member shall complete and forward to the Records Division a Criminal Warrant Process Report (whpd-57a).
- F.** Members shall comply with all requirements set forth on the legal process in regards to time, date, or any other restrictive requirement (i.e. mandatory return date of search warrants).
- G.** All property, both real and personal seized and/or acquired through the Florida Contraband Forfeiture Act, shall be accounted for and documented as outlined in General Order 95.1. The disposition of forfeited property shall be as outlined in Florida State Statute 932.7055.
- H.** Most civil process service is conducted by the Polk County Sheriff's Office; however members may serve the following:
1. Injunctions for protection; and
  2. Subpoenas for Department cases.

## **II. Court Liaison**

- A.** The Department shall designate a Court Liaison who shall be responsible for coordinating and receiving all subpoenas for Department members. They shall be

recorded in the appropriate log (whpd-57), which is maintained by the designated person.

- B. The Court Liaison will be copied on all subpoenas electronically issued by the State Attorney's Office. The Court Liaison shall keep a log of all subpoenas and send a hard copy to the member.
- C. The State Attorney's Office will issue subpoenas electronically to the members. When the members receive the subpoena from the State Attorney's Office they shall respond with "Message Received."

### III. Court Compensation

- A. It shall be the member's responsibility to notify the appropriate issuing authority if they will not be able to honor the subpoena.
- B. Members who attend court related appearances on-duty and drive Department vehicles are not eligible to receive mileage reimbursement.
- C. Members who attend court related appearances off-duty and who drive their personal vehicles shall receive mileage reimbursement from the court.
- D. Members who receive court mandated subpoenas for depositions, trials, etc. shall be compensated in the following manner:
  - 1. If a member attends a court mandated function on-duty, all checks from attorneys or the court will be forwarded to the Support Services Clerk via the chain of command.
  - 2. If a member attends a court mandated function off-duty and does not want the compensation from the City, then all checks received from the court or attorneys may be kept by the member.
  - 3. If a member attends a court mandated function off-duty and wants compensation from the City, all checks received from the court or attorneys shall be forwarded to the Support Services Clerk via the chain of command.
    - a. Members shall enter their court time in the electronic payroll system.
- E. Members shall not receive compensation from more than one source for court related appearances.
- F. The Support Services Clerk is responsible for the receipt and disbursement of these checks to the City Finance Department.

### IV. Definitions

- A. *Criminal Process* – Those writs, summonses, mandates, warrants, or other process issuing from a court of law compelling a person to answer for a felony or misdemeanor. The term also includes process suppression or detection, such as search warrants.

- B.** *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 a law enforcement agency.

APPROVED   
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Charles E. Bird  
CHIEF OF POLICE