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**Section: THREE  
Chapter: TWENTY-NINE**

**SUBJECT:** Civil Process  
**ISSUE DATE:** 03-29-16  
**REFERENCE:** 8.13

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**I. PURPOSE**

- A. To establish policy and procedures for the proper handling of civil process received by the Palmyra Police Department.

**II. POLICY**

- A. Civil process received for this Department and/or members of this Department, Orders of Protection, or Family Court matters shall be recorded and handled in accordance with the procedures set forth herein.
- B. Members of this Department are prohibited from effecting service of civil process while on-duty, except as noted in this General Order.

**III. PROCEDURES**

- A. Orders of Protection
  - 1. Section 153-b of the Family Court Act states that a police officer will immediately effect service of a duly-issued Order of Protection upon a respondent when the Order is presented to him/her, as long as the respondent is known to reside or otherwise have reason to be in the Village of Palmyra.
  - 2. All attempts at service, as well as the actual service of process, will be recorded as a complaint in the SJS system, per standard reporting procedures set forth elsewhere in these General Orders.
- B. Service upon the Police Department and/or Department employees
  - 1. The Civil Practice Laws and Rules (CPLR) permit "service of legal process upon a municipality and any subdivision thereof by leaving a true and accurate copy thereof with the Chief Executive Officer, managing agent or authorized party of the municipality." No person other than the Chief of Police, or in his absence, the Police Clerk, is authorized to accept service of legal process on behalf of the Police Department or its employees. Any legal process accepted for members of this Department shall be served upon the member(s) as soon as practicable. Affidavit(s) of Service, if required, will be accurately and completely executed, and promptly returned to the issuing agency or party.
- C. Service upon Civilians
  - 1. Service of legal process upon a civilian by members of this Department shall be limited to Subpoena, Summons and Complaint from a duly-recognized Court, agency or other recognized authority. Service of legal process for private citizens is prohibited for on-duty officers.
  - 2. Affidavit(s) of Service, if required, will be accurately and completely executed, and promptly returned to the issuing agency or party.

3. All attempts at service, as well as the actual service of process, will be recorded as a complaint in the SJS system, per standard reporting procedures set forth elsewhere in these General Orders.

D. Records

1. Information to be recorded regarding each item of civil process shall include:
  - a. Date and time received
  - b. Type of legal process (civil or criminal)
  - c. Nature of document
  - d. Source of document
  - e. Name of complainant/plaintiff or name of respondent/defendant
  - f. Officer assigned for service
  - g. Date of assignment
  - h. Court docket number, if applicable
  - i. Date service due

E. Civil Actions

1. No member of this Department shall render any assistance in civil cases except to prevent a breach of peace or quell a disturbance.
  - a. Nothing in this Order shall preclude a member of this Department from secondary employment as a process server, provided such service is conducted off-duty and does not violate or conflict with any applicable sections of the Department rules and regulations.
  - b. Any member under subpoena in a civil case arising from his/her official police duties shall appear pursuant to said subpoena and provide testimony in accordance with law and Departmental rules and regulations.
  - c. No member of this Department shall initiate a civil action for damages sustained in the line of duty without reporting the circumstances to the office of the Chief of Police.
  - d. The Chief of Police may determine it to be in the best interest of the Village to serve process which furthers the objectives of Village functions such as Code Enforcement, Nuisance Law notifications or Real Property Action Law orders. Upon this determination, the Chief Shall be authorized to order service of process in what may be a civil matter.

By the Order of:

David B. Smith  
Chief of Police