

General Order 535.00

Reviewed: 8/12

535.00 LEGAL PROCESS

- Policy:
 - It is the policy of the Greeley Police Department to comply fully with court orders issued by Colorado Courts.
 - It is the policy of the Greeley Police Department to ensure prompt service of all arrest warrants issued pursuant to investigations conducted by the Department.
- Definitions:
 - 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 the law enforcement agency.
 - Civil Process: Those writs, summonses, mandates, or other process issuing from a court of law or equity pertaining to a cause of action of a civil nature. The term includes original, intermediate, and final process to be served by the agency in any action involving civil litigants.
 - 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 issued to aid in crime detection or suppression, such as search warrants.
 - Adult: Means an individual eighteen years of age or over.
 - Domestic Abuse: Means any act or threatened act of violence which is committed by an adult or emancipated minor against another adult or emancipated minor who is a current or former relation or who is living in the same domicile.
 - Emancipated Minor: Means any individual under eighteen years of age who is married and living away from his parent or guardian or otherwise defined by court.

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- Information Recorded:
 - Documents processed by the department on a routine basis which are governed by this directive include, but are not limited to: municipal arrest warrants, search warrants, civil seizure process, emergency protection orders, and occasionally municipal court jury summonses. In addition, arrest warrants issued by District/County Courts and civil process associated with District Court which specifically direct the Greeley Police Department to act are governed by this directive.
 - Records concerning the service or execution of legal process documents may be documented through an incident history in the Computer Aided Dispatch (“CAD”) System, or through normal report procedures, or the warrant activity system.
 - Any officer who receives such original legal process documents will advise his/her immediate supervisor. If the supervisor determines that it is appropriate for the department to serve or act in response to direction provided by the order, the supervisor will have the officer initiate a report concerning the situation. Records of service attempts will be maintained in the automated case management system. Upon completion of the service the officer will document the required information in his/her report.
- Local Warrant:
 - The local warrant file will include wants for persons with an active Weld County agency warrant (except Erie); Ft. Lupton Municipal Court warrants are confirmed after hours and are not maintained in the Records Section; runaway juveniles and missing persons in the form of flags, wants for vehicles in the form of flags; and all other municipal warrants. Access to criminal warrants will be maintained by the Records Section 24-hours a day, 7-days a week.
 - The actual warrants will be maintained by the Records Section in a separate and centralized file.
 - Warrant service shall be in compliance with the Colorado Rules of Criminal Procedure Chapter 29, Rule 4 and Rule 4.1.

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- Warrant Service Procedures:
 - When a warrant is served and an arrest made, the following procedures will be adhered to:
 - Records will fax a copy of all Weld County Municipal agencies' arrest warrants (except Erie) to the jail. The original warrants will then be returned to the appropriate court that issued the warrant. Dispatch will forward a teletype concerning confirmation if the warrant is outside of Weld County.
 - If the warrant is issued by the Weld County or District Court, Records will fax a copy of the CCIC printout (electronic version) of the warrant to the jail. Weld County and District Court original warrants are maintained at the respective courts. Warrants which are issued in response to Colorado State Patrol enforcement action are maintained at the Colorado State Patrol Headquarters and confirmation will be completed by the Colorado State Patrol dispatch center.
 - A photocopy of the warrant will be made and the arresting officer will submit to Records the copy, along with a copy of the bonding sheet, as the incident report.
 - CCIC/NCIC policy, to include the 10-minute confirmation rule, will be followed.
 - The Records Section will cancel the CCIC and local entry, when appropriate, indicating the warrant was served. This procedure will be completed immediately after the Records Section is notified of the warrant service.
 - Warrant attempts:
 - Warrant attempts for local, county, district court, or out-of-district or out-of-county warrants will be made only after verification that the warrant is valid. The exception to this is if the warrant is a CICJIS warrant where no confirmation is necessary.
 - Records will confirm that a local want or warrant held in their possession is active.

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- Out of jurisdiction warrants will be confirmed by Dispatch via teletype, and the teletype confirmation obtained as soon as practicable while adhering to CCIC/NCIC policy.
- The officer will notify dispatch when he/she checks out at an address that he/she is on a warrant service attempt and he/she will also give the name and date of birth of the person to be contacted. Upon contact with that person, the officer will have dispatch confirm the validity of the warrant prior to arrest.
- If the warrant is not served, the officer will advise dispatch of the reason for non-service.
- Dispatch will ensure a record of attempts is maintained via CAD system.
- Greeley Municipal Warrant Arrest by Outside Agency:
 - When the arrest occurs outside of Weld County, Records personnel will note the literal or ORI of the arresting agency on the original warrant and in the warrant activity screen. The original warrant will then be routed back to the Greeley Municipal Court. Copies of the warrant and computer transactions will be filed once the warrant cancellation procedures have been completed.
- Special Flags:
 - Flags may be issued for wanted persons or vehicles. They may include:
 - Parking summonses.
 - Persons suspected of an offense; the flag should include instruction such as arrest, summons, question and release, or conduct a field interview.
 - Vehicles wanted in connection with an offense.
 - When requesting a flag on a person, the minimum amount of acceptable information will be the name. Desired additional information includes the subject's date of birth, address, and physical description. A flag request form will be completed and submitted with the ADS crime report.

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Accreditation Standards 230.1; 230.2; 230.3; 230.4; and 230.5

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- A flag request should be phoned into Records by the officer requesting the flag. Upon entering the flag, Records personnel will provide the officer with a flag number. The number should be dictated under the 'Report Extra' tab of the associated report.
- If a subject with a flag is contacted, the detaining officer will verify the action to be taken by checking the report or by requesting the station officer or Records personnel to check the report and advise the officer in the field.
- The officer should then notify Records personnel that the flag can be updated to reflect the contact and the action taken.
- Procedure for Court Orders:
 - The following procedure will be observed to establish a method of receipt, transfer, storage and to ensure compliance of civil processes served on the Greeley Police Department or any member of the organization.
 - Any staff member accepting service of process must verify the identity that the person to be served is a Greeley Police Department employee.
 - Copies of the document will be disseminated to all affected parties through the appropriate Division Commander and chain of command.
 - Subpoena's Duces Tecum related to Internal Affairs or personnel related issues will be logged into the Records Section and a copy will be sent to Inspectional Services and the Chief of Police.
 - Any individual employed by the Greeley Police Department who is served with a legal process document which is job-related will notify his/her immediate supervisor and provide a complete copy of the document to the chief of police via the chain of command within 24 hours of receipt.
 - A copy of all legal process served on a Greeley Police Department employee that is related to his/her employment will be provided to the City Attorney's Office as soon as possible, but in no event later than 48 hours from the time of service.

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- Protection Orders:

Violations of protection orders and other orders issued by the District Court are acts of contempt against the issuing court. **Violations of a protection orders is a Class 2 misdemeanor, except that if the restrained person has previously been convicted of violating a protection order then such violation is a Class 1 misdemeanor.**

- Several conditions must be met before an arrest can be made or removal from the premises conducted regarding a violation of a restraining order or other order of the court.
- The order must set forth the acts it forbids the party to do or requires the party to do.
- A violation of the order must be committed in the officer's presence or the officer must have information independent of statements by parties to the order sufficient to support a finding or probable cause pursuant to the provisions of **18-6-803.5** C.R.S. 1973 as amended.
- **The restrained person must have been properly served with the protection order or must have received actual notice of the existence and substance of the order.**
- If all of the conditions are met and the order was issued by a judge of a district court, the officer shall either arrest the violator or remove him/her from the premises.
- **If an arrest is made, the arrested person shall be removed from the scene of the arrest and taken to the Weld County North Jail Complex, whereupon the arrested person may be held or released in accordance with the bonding schedules adopted by Weld County, or the arrested person may be taken to the jail in the county where the protection order was issued.**
- **The Officer making the arrest shall be responsible to make all reasonable efforts to contact the protected party.**
- An incident report will be written by the officer and a copy will be forwarded to the court that issued the order **and to the protected**

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party. (This will be done whether an arrest is made or the violator is removed from the premises.)

- **The Officer making the arrest shall forward to the issuing court and to the protected party a list of witnesses to the violation, and, if applicable, a list of any charges filed or requested against the restrained person. The Officer shall delete the address and telephone number of any witness from the list sent to the court upon request of such witness.**
- Sections 14-10-108, and **18-6-803.5** of the Colorado Revised Statutes specifically do not authorize the following:
 - A search of the premises to locate the child that is the subject of the order.
 - A search of the premises to locate a suspected violator.
 - Seizure of the child that is the subject of the order.

Such procedures should be taken only after compliance with the applicable orders and directives and in accordance with the Colorado Code of Civil Procedure.

- Emergency Protection Orders:
 - Violations of emergency protection orders issued by a judge are acts of contempt against the issuing court. The judge may be a District or County Court Judge or a special associate, an associate, or an assistant county judge.
 - An emergency protection order may be issued by a judge in writing or verbally, either in person or by telephone.
 - An emergency protection order may include:
 - Restraining a party from threatening, molesting, or injuring any other party or minor children of the parties.
 - Excluding a party from the family home or from the home of another party upon showing that physical or emotional harm could otherwise result.

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- Awarding temporary care and control of any minor children of a party involved.
- A verbal emergency protection order may be issued only if the issuing judge finds that an imminent danger exists to the life or health of one or more persons. The peace officer must assert reasonable grounds to believe that an adult is in immediate and present danger of domestic abuse, based upon an allegation of a recent incident of actual domestic abuse or threat of domestic abuse or circumstances visible to the officer.
- A verbal emergency protection order shall be reduced to writing using the departmental form and signed by the officer.
- The emergency protection order shall be served upon the respondent with a copy given to the protected party and filed with the County or District Court as soon as practicable after issuance. The protected party should appear at the issuing court the next court day.
- Officers should refer to **Patrol Division Manual – Domestic Violence** for additional procedures concerning domestic violence.
- Child stealing and criminal violation of custody order: in those cases where one parent accuses the other of child stealing or violation of a custody order, the officer will do the following:
 - Initiate an incident report to be forwarded to the District Attorney and the issuing court for consideration as to filing under 18-3-304 C.R.S. 1973 as amended. The officer will take no further action.
 - At no time will an officer of this Department take a child from one parent and give it to another unless under a court order directing the Greeley Police Department to do so. This is a function of the Sheriff of Weld County if directed by the court pursuant to 30-10-515. In those cases where it appears to the officer that the child is in serious danger in his/her current surroundings, the officer will take that child into custody in accordance with C.R.S. **19-3-401**. The child will then be remanded to the custody of the Department of Social Services for temporary placement.

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- **Civil Disputes/Civil Standbys**

I. Procedures

- a. Officers of the Greeley Police Department will respond to civil disputes in which a crime or disturbance of the peace is imminent, occurring or has occurred. The officers' presence is for the purpose of preserving the peace and preventing the commission of a crime.**
- b. Officers will not provide legal advice to participants in a civil dispute but may tell them to contact an attorney for advice.**
- c. Employees of the Greeley Police Department shall not automatically refer participants in a Greeley civil situation to another law enforcement agency.**
- d. Requests for civil standbys not involving an in-progress crime or disturbance shall be referred to a sworn supervisor for approval before officers are dispatched. Standbys, where approved, shall be for a minimal amount of time.**
- e. Officers at the scene of a civil standby shall not physically assist any party in gaining entry or removing property. They shall serve as neutral peacekeepers.**
- f. Periodically GPD employees are presented with purported legal documents directing that the Department carry out a given action related to a civil situation. Such documentation shall be reviewed by a sworn supervisor for direction before action is taken. The supervisor may elect to obtain legal advice before determining a course of action. The Department shall comply with the directions of valid legal process.**
- g. There may be instances in which the Department seeks to quash legal directives issued to GPD or its employees concerning civil situations. This determination will be made by the Supervisor after obtaining advice from the City Attorney's Office.**
- h. In the event the officer serves process papers, the proof of service shall be notarized and returned to the Weld County Court Clerk, 915 10th Street, Greeley, CO during normal business hours. If the papers are issued from a court in**

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another judicial district the proof of service must be notarized and returned to the appropriate district's court clerk through the U.S. Postal Service.

- i. Supervisors may direct a citizen to the Weld County Sheriff's Office Civil Process Unit for the services provided by such unit as listed in Appendix A.
- Rules:
 - Arrest warrants are executed by sworn law enforcement officers only.
 - Execution of orders for civil arrest is performed by sworn law enforcement officers only.
 - Any writ requiring the seizure of real or personal property will be executed by a sworn law enforcement officer.

General Order 535.00	Reviewed 4/12
353.00 LEGAL PROCESS	
Authorized by Jerry Garner, Police Chief	
Effective Date: April ^{August} <u>17</u> , 2012	
 Signature	Date: <u>8-17-12</u>

APPENDIX A

SERVICES PROVIDED BY THE WELD COUNTY SHERIFF'S OFFICE CIVIL PROCESS UNIT¹.

SUMMONS AND COMPLAINT:

- Civil
- Criminal
- Dissolution of Marriage (refer to paragraph I, d in this manual)
Petition and Summons
- Citation – Contempt
- Civil Protection Order (DV *no charge*) (refer to paragraph I, d
in this manual)
- Demand for Payment/Possession
- Interrogatories
- Notice
- Notice and Summons to Appear (Small Claims)
- Notice of Financial Responsibility & Subpoena
- Order
- Subpoena – Criminal
- Subpoena – Civil
- Writ of Garnishment
- Notice of Exemption and Pending Levy

EVICCTIONS:

- Notice to Vacate or Demand for Payment
- Summons and Unlawful Detainer (FED)
- Mobile Home Eviction:
- Notice of Judgment for Possession
- Writ of Restitution

SHERIFF'S SALE:

- Notice of Levy/Seizure (service)
- Order for Possession
- Writ of Attachment/Replevin
- Writ of Execution (service)
- Writ of Execution/Decree sale (land)
- Writ of Execution/Sale Personal Property

¹ Weld County Sheriff's Office, Effective August 11, 2010, pursuant to House Bill 10-1057, fees for service of process.



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- Notice of Levy/Seizure (processing)

SHERIFF'S SALE – WITHOUT SALE:

- Certificate of Levy as needed/decree-Foreclosure only
- Certificate of Redemption as needed
- Certificate of Sale (personal property)
- Publication
- Sheriff's Deed (issuance)