



**BURLINGTON POLICE DEPARTMENT
DEPARTMENT DIRECTIVE
DD25 Service of Legal Process**

POLICY: The Burlington Police Department has concurrent responsibility of serving civil and criminal process within the City. The policy of this Department is to serve legal process promptly and to maintain accurate records of legal processes served.

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I. RECORDS OF LEGAL PROCESS SERVICE

- A. Whenever an item of legal process is received by this Department, the following information
1. The date and time the item was received from court shall be noted on a legal process tracking sheet and affixed to the item as a cover sheet.
 - a. **It shall be the responsibility of the Assistant to the Officer in Charge, or whoever has transported the document from the court to the Department, to attach a legal process tracking sheet to each item of legal process and to note the time and date it was received.**
 2. The type of legal process, civil or criminal is indicated on the face of the document.
 3. The nature of the document (Relief from Abuse Order, Subpoena, Warrant, etc.) is indicated on the face of the document.
 4. The source of the document (District Court, Family Court, etc.) and the date service is due are indicated on the face of the document.
 5. The name of the plaintiff and/or the name of the defendant/respondent is indicated on the face of the document.
 6. The name of the officer(s) who has attempted to serve an item of legal process shall be indicated on the legal process tracking sheet. Once served, the name of the officer rendering service, and the date and place of service shall be indicated at the bottom of the tracking sheet. The serving Officer shall notify Communications.
 7. Communications shall initiate a miscellaneous incident to document the date, time and location of service. All other pertinent information (docket number, names of the plaintiff and defendants, nature of the legal process, etc.) shall be added to the miscellaneous card by the dispatcher.
- B. Whenever an officer serves, or attempts to serve an item of legal process; the following information will be recorded:
1. All attempts for service will be indicated on the legal process tracking sheet and shall include;
 - a. date and time of attempt;
 - b. name and badge number of officer attempting service;
 - c. reason for non-service;

- d. address of attempt.
2. Upon executing an item of legal process, the officer shall ensure that the legal process tracking sheet is accurately completed and turned in to the Officer in Charge (OIC) with the original.

II. SERVICE OF FAMILY COURT ORDERS

- A. Any temporary or final order for relief from abuse shall be served at the earliest possible time following its receipt from the court. Such orders shall take precedence over other forms of legal process. Orders shall be served in a manner calculated to ensure the safety of the plaintiff and shall not include making advance notification to the defendant. Abuse prevention orders must be served upon the defendant in person. No other person can accept service of an abuse prevention order for the defendant.
- B. Out of state abuse prevention orders shall be served and enforced as if they were an order of this state, provided that:
 1. The defendant has received notice of the order pursuant to the laws of the issuing state; **and**
 2. The order is in effect in the issuing state; **and**
 3. The court in the issuing state has jurisdiction over the parties and the subject matter; **and**
 4. The law in the issuing state provides reasonable notice to the defendant and allows an opportunity for the defendant to be heard, in order to protect the defendant's due process rights. In the case of ex-parte orders, the opportunity to be heard should be within a reasonable period of time.

Officers will make reasonable efforts to ensure that all four criteria are met prior to enforcing an out of state abuse prevention order. The OIC shall review all out of state orders prior to any action being taken.

- C. In the absence of the original copy of an order, officers may rely on a photo or fax copy for service purposes.
- D. Once an order has been served, an officer may enforce an order even if no copy of the order is available. Officers may rely upon a sworn, written statement from the plaintiff stating that an order is in effect, and this shall constitute reasonable grounds to enforce the provisions of an order.
- E. During the course of service of an abuse prevention order, the serving officer shall inquire if the defendant possesses any firearms or ammunition. If the RFA is a final order, the officer shall make the defendant aware of the federal regulations prohibiting the defendant from possessing ammunition or firearms during the time an order is in effect. Any firearms or ammunition surrendered to the officer shall be tagged as found property and placed into evidence pursuant to Department Directive.
 1. If the serving officer has reason to believe that the defendant is in violation of this federal regulation, he/she shall conduct an appropriate investigation and forward the case to the local office of the Bureau of Alcohol, Tobacco, and Firearms for prosecution.
- F. Following service of an abuse prevention order, the serving officer shall fax a copy to the county holding agency. This shall be done as soon as it is practical, but no later than the end of the officer's shift. The serving officer shall indicate on the legal process tracking sheet the time and date the order

was faxed to the holding stations. The tracking sheet and the original shall be turned in to the OIC for review.

- G. The OIC shall ensure that the officer has indicated on the tracking sheet that the order was faxed to the holding station. After review, the OIC shall forward the order to the Records Division.
- H. The Records Division shall return the original order to Family.
- I. The legal process tracking sheets will be kept for one year in a binder in the Records Department.

III. CIVIL PROCESS

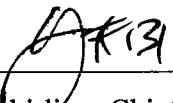
The Burlington Police Department will serve civil process documents within City limits when requested to by proper authority, and consistent with Vermont State Statute. In addition, BPD may serve civil process documents beyond City limits, but within the State of Vermont, regarding cases originating in Burlington.

IV. CRIMINAL PROCESS

Pursuant to the Vermont Rules of Criminal Procedure, Rule 4, Summons shall only be served by sworn law enforcement officers and others authorized by the Vermont Rules of Civil Process. Summons, as with all criminal process, may be served anywhere within the State of Vermont.

Other items of criminal process, including arrest warrants, shall only be served by sworn law enforcement officers. All arrests or detentions under this section shall be consistent with law and applicable Department Directives.

Reviewed and adopted by the Burlington Police Commission on July 10, 2003.



Michael E. Schirling, Chief of Police

10 JULY 2003
Effective Date

Appendix A

BURLINGTON POLICE DEPARTMENT
1 North Avenue
Burlington, Vermont 05401

LEGAL PROCESS

CITATION _____ RFA _____ SUBPOENA _____ OTHER _____

DATE & TIME RECEIVED FROM COURT: _____

CHITTENDEN COUNTY COURT _____ OTHER COURT: _____

BURLINGTON POLICE DEPT. _____ OTHER POLICE DEPT. _____

DATE TO APPEAR: _____

SUBJECT: _____

ADDRESS: _____

DATES CHECKED	COMMENTS	OFFICER NAME & #

UNABLE TO SERVE, REASON: _____

RETURN TO COURT: _____ OIC: _____

ADDRESS SERVED: _____

DATE: _____ TIME: _____

CFS # AND DATE: _____

OFFICER NAME & #: _____

COMMENTS:

