



2017
CONNECTICUT STATE
MARSHAL MANUAL

State Marshal Commission
Department of Administrative Services
450 Columbus Boulevard, Suite 1504
Hartford, Connecticut 06103

This Connecticut State Marshal Manual was compiled by the State Marshal Commission staff in accordance with Regulations of State Agencies Section 6-38b-4. The Manual provides a brief overview of some of the common areas of state marshal work. It contains information about state marshal duties and responsibilities as well as sample forms and reference materials. **This Manual is not comprehensive. In addition it is not a substitute for the law and may not be relied upon as legal advice. Should a state marshal require legal advice, he or she should contact a private attorney.**

State marshals must ensure that their work is conducted in accordance with the applicable law. Note that the law is continually subject to change. Accordingly, the information in this manual may not reflect recent legislative changes. In addition, many of the forms and publications provided in this manual were created by other state and federal agencies and are subject to change by the issuing agencies. Marshals must ensure that they are utilizing the most up-to-date forms and information. Any questions about the forms or publications in this manual should be directed to the issuing agency.

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I. INTRODUCTION

Summary

State Marshals

In 2000, the General Assembly created the state marshal system with Public Act 00-99. This system replaced the county sheriff system in place in various forms since colonial times. State marshals are statutorily authorized to provide numerous services to the public such as serving civil process (including restraining orders), serving and collecting under executions, performing evictions, and executing *capias mittimus* warrants. State marshals form an integral part of the judicial system as they provide essential notice to parties of court orders and enforcement thereof.

State marshals are sworn public officers appointed by the State Marshal Commission. At the time of appointment, state marshals affirm that they will uphold the Constitution of the United States and the State of Connecticut as well as faithfully discharge their duties according to law. State marshals are authorized to perform only those duties specifically granted by statute. While actually engaged in these duties, a state marshal is considered a peace officer. As officers holding a position of public trust, state marshals must perform their work within the highest professional standards of competency and integrity. State marshals are independent contractors. They are responsible for running their own offices and keeping detailed client and financial records.

State marshals are subject to professional standards of conduct which are set forth in Regulations of State Agencies § 6-38b-6. *See* the References section of this manual.

State Marshal Commission

The General Assembly also created the State Marshal Commission (“Commission”) with Public Act 00-99. The Commission is statutorily charged with the appointment, training, and oversight of state marshals. Chapter 78 of the Connecticut General Statutes sets forth the laws governing the state marshal system. Pursuant to General Statutes § 6-38b, the Commission consists of eight members appointed by the specified executive, judicial, and legislative branch appointing authorities. On October 5, 2009, the Commission became part of the Department of Administrative Services for purposes of staffing. It retains independent decision-making authority.

The Commission meets periodically throughout the year to conduct business under its statutory mandate. The Commission has adopted regulations which include professional standards of conduct for state marshals. *See* the References section of this manual. The Commission investigates violations of these standards of conduct and, upon a finding of probable cause, convenes Oversight Committee hearings pursuant to the Uniform Administrative Procedures Act (UAPA). In addition, the Commission oversees the appointment and training of state marshals, sets a restraining order duty rotation,

conducts/oversees audits of state marshal client fund accounts, and sets administrative policies and procedures for the efficient and fair operation of the state marshal system.

State Marshal Advisory Board

Pursuant to General Statutes § 6-38c, there is a State Marshal Advisory Board consisting of twenty-four state marshals. Annually, state marshals in each county elect a certain number of board members to serve one year terms on the Advisory Board. The Advisory Board meets periodically throughout the year to discuss issues important to state marshals.

The Advisory Board appoints two members to serve as ex-officio (non-voting) members on the Commission. The ex-officio members provide important and critical input to the Commission on legislative, legal, policy, and other issues relevant to state marshals.

Complaint Process

Generally, to initiate the complaint procedure, a written complaint must be filed on a complaint form and signed under penalty of false statement. The person filing the complaint is known as the Complainant. The Commission, in its discretion, may also initiate an “In Re” complaint based on a referral from the court, other state agencies, law enforcement, or other official authorities. In addition, the Commission may independently commence an In Re complaint, where appropriate, such as when the marshal fails to acquire the requisite liability insurance.

Each complaint received is initially reviewed to determine if it falls within the Commission’s jurisdiction. If the complaint is not against a state marshal or does not allege that a state marshal violated the state marshal Standards of Conduct articulated in Regulations of State Agencies § 6-38b-6 or otherwise took actions for which the Commission may impose discipline pursuant to Regulations of State Agencies § 6-38b-8, the complaint will be administratively dismissed without prejudice. Note that, if a complaint has been administratively dismissed, the Complainant is not precluded from resubmitting his or her complaint to assert additional allegations which would, if true, constitute a violation of the Standards of Conduct or otherwise implicate the Commission’s jurisdiction.

If the complaint states a claim within the Commission’s jurisdiction, it will be assigned a file number and the Commission office will forward a copy of the same to the state marshal (called the Respondent). The marshal is required under the Standards of Conduct to cooperate with the Commission’s investigation of the complaint, including filing a written response. Regulations of State Agencies § 6-38b-6 (14). When the Respondent submits a written response to a complaint, the Complainant is sent a copy and may file a supplemental submission. **Note that, once the Complainant files his or her supplemental submission, the Commission generally does not accept additional materials from the Complainant and anything submitted will be returned without review.** If a hearing is held, then the Complainant and Respondent may submit additional evidence and exhibits.

If the Complainant files a supplemental submission, the Respondent will have the opportunity to submit a supplemental response. **Note that, once the Respondent files his or her supplemental submission, the Commission generally does not accept additional materials from the Respondent and anything submitted will be returned without review.** As noted above, if a hearing is held, then the Complainant and Respondent may submit additional evidence and exhibits. The Commission may make additional inquiries or conduct further investigation if the situation warrants or if more information is required.

The Commission reviews complaint files in due course, generally in the order in which they are received, at a public meeting (generally held monthly). The Commission first considers whether to dismiss the matter or find probable cause for an Oversight

Committee hearing held at a later date. Both the Complainant and the Respondent receive notice of the meeting at which the Commission is considering the matter pursuant to General Statutes § 1-200 (6) (A). These meetings are public and the agenda is made available to the public pursuant to the Freedom of Information Act. While anyone may attend this meeting, neither the Complainant nor the Respondent (or anyone else) is given the opportunity to address the Commission or to supplement the record.

The Commission's discussion of the complaint is conducted during executive session as it pertains to the performance and evaluation of the marshal. The Respondent may request in writing that the discussion take place on the public record of the meeting. After consideration, the Commission votes on the public record to take the action it deems appropriate, including voting to dismiss the file, or voting to find probable cause and assigning the matter to the Oversight Committee for a public hearing. These hearings are held in accordance with the Uniform Administrative Procedures Act (UAPA).

If the Commission decides to dismiss the matter, the Complainant and Respondent will receive a letter stating the same. This decision is final. The Commission does not reconsider its decision to dismiss a complaint.

If the Commission finds probable cause for a hearing, the Complainant and Respondent will receive a copy of the Commission's probable cause findings. Notice of the hearing will be sent to the Complainant and Respondent at least 10 days before the hearing date. Oversight Committee hearings are public and recorded. The Oversight Committee will consist of one or more hearing officers that are Commission members. Generally, the Complainant is not required to appear at the hearing. If the Complainant does not appear, this absence is weighed by the Oversight Committee in rendering its proposed decision. The Respondent is required to appear. The Respondent and the Complainant, if present, will be asked to present testimony to the Oversight Committee under oath.

After the hearing, the Oversight Committee will issue a proposed decision, which will be considered by the full Commission at one of its meetings. The proposed decision and a notice of the meeting will be circulated to the Complainant and Respondent prior to the meeting. If the Respondent is adversely affected by the decision, he or she is afforded the opportunity to file exceptions and present briefs and oral argument to the Commission. Note that, at this juncture, no new facts may be presented to the Commission.

The Commission's discussion of the proposed decision is conducted during executive session as it pertains to the performance and evaluation of the marshal. The Respondent may request in writing that the discussion take place on the public record of the meeting. The Commission's final vote will be on the public record. The Commission may vote to adopt the proposed decision as its final decision or may vote to amend the proposed decision. Once the Commission adopts its final decision, it will be mailed to both the Complainant and the Respondent. If the decision is adverse to the Respondent,

he or she has the opportunity to request that the Commission reconsider its final decision and/or to appeal the matter to the Connecticut Superior Court pursuant to the UAPA.

Complaint files are maintained by the Commission in accordance with the state records retention policies. Complaint files are public records and are, accordingly, to the extent they are not exempt under law, accessible to the public pursuant to General Statutes § 1-210.

Sample Complaint Form

COMPLAINT AGAINST
STATE MARSHAL

Re: 5-2017

STATE OF CONNECTICUT
STATE MARSHAL COMMISSION
FAX: 860-622-2938

INSTRUCTIONS

1. Complete this form using black ink and retain a copy for your records. Please type or print neatly.
2. Attach documents that are specifically related to the complaint (if any).
3. Send the original complaint to the following address:

TO: DAS/STATE MARSHAL COMMISSION, 450 Columbus Boulevard, Suite 1504, Hartford, CT 06103.

NAME OF PERSON MAKING COMPLAINT (*Complainant*) _____ TELEPHONE NO. _____

ADDRESS OF COMPLAINANT (*No., Street, Town, State, Zip*) _____

NAME OF STATE MARSHAL COMPLAINED AGAINST _____ TELEPHONE NO. _____

ADDRESS OF STATE MARSHAL (*if known*) _____

DESCRIBE YOUR RELATIONSHIP TO THE STATE MARSHAL WHO IS THE SUBJECT OF YOUR COMPLAINT (*check one*)
 I hired the state marshal. Other: *Please briefly describe the nature of involvement with state marshal.*

The state marshal sought or attempted to serve me.

SUBJECT OF COMPLAINT
 Civil service/return Landlord/Tenant (including eviction)
 Execution (e.g. wage, bank property, tax) Family Law (including restraining orders)
 Other (*Please briefly describe the subject matter of your complaint.*)

TIME FRAME OF COMPLAINT _____

EXPLAIN, PREFERABLY IN CHECK OFFICIAL OFFICE, THE DETAILS OF YOUR COMPLAINT
 (check if additional materials attached)

EXECUTED UNDER PENALTIES OF FALSE STATEMENT _____ SIGNED (required) / _____ DATED (required)
(Connecticut General Statutes Section 53a-157b)

Intentionally making a false written statement on a form bearing notice which is intended to mislead a public servant in the performance of his or her official function, is a class A misdemeanor and violators are subject to criminal penalties including imprisonment for up to one year and/or a fine of up to \$2,000. General Statutes § 53a-157b (a).

FOR OFFICE USE ONLY
DATE STAMP _____ ASSIGNED COMPLAINT NO. _____

STATE MARSHAL COMMISSION SUMMARY SUSPENSION POLICY

Pursuant to State Marshal Commission Regulations Section 6-38b-8(a), an emergency suspension of the appointment of a state marshal by the State Marshal Commission can take place and shall be in accordance with the process contained in section 4-182(c) of the Connecticut General Statutes, (Uniform Administrative Procedures Act).

Under Conn. Gen. Stat. Sec. 4-182(c), if the State Marshal Commission finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a state marshal's appointment may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

To implement this power, the State Marshal Commission can act through the Chairperson, or if not available, the Vice Chairperson, or any other Commissioner, or the full Commission, if circumstances so warrant. The assistance of the Administrative Office of the State Marshal Commission, or other resources deemed necessary, shall be available to implement the issuance of the order, and any further proceedings. Once issued, the order will be sent by certified mail, regular mail, and if possible by facsimile, and e-mail, to the state marshal with an effective date of the order of the summary suspension.

Within seven (7) days of the effective date of the summary suspension order an evidentiary hearing on the status of the summary suspension will be afforded the state marshal by at least one of the Marshal Commission members, who can act as hearing officers. The hearing officer can rule on the record, or within 48 hours of the evidentiary hearing, whether the summary suspension order should be ended, remain in place, or on whether any other actions are deemed appropriate. Any order of the hearing officer will be noticed as noted above.

If the summary suspension order is ended then the matter can be reviewed in the complaint process of the Commission in due course. If the summary suspension remains in effect, the State Marshal Commission will expedite the complaint process of the underlying matter for a prompt determination.

5-25-11

II. BANK EXECUTIONS

Summary

Definitions

A **Financial Institution Execution** (commonly referred to as a “bank execution”) is a court order that allows a judgment creditor, through a levying officer (state marshal or constable), to collect on a judgment directly from the judgment debtor’s bank account. Generally, when a judgment debtor fails to pay off a judgment, a judgment creditor can apply to the clerk of court to issue a bank execution. Under this type of execution, the state marshal serves the bank and then the bank pays the marshal any non-exempt funds in the judgment debtor’s account (if any) up to the judgment amount plus interest (if awarded) and fees. The marshal deposits the funds into his client fund account and then disburses the funds to the judgment creditor, less his or her fee, to pay down the judgment amount.

The following procedures refer to bank executions involving **natural persons**. Executions involving **non-natural persons** and executions based on **tax warrants** have their own, similar procedures. While this manual provides some basic information about bank executions, the procedures are set forth more completely in the Connecticut General Statutes. *See* the Major Statutes subsection at the end of this section for applicable statutory references.

Service

A state marshal must serve a bank execution within **seven** days of receipt. To do so, the state marshal must make a **demand in person** for the execution amount, including the judgment amount, post-judgment interest ordered (if indicated on the execution), and the state marshal **statutory fee**, on a bank which has its main office in the state marshal’s county, or if no such main office exists, then on a properly designated employee at a properly designated branch of the bank located within the state marshal’s county. Note that, when the state marshal commenced the underlying civil action in his or her county, he or she may serve a post-judgment execution, including a bank execution, in another Connecticut county. *See* the Out-of-County State Marshal Work subsection of the Civil Process section of this manual.

The state marshal should obtain information about the judgment debtor from his or her client or attorney including the names of banks where the debtor is suspected to have an account and/or the account number, if available. Note that the marshal is not obligated to research potential banks for the creditor and is not required to accept a bank execution where the judgment creditor has not provided information about the debtor. In addition, while the marshal may accept an execution without information about the debtor’s bank accounts and may attempt collection within the statutory timeframe, the bank may question an execution if there is not sufficient identifying information about the account holder.

By statute, a state marshal shall not serve more than one bank per judgment debtor at a time. After making his or her demand, the state marshal must serve a properly endorsed, true and attested copy of the execution, *and* an affidavit and exemption claim form (JD-CV-24a), on the bank officer upon whom the demand was made. In support enforcement matters, the marshal must also provide an affidavit signed by the marshal attesting that there is an overdue support amount of five hundred dollars or more which accrued after the entry of an initial family support judgment.

The state marshal must provide the bank with certain information about the execution. This is typically done by providing a cover sheet. The marshal should provide the name of the judgment debtor, the execution balance, post-judgment interest (if ordered and noted on the execution), the state marshal's fee, and the \$8.00 statutory fee due to the bank if monies are actually removed from the judgment debtor's account. The marshal should inform the bank that it must distribute any monies from the judgment debtor's account **directly to the marshal** and not to the judgment creditor, or to his or her attorney. After service, the marshal must provide a return which identifies each bank to which the marshal has made a successive demand. *See* the sample returns in the References section of this manual. It is helpful to include boxes on the return in which the marshal can list the bank served and/or in which the bank may provide information including its stamp when responding to the marshal's demand.

Fee: The state marshal's statutory fee is currently 15% of the total amount of the execution, including the judgment amount and any post-judgment interest ordered by the court. For example, if the judgment amount is \$1,000 and there is no post-judgment interest ordered, the state marshal fee will be \$150. Accordingly, the total amount to be collected will be \$1,150. If the bank distributes \$1,150 to the marshal from the debtor's account under the execution, the marshal should forward \$1,000 to the judgment creditor and retain \$150 for his or her fee. Note, however, that if the amount collected is less than the total execution amount, the marshal may only collect his or her 15% fee on what is actually collected under the execution. In addition, the marshal should calculate his or her fee without including the fee in the base sum of the execution, so that he or she is only taking 15% of the judgment/interest amount and not also taking a fee on his or her 15% fee.

Using the previous example on a \$1,000 judgment amount, if the bank distributes \$800 to the marshal, the marshal should forward \$695.65 to the judgment creditor and retain \$104.35 (15% of \$695.65) for his or her fee. The judgment amount would then be reduced by \$695.65 leaving \$304.35 on the judgment. As discussed below, the judgment creditor would then apply to the court for a new execution on the remaining judgment.

The marshal may only collect a fee if funds are collected. Also note that a marshal may not collect an administrative fee or mileage in addition to the 15% statutory fee. If the marshal collects funds under an execution, but they are so nominal that it will

not provide for a \$30 fee, the marshal may seek a one-time \$30 minimum fee under statute.

45-Day Cycles: After service of an execution on one bank, the serving officer may not serve the same execution or a copy thereof upon another bank until receiving confirmation from the first bank that the judgment debtor had insufficient funds available for collection to satisfy the execution. Once **service is made** within the seven-day period *and* the **bank confirms** to the state marshal that, for an appropriate reason, there are no funds or no available funds—such as there being no account or no or little money in an account—the state marshal may make additional, sequential demands on different banks, **one bank at a time**. Note that such additional, sequential demands must be made within **45 days** from the date the state marshal received the execution. Also note that a marshal is not obligated under law to make successive demands and, after receiving confirmation from the initially served bank that no funds were available for collection, could prepare a return indicating that the execution was unsatisfied. **A marshal may not make a demand on an additional bank until he or she has received confirmation from the previously-served bank that there were no or insufficient non-exempt funds at that bank.** This prevents the marshal from potentially over-collecting on the judgment by receiving payment from more than one bank which cumulatively exceed the execution amount. The marshal should send a prompt return reporting to the judgment creditor on each bank served, the bank’s response, whether and how much money was collected (if applicable), and whether the execution was unsatisfied, partially satisfied, or fully satisfied. Any funds collected must be timely distributed with the return.

Fully-Satisfied Executions: If the bank distributes funds that fully satisfy the demand amount (including the judgment amount, post-judgment interest, and the marshal fee), the marshal should prepare a return for the client designating that the execution was fully satisfied. At this point, the marshal’s duties as to this judgment will have concluded.

Unsatisfied Executions: If the bank confirms that there are no applicable accounts or no or insufficient funds, the marshal should prepare a return indicating that the execution was unsatisfied. As noted above, with client consent, the marshal may continue to serve the execution on subsequent banks within a 45-day period. In addition, once the initial 45-day period has concluded, if the execution is still unsatisfied, the client may re-use the execution by authorizing the initial state marshal to start another 45-day period of serving new, successive banks. The client may also provide the execution to another marshal to serve on new, successive banks within a new 45-day period.

Note that under federal law, an execution involving a judgment debtor who is a natural person **may not be re-served on any bank that has already been served with that execution**. A marshal may only serve a served bank again if the court issues a new execution. *See* Code of Federal Regulations Title 31, Part 212: Garnishment of Accounts Containing Federal Benefit Payments.

Partially-Satisfied Executions: If the initial 45-day cycle results in a payment from the bank which partially satisfies the execution amount, the execution ends. Unlike with unsatisfied executions, no re-service of a partially-satisfied execution is permitted in subsequent 45-day cycles. Instead, the state marshal must provide a return so that the client can obtain a new execution from the court for the remaining judgment amount. The marshal must note the partial satisfaction on the original execution and on his or her return.

Federal Exemptions: Certain federal benefits (Social Security, Veteran's benefits, certain Federal railroad benefits, and certain Federal retirement benefits) cannot be withdrawn from an account to satisfy a bank execution. On the initial service, the bank is required, **within two days**, to complete a two-month lookback (account review) to determine if there are any federally exempt funds in an account. Excess funds beyond the protected benefits are still subject to the execution and other claims of relevant exemptions. *See* Code of Federal Regulations Title 31, Part 212: Garnishment of Accounts Containing Federal Benefit Payments. This Regulation does not apply if the United States is having the execution served, or if a state's child support enforcement agency is having the execution served.

Manner

The judgment creditor or his or her lawyer must calculate the total amount due for court approval. **State marshals may not collect post-judgment interest unless the box on the original execution for court-ordered post-judgment interest is checked by the court.** Interest is set by statute. For many types of civil matters the interest rate is 10% annually. As noted above, the state marshal will add his or her fee, which is 15% of the sum of the execution and post-judgment interest (if applicable). There is also an \$8.00 bank processing fee if there is money to be removed from an account.

Once the state marshal makes a demand on a bank and the execution has been served, the bank is required, by its "midnight deadline" (midnight of the next banking day), to remove and hold any non-exempt funds or funds not subject to particular security interests. Under statute, the bank must send the judgment debtor and any secured parties a copy of the execution, the affidavit, and an exemption claim form by mail. The bank must then hold the funds **for 15 days** from the date of this mailing. As noted above, the bank is also required to complete an account review for protected federal deposits. If the debtor, or secured party, does not file a claim in court, the bank will release the funds to the state marshal. The state marshal then deducts his or her fee and distributes the execution money to the judgment creditor in accordance with General Statutes § 6-35.

If the debtor or secured party sends the bank an exemption request, the bank, within two days of receipt of the request, must notify the clerk, and the court will set a hearing date on the exemption. The bank will then hold the funds **for 45 days** from the date the bank received the exemption notice from the debtor or secured party, or court order, whichever is earlier. The bank may also, on its own claim that certain funds are

statutorily exempt, give such notice to the judgment creditor. The judgment creditor may then ask the court for a hearing. If the 45-day period runs without a court order regarding a claimed exemption, the bank must return the funds to the judgment debtor's account. If the court orders distribution to the state marshal, the bank will release the funds and the state marshal should distribute the funds to the judgment creditor in accordance with General Statutes § 6-35 as noted below.

Collection

When all statutory holding periods and all possible court proceedings have concluded, the bank is required to transfer the funds to the state marshal's client fund account before the statutory midnight deadline. The state marshal is empowered by statute to make demand for the money after any stay periods are over. Usually the bank automatically forwards the funds after any stays are lifted, but it is incumbent upon the state marshal to track his or her executions and make demands on the bank if it has not transferred funds. If a bank distributes funds, the state marshal must ensure that the bank is provided the **eight dollar** statutory fee for the bank's money distribution costs. The judgment creditor is responsible for this sum and can recover it as a taxable cost of the action. The marshal should work with the judgment creditor or his or her attorney to effect payment of this fee to the bank and may agree with the creditor to deduct the amount from collected funds.

Pursuant to General Statutes § 6-35, State Marshal Commission regulations, and the Audit Policy adopted by the Commission, a state marshal must distribute collected funds to his or her client **within 30 days of receipt, for sums up to \$1,000, and immediately, for sums \$1,000 or more.** General Statutes § 6-35 permits the marshal to enter an alternate agreement with his or her client as to the timing of the distribution of funds. Any such agreement, if entered, should be in writing and should be kept by the marshal.

Returns

When the execution is satisfied in full or in part, the state marshal must prepare a **return** and send the **return** and the **signed original execution papers** back to the judgment creditor, or his or her attorney, along with any funds collected on the judgment. With natural person bank executions, the marshal should prepare a return for unsatisfied executions for every 45-day cycle, and the marshal should make arrangements with his or her client to keep the original execution for successive 45-day cycles. The marshal should note on the return all services on banks and the results thereof. Be advised that General Statutes § 6-32 has a **double damage liability** clause against state marshals regarding the failure to provide service or a return.

Non-Natural Person Executions

There are no 45-day cycles where the judgment debtor is not a natural person. Note that the marshal must still serve only one bank at a time under this type of execution. The marshal may not serve a successive bank until the previously-served bank provides confirmation regarding whether or not funds are available. The statute provides that, if there is no response from the bank within **25 days** after service, the state marshal may serve another bank. As with natural person executions, the marshal must provide a return reporting on the banks served, responses from the banks, and any funds collected. The return must designate whether the execution was unsatisfied, partially-satisfied, or fully-satisfied. Any funds collected must be timely distributed with the return although, as noted above, the marshal and creditor may agree to a distribution schedule.

As with natural person executions, with non-natural person executions a fully-satisfied execution ends the execution and the fact of the full satisfaction must be noted on the original execution. Unlike with natural-person executions, where the judgment debtor is not a natural person, a marshal may continue to re-serve a partially-satisfied execution on successive banks, one bank at a time, unless a court rules otherwise. Also, unlike with natural person executions, there is no federal restriction on re-service of the execution on the same bank under the Code of Federal Regulations Title 331 Part 2, since the federal benefits protected under those regulations only involve natural person accountholders.

Alias Tax Warrants/Bank Executions

A state marshal may, on behalf of a town tax collector, serve bank executions issued in connection with tax warrants. As with other types of executions, the marshal may serve only one bank at a time for any given taxpayer. A state marshal cannot serve another bank until the first bank sends confirmation to the marshal of no available funds, **25 days** pass from a request for information, or there is service of a warrant.

When a state marshal intends to serve a bank with **more than 15, and up to 250** individual tax warrants on a given day, the state marshal **must**, before making service, make a request for information on the bank concerning whether funds exist. A state marshal **may, but is not required to** send such a request for information where there are **less than 15 taxpayers**. The request must be made by mail or facsimile to an office designated by the bank and must include: (1) the name and last-known address of each taxpayer who is the subject of the warrant, (2) the address to which the response can be mailed or delivered or a facsimile number to which the response may be transmitted, (3) in the case of a request transmitted via facsimile, the name, address, judicial district, badge number and telephone number of the marshal serving the request, and (4) the following statement:

To (insert name of financial institution): In accordance with Section 12-162 of the General Statutes of the State of Connecticut, you are hereby commanded to report

to (insert name of town or serving officer), at the address or facsimile number specified in this request, whether the financial institution is indebted to the taxpayer or taxpayers listed in this request.

The bank must respond to the marshal's request for information **not later than 5 business days**, for requests listing **fewer than 100 taxpayers**, and **not later than 10 days**, for requests listing between **100 and 250 taxpayers**. By statute, no request for information can include more than 250 taxpayers. Once a state marshal serves a request for information on a bank, he or she may not serve an additional request for information on that bank until the bank has had an opportunity to respond within the applicable statutory timeframe.

Banks are responsible for making the list of the designated branches for service available to the tax collectors, and they may also file information with the State Marshal Commission. If they fail to provide a designated list the statute provides broader options for service.

Exemptions: Certain property of a judgment debtor is **exempt from execution**. The most common exemptions for debtors who are natural persons are set forth in General Statutes § 52-352b. It is important for state marshals to be aware of the **exempt property rules**. Under the law, state marshals may face liability if they collect exempt property under an execution. If a state marshal has doubts about whether certain property is exempt, the state marshal can **certify the question** of the exemption to the court for a hearing and a determination on the matter.

Accounting Procedures and Recordkeeping

A state marshal is required to abide by specific professional standards when collecting, safe-guarding, and distributing client funds. Money collected under bank executions must be kept in a **Trustee/Client Fund Account** and handled in accordance with State Marshal Commission Regulations § 6-38b-6 and the Commission Audit Policy. *See* the Recordkeeping/Audit Policy section of this manual. Under General Statutes § 6-38e, the State Marshal Commission is authorized to periodically **review and audit** the records and accounts of state marshals. Marshals must also submit account reconciliations to the Commission pursuant to the Audit Policy.

Major Statutes

There are many statutes/regulations that touch on bank executions. The state marshal should always check with his or her client, attorney (if applicable), and the statutes if he or she has any questions about a particular execution. The following reference list is not exhaustive and sets forth only the most important and commonly used statutes covering bank executions:

- 52-367b Primary statute for executions against **natural persons**.
- 52-367a Primary statute for executions against **non-natural persons**.
- 12-162 Alias tax warrants: requests for information/bank executions.
- 36a-42 Authority for banks to disclose information to state marshals.
- 42a-4-104 (a) “Midnight deadline” definition.
- 52-261 (a) (6) State marshal fees under an execution (15% on the amount of the execution; \$30 minimum fee).
- 6-35 Timing for distribution of collected funds (not later than 30 days or collection of \$1,000, whichever first occurs).
- 6-32 State marshal duty to serve and make prompt and true return; liability.
- 52-352a Exempt property lists. Note that wage executions are one of the listed
52-352b exemptions for bank executions. *See* General Statutes § 52-367b (a).
52-321a
- 52-351b Discovery by judgment creditor (interrogatories).
- 52-397 Examination of judgment debtor. *See* General Statutes §§ 52-46 and
52-46a for service.
- 52-350e Service of process in post-judgment matters.
- 52-362d Support enforcement collection matters.
- 37-3a & Post-judgment interest rate for certain civil matters.
37-3b
- 6-38e Audit authority of the State Marshal Commission.
- 6-38 (d) State marshal must perform work in order to collect a fee.

52-55 Completion of service by another state marshal.

Federal Regulations: Code of Federal Regulations Title 31, Part 212 - Garnishment of Accounts Containing Federal Benefit Payments/And Related Federal Rules and regulations.

Forms

The following is a list of the common forms utilized for bank executions. Note that these forms are updated frequently by the Judicial Branch. Accordingly, it is important to verify that the most recent form has been utilized. These forms are available at the Forms section of the Judicial Branch website located at:

<http://www.jud.ct.gov/webforms/>

JD-CV-24 Financial Institution Execution Proceedings - Judgment Debtor Who Is a Natural Person, Application and Execution

JD-CV-024A Exemption Claim Form, Financial Institution Execution

JD-CV-024N Financial Institution Execution Proceedings - Judgment Debtor Who Is Not a Natural Person, Application and Execution

III. CAPIAS WARRANTS

Summary

Definitions

A **capias** or **capias mittimus warrant** is a civil arrest warrant issued by the court ordering a proper officer to take an individual into custody for violating a court order or for failing to appear in court after receiving a summons to appear, a subpoena, or a citation. Most commonly, capias warrants are issued by family support magistrates in the context of a child support matter where the individual who owes back child support has failed to appear for a hearing. Note that the subject in these matters is not being arrested for the failure to pay his or her child support, rather the warrant is issued based on his or her failure to appear in court when summoned.

Authority

Capias warrants can be executed by state marshals, constables (within his or her town or city), special policemen appointed by the Commissioner of Social Services, and judicial marshals (if in the judicial marshal's custody or inside the courthouse). Note that indifferent persons are not authorized to execute capias warrants. Also note that, when executing a capias warrant, a state marshal is not limited to his or her county of appointment and is authorized to execute the warrant **anywhere in Connecticut**.

Capias Unit

There is a special Capias Unit of state marshals. To become a member of the Capias Unit, a state marshal must complete specialized training on arrests, the use of physical force, and civil liability. *See* the Use of Force Policy section of this manual. State marshals who are members of the Capias Unit and have received **law enforcement training** are best suited to do capias work. If a state marshal wishes to join the Capias Unit, he or she must contact the State Marshal Commission office.

State marshals who are not on the Capias Unit may **not** utilize use of force equipment (firearms, batons, pepper spray, or handcuffs) while executing a capias warrant. Accordingly, a non-Capias Unit marshal may execute a capias warrant only where the subject of the capias warrant voluntarily cooperates with the execution of the warrant and no actions are needed to execute the warrant beyond the service of the warrant and the consensual actions of the subject.

Firearms

Under the Commission's Use of Force Policy, a state marshal must receive authorization from the Commission to carry a firearm while conducting his or her official duties. *See* the Use of Force Policy section of this manual. To obtain this authorization, the marshal must follow certain procedures including passing a psychological examination by a licensed psychiatrist or psychologist, obtaining a State of Connecticut firearms permit and a firearm inspection by a qualified individual, and obtaining specialized training at the Police Officer Standards and Training Council Academy.

Only marshals who are both on the Capias Unit and who have obtained firearms authorization from the Commission may carry a firearm while executing a capias warrant. If a member of the Capias Unit would like to carry a firearm while executing capias warrants, he or she must contact the Commission to initiate the process.

Manner

While an individual or attorney in the private sector may retain a state marshal to execute a capias warrant, the vast majority of capias warrants executed by state marshals consist of capias warrants issued by family support magistrates in child support matters. In these matters, the state marshal will obtain the capias warrant directly from a local Child Support Enforcement office of the Department of Social Services. Note that generally the court will issue a capias warrant only where the subject failed to appear after being served in-hand with a summons or subpoena.

Support Enforcement Services Procedure: The Support Enforcement Services (SES) division of the Judicial Branch has issued a Capias Mittimus Policy and Procedural Guide, attached to Administrative Bulletin 15-17 provided at the end of this section. State marshals must read and follow these procedures when executing warrants on behalf of SES.

Law Enforcement Notification: It is important that, prior to the execution of a capias warrant, the state marshal notify local law enforcement that a capias arrest may be occurring in their jurisdiction. This ensures that assistance will be readily available if needed. It also minimizes the potential for confusion by law enforcement as to the state marshal's authority and actions.

Custody: The State Marshal Commission strongly advises that a state marshal execute capias warrants with at least one other marshal. After identifying the subject of a capias warrant, the marshal will **execute the capias** by physically taking the person into **custody**. A state marshal should make a **limited, protective search** of the arrested subject for weapons that pose a risk to the marshal or to court or correctional facility personnel at the location where the subject is brought. Pursuant to the Commission's Use of Force Policy, the marshal may utilize handcuffs only if the marshal is a member of the Capias Unit. The court, or family support magistrate, will set an appearance bond upon the issuance of the capias warrant. An arrestee may be released

from custody by the proper authorities if the bond is posted. State marshals do not handle the bond work, but may inform the arrestee and/or his or her family members of the bond terms.

Once the state marshal takes the arrestee into custody and secures him or her in a transport vehicle (if applicable), the marshal must transport the arrestee to the proper authority. The *capias* warrant will contain a description of where an arrestee should be taken under given circumstances. Generally, if the relevant courthouse is open and operational, the arrestee should be brought directly to the lock-up facility of the court that issued the *capias* warrant. Upon arrival, the marshal will transfer custody to the judicial marshals at the facility. If possible, the state marshal should avoid bringing the arrestee to a courthouse lock-up facility close to 5:00 p.m., as judges, clerks, and judicial marshals may not be available to handle the transfer. If the courthouse is not open, or the lock-up facility lacks sufficient space, the state marshal must transport the arrestee to a community correctional center within the relevant judicial district, or if none, to the nearest community correctional center. The arresting marshal must remain at the courthouse or correctional facility until the arrestee has been properly transferred.

In situations where a private *capias* warrant is issued without a bond, such as in small claims matters, the state marshal may be asked to stay with the arrestee in the courtroom until the court proceedings occur rather than transferring custody to judicial marshals. There are also some juvenile courthouses where judicial marshals are not on duty where the state marshal may be asked to stay with the arrested individual in the courtroom until the court proceedings occur.

Courthouse Protocol: A state marshal must review and abide by the Judicial Branch's rules concerning courthouse protocol including but not limited to those rules concerning access, security screening, identification, and weapons. See the Judicial Marshals/Courthouse Protocol section of this manual.

Use of Private Vehicles: State marshals who use their own private motor vehicles for support enforcement *capias* work have special indemnity liability coverage under statute. *See* General Statutes § 6-30a. The law provides that the state will cover for financial loss and expenses arising out of claims, demands, or suits against the state marshal for personal injury, or injury to property by, or as a result of the actions of, any person lawfully taken into custody and transported in the private vehicle. This coverage is only available if no judgment is entered against the state marshal for a malicious, wanton, or willful act.

Constitutional Issues

Execution of a civil *capias* warrant is a form of arrest or seizure which gives rise to both United States and Connecticut Constitutional concerns. The **Fourth Amendment** to the United States Constitution protects against unreasonable searches and seizures. There is a similar provision in the Connecticut Constitution. Due to these concerns, a

state marshal must take considerable care when arresting a subject, particularly when doing so in the subject's residence. A state marshal must obtain **consent** to enter a residence to take someone into custody under a capias warrant. A minor cannot give this consent.

It is critically important that any marshal executing a capias warrant read the Attorney General's Formal Opinion 2012-003 in the References section of this manual. The opinion covers several constitutional issues, including the necessity of obtaining consent prior to entering a residence and the prohibition on entering a third party's residence while executing a warrant. In addition, it concludes that, while state marshals may pose investigative questions to third parties while attempting to execute a capias, those individuals do not have to answer these questions and the marshal cannot detain these third parties.

Note that the authority to execute capias warrants is civil. The State Marshal Commission does not authorize state marshals to enforce criminal warrants or criminal law.

Immunity: As state officials, state marshals are generally protected by qualified immunity which shields government officials from liability for conduct taken within the scope of their official duties. Whether an official qualifies for immunity is evaluated by the court using a reasonableness standard. An official is entitled to immunity if (1) his or her actions did not violate a clearly established constitutional right; or (2) the official was objectively reasonable in believing in the lawfulness of his or her actions even if the official violated a clearly established constitutional right. *Connecticut ex rel. Blumenthal v. Crotty*, 346 F.3d 84, 101-02 (2nd Cir. 2003). Note that state marshals are not immune from liability for wanton, reckless, or malicious acts.

Returns

A state marshal must file a return on the execution of a capias warrant. The return must be prepared in a timely fashion so that the court has the return when the arrestee appears in court, which can be within hours or days of the arrest, depending on whether a weekend is involved. Generally with SES capias warrants, the state marshal will file his or her return and his or her invoice simultaneously at the courthouse. Refer to the SES Capias Processing Procedures manual attached to Administrative Bulletin 15-17 at the end of this section.

Fees

SES Capias Warrants: The Chief Court Administrator sets the fees paid for execution of capias warrants on behalf of the Judicial Branch in child support matters. Currently, state marshals are paid a **flat fee of \$240** per marshal (and up to \$480 for two marshals) per capias warrant executed. If the marshal executes the capias warrant at a

secured facility, the fee is set at a **flat fee of \$150**, for one marshal only. To receive payment from the Judicial Branch for executing a capias warrant, the state marshal must submit an invoice form to the Accounts Payable Division of the Judicial Branch with “capias” noted at the bottom of the form.

Private Capias Warrants: There is no statutory fee set for the execution of private capias warrants. A state marshal may charge a reasonable fee. Such fees should be set between the state marshal and his or her client prior to executing the capias warrant, preferably in writing. Those fees set by the Chief Court Administrator would be considered reasonable for the execution of a private capias.

Major Statutes

There are many statutes/regulations that touch on capias warrants. The state marshal should always check with his or her client, attorney (if applicable), and the statutes if he or she has any questions about a particular capias warrant. The following reference list is not exhaustive and sets forth only the most important and commonly used statutes covering capias warrants:

- | | |
|-----------|---|
| 52-143 | Capias warrants issued for failure of witnesses to appear after served with subpoena. |
| 52-400b | Capias warrants issued for failure to comply with discovery, turnover or protection orders. |
| 1-3b | Subpoena enforcement by Superior Court. |
| 52-56 (d) | State marshals can execute a capias warrant <u>anywhere</u> in Connecticut. <u>Note</u> option of proper officer executing a clear and accurate copy of a capias warrant. |
| 6-30a (b) | State indemnification when state marshal executes a support enforcement capias warrant using his or her private motor vehicle. |
| 6-38a (b) | Right of entry on private property for state marshals in performance of execution. <i>But see Milner v Duncklee</i> , 460 F. Supp. 2 nd 360 (D. Conn. 2006) (outlining specific Fourth Amendment rights during residential arrests under capias warrants). |
| 6-32 | General duties of state marshal regarding serving and executing civil process. |

- 29-1g Child Support Enforcement special policemen for capias warrants.
- 46b-231 (m) (1) (7) Family support magistrates authority to issue capias warrants in child support matters.
- 46b-215 (a) (8) (C) Support obligations/spousal and child support/capias warrants.
- 17b-745 (a) (8) Persons supported by state/support payment orders/capias warrants.
- 52-50 General civil service of process statute.
- 52-53 Special deputation – may be utilized in extraordinary circumstances only. Execution of capias warrants may not be delegated to a non-marshal.
- 2-46 Capias warrants issued by General Assembly.
- 4-151 Capias warrants issued by Claims Commissioner.
- 54-2a Criminal capias warrants. Note, state marshals are not empowered to execute criminal capias warrants and are only empowered to execute civil capias warrants.

State of Connecticut
Department of Administrative Services
State Marshal Commission

W. Martyn Philpot, Jr, Esq.
Chairperson

Robert Giuditta
Interim Administrative Director

DATE: September 28, 2015
TO: State Marshals
FROM: Robert Giuditta, Interim Administrative Manager 
SUBJECT: SES Capias Processing Procedures

**ADMINISTRATIVE BULLETIN
15-17**

The Support Enforcement Services (SES) division of the Judicial Branch has updated and revised its Capias Mittimus Policy & Procedural Guide governing the assignment, service, processing, and disposition of SES capias warrants. Please see the attached memorandum from SES to the State Marshal Commission dated September 15, 2015, enclosing the revised guide. For those of you currently performing capias warrants for SES, or who may do so in the future, it is essential that you read through the document very carefully. Proper communication and billing, as well as diligent handling of capias warrants, is absolutely necessary and it is imperative that you follow all of the outlined procedures, timelines, and administrative directives.

As an aid to SES and the public, the online state marshal list indicates which marshals are on the designated Capias Unit. If you would like to have capias warrants assigned to you by any given support enforcement office, it is important that you contact that SES office directly to confirm that you are interested in being assigned capias warrants and to provide any such office with your complete contact information, which may include your business phone number, business address, cell phone number and e-mail address.

This Administrative Bulletin should also serve as a reminder that, in accordance with the State Marshal Commission Use of Force Policy, only those state marshals on the Capias Unit are authorized to possess and use equipment, such as firearms and handcuffs, while executing capias warrants.

As always, thank you for your cooperation with this matter.

165 Capitol Avenue, Room 279
Hartford, Connecticut 06106
Tel. (860) 713-5372 Fax. (860) 713-7458

To: State Marshal Commission
From: Raychel Carey, Program Manager I
Date: September 15, 2015
RE: Capias Mittimus Procedural and Policy Guide

Dear Colleagues,

Support Enforcement Services (SES) spent the last year and a half tightening up the process surrounding capias mittimus. Attached is the newest guide regarding capias as it applies to processing, assigning and concluding capias orders.

The policies and procedures documented in this guide apply to any and all proper officers hired by SES to execute these civil arrest warrants. The following is a list of highlights from the policy that are expected of all proper officers utilized by SES:

- SES may assign each proper officer up to 30 noncustodial parents who currently have at least one outstanding capias
- Capias assigned to a proper officer may not be transferred to another proper officer without the prior consent of SES; unauthorized transfer may affect payment for the execution
- All assigned capias must be returned to SES within 90 days of being assigned if not executed
- All proper officers shall record all of the attempts of service on the capias cover sheet as provided by SES
- SES may at any time request the return of a capias document; should this occur, all documents associated with that capias must be returned to SES within 48 hours of the request
- SES reserves the right to terminate assignment to any proper officer that fails to adhere to the policy and procedures outlined in the attached document or fails to communicate with the offices assigning the documents
- Only State Marshals and Constables are paid for executing capias mittimus

For this process to work, there must be clear and prompt communication between the proper officers and SES. In sharing this guide with the State Marshals, please reinforce the need to respond promptly to emails and calls placed by SES staff and administration.

If you have any questions, please contact me at 860-566-8723 x 309 or via email at raychel.carey@jud.ct.gov.



Capias Mittimus Policy & Procedural Guide



State of Connecticut
Judicial Branch

Support Enforcement Services
Effective September 2015

Capias Mittimus Process

- A. Definition of a capias mittimus
- B. Who is authorized to serve a capias mittimus?
- C. Capias Log Usage
- D. Post-court activities on newly ordered capias
- E. Generating the capias mittimus document
- F. Required SES activities prior to assignment
- G. Assignment to a proper officer
- H. Rules of assignment and recall of capias documents
- I. Capias outcomes
 - i. Execution of the capias
 - ii. Payment for the capias execution
 - iii. Vacating of the capias
 - iv. Voluntary turn-in to the clerk's office
 - v. Request for turn-in date
 - vi. Incarcerated noncustodial parent
 - vii. Capias is lost or destroyed
 - viii. Deceased noncustodial parent
 - ix. Closed IV-D case
 - x. CP requests to hire private officer for service
- J. Capias Reconciliation Process
- K. Agency Capias Contacts

A.**Definition of a Capias Mittimus**

A capias mittimus is an order of the court that directs a State Marshal, a Town Constable or other proper officer to arrest an individual and bring them before the court. Family Support Magistrate authority to issue capias mittimus can be found in CGS §46b-231(m), which states in part:

A family support magistrate in IV-D support cases may compel the attendance of witnesses or the obligor under a summons ..., a subpoena ..., or a citation for failure to obey an order of a family support magistrate or a judge of the Superior Court. If a person is served with any such summons, subpoena or citation issued by a family support magistrate or the assistant clerk of the Family Support Magistrate Division and fails to appear, a family support magistrate may issue a capias mittimus directed to a proper officer to arrest the obligor or the witness and bring him before a family support magistrate. (emphasis added)

Please note that a capias mittimus order is intended to compel the individual to appear before the court and explain why he or she failed to appear when summoned. It is not a reflection of the individual's compliance (or lack of compliance) with an underlying child support order.

The capias mittimus order is a civil, not a criminal matter. In a formal opinion,¹ the Connecticut Attorney General stated the following:

"Connecticut law clearly distinguishes between civil arrest and criminal arrests. The distinguishing characteristic of a criminal arrest is that it results in a person being charged with an offense for which a sentence of incarceration for a definite term and/or fine may follow. A civil arrest merely brings a person to court to testify or to respond to a civil claim. It seems clear to us, that a capias is civil process."(emphasis added)

¹ Connecticut Attorney General Richard Blumenthal Formal Opinion 2000-10

Despite the differences between criminal and civil warrants, capias executions result in an arrest and possible incarceration. Staff should take all precautions to ensure that the capias is valid and appropriate. Staff should always err on the side of caution, given the deprivation of liberty inherent in an arrest warrant.

B. Who is Authorized to Serve a Capias?

The following proper officers are authorized to execute capias mittimus orders in IV-D child support matters:

- 1) State Marshals²
- 2) Town Constables³
- 3) Department of Social Services Special Police Officers⁴
- 4) Judicial Marshals⁵

Support Enforcement Services may only assign capias mittimus orders to the proper officers in the preceding list. Although indifferent persons may effectuate other types of civil service of process, an indifferent person is not authorized to serve or to assist in the execution of a capias mittimus order.⁶ Indifferent persons include but are not limited to: bail (enforcement) agents, bounty hunters, and other individuals not expressly authorized to serve civil capias mittimus documents.

C. Capias Log Use

The Capias Log shall be utilized in conjunction with CCSES to record the data specific to the capias mittimus order entered by the court. Staff shall enter all capias activity, with the exception of capias ordered with a stay, into the capias log as part of post-court activity. This shall be done as soon as court has concluded to ensure the most updated information is available.

² C.G.S §52-50(a) provides that all process shall be directed to a state marshal, constable or other proper officer.

³ Ibid

⁴ Pursuant to C.G.S §29-1g

⁵ Pursuant to C.G.S §46b-225

⁶ A legal opinion drafted by Court Operations – Legal Services (dated 12/14/06) concluded that Indifferent Persons are not authorized to make or assist in the service of a capias mittimus order. An indifferent person is not a Proper Officer.

Capias Log Statuses shall be used as follows:

New, Not Assigned : use when the capias is initially ordered & generated by SES

Not Received From Clerk: use when the capias is initially ordered, is generated by the clerk's office & has not been received by SES

Received From Clerk: use when SES receives the capias generated by the clerk's office.

Assigned: use when assigning a capias to a proper officer

Returned, Not Assigned: use when a capias, previously coded as "Assigned" is returned to SES by the proper officer

Returned to Clerk, CP Request: use when the CP wishes to hire a private marshal to execute the capias.

Executed: use when the capias is executed by a proper officer

Vacated: use when the capias is vacated by the court during a reconciliation project or because the capias was ordered in error

Vacated – Turn In: use when the capias is vacated as a result of a scheduled turn-in court date

NCP Deceased, Returned to Clerk: use when SES determines the NCP is deceased

Case Closed, Returned to Clerk: use when the IV-D case is closed with SES

Capias Replaced – See Comments: use in special circumstances such as if a duplicate original capias was ordered due to a bond amount change and the prior capias was not vacated you must use the comments box to explain why coded as such

Out of State: use if the NCP has been found to be reside outside of CT

Incarcerated: use if the NCP has been found to be incarcerated

Unable to Locate: use if all locate sources are negative for NCP locate information

Capias Lost: use if the original capias cannot be located

Court Date Pending: use when the capias is scheduled to be addressed by the court (i.e. scheduled vacate court date or turn-in court date)

Other: use in special circumstances to separate this capias from the rest; you must use the comments box to explain why coded as "Other"

D. Post-Court Activities on Newly Ordered Capias

In the event that a family support magistrate or judge issues a capias mittimus order, staff shall determine what category below best describes the order of the court, and then staff shall follow the guidance provided below.

1) The court ordered a capias mittimus with a stay

Staff shall not generate the capias document and shall not pursue the creation of the document through the clerk of court until the stay is lifted. Staff shall not input the capias into the Capias Log. Staff shall take the following steps:

- a. Generate and send the “capias with a stay” notification letter (CCSES Form ID: “ACAPST”) to the noncustodial parent within one business day of the court order. The letter shall:
 - i. identify the court continuance date, if applicable, and
 - ii. list the conditions under which the stay shall be lifted.
- b. The notification letter will automatically set the enforcement code to “Capias – Stay”.
- c. The order shall be entered in CCSES order text, including the conditions surrounding the stay.
- d. If the court identified certain activities or conditions that will lift the stay, staff shall set a CCSES diary to complete any required follow-up.
- e. If the stay is lifted, staff shall follow the appropriate procedure identified below.

2) The court ordered a capias mittimus without a stay

Staff shall either generate the capias document or take steps to secure the capias document from the appropriate clerk of court in accordance with the procedures defined in the “Generating the Capias Mittimus Document” section E of this Policy. Staff shall:

- a. Generate and send the capias notification letter (CCSES Form ID: “ACAPOR”) to the noncustodial parent within one business day of the court order.
- b. Staff shall indicate the date by which the noncustodial parent must request a hearing date. The date shall be no longer than 7 calendar days from the date of the letter. The capias notification letter will create a diary to track the 7-day time frame.

- c. If the noncustodial parent calls within the required time frame, staff shall provide a court date that is within 4 weeks of the request. Some court locations may require more time to docket the matter to ensure it prints on the court calendar. SES staff should work with their local clerk of court (or UIFSA clerk, if appropriate) and presiding magistrate to determine if the matter can be scheduled in a more expedited manner. Staff shall also generate the Capias Invite Date Notice (CCSES Form ID: "ACAPIN") and mail to the parties. One page of the notice packet will print for the clerk so the court may docket the case appropriately.
- d. If the noncustodial parent fails to request a court date within the required 7 calendar days, SES may assign the capias to a proper officer in accordance with the "Assignment of the Capias Mittimus to a Proper Officer" section of this Policy.
- e. In the event that the noncustodial parent contacts SES after the 7-day time frame, staff must determine the whereabouts of the original capias. If the capias mittimus was assigned to a proper officer staff shall provide the noncustodial parent with the name and phone number of the assigned proper officer. If SES is in possession of the original capias, staff shall offer a turn-in court date to the noncustodial parent. Staff shall also indicate that the individual may present him/herself to the clerk's office named on the face of the capias mittimus document.
- f. The notification letter will automatically set the enforcement code to "Capias Outstanding".
- g. Enter all capias related orders in CCSES order text, including: date, magistrate, conditions, amount of bond and continuance date (if applicable).
- h. Create an entry in "Capias" category of CCSES Case Notes to track assignment and activity related to the capias.
- i. Create a new entry in the SES Capias Log. Please note that entry of ordered capias in the SES Capias Log is a post-court activity that should be completed upon return from court. Staff should not wait for the capias mittimus document.

3) The court ordered a capias and directed SES to assign it immediately to a proper officer

Staff shall expedite the creation of the capias document or take steps to secure the capias document from the clerk of court in accordance with the procedures defined in the "Generating the Capias Mittimus Document" section E of this Policy.

Staff shall:

- a. Generate and send a capias notification letter (CCSES Form ID: "ACAPDR") to the noncustodial parent within one business day of the court order. The letter shall not include the option to request a hearing date.
- b. The notification letter will automatically set the enforcement code to "Capias Outstanding".
- c. Enter all capias related orders in CCSES order text, including: date, magistrate, conditions, amount of bond and continuance date (if applicable).
- d. Create an entry in "Capias" category of CCSES Case Notes to track assignment and activity related to the capias. See CCSES screen that follows.
- e. Create a new entry in the SES Capias Log. Please note that entry of ordered capias in the SES Capias Log is a post-court activity that should be completed upon return from court. Staff should not wait for the capias mittimus document.

E. Generating the Capias Mittimus Document

The procedure for the generation of the capias mittimus document varies by Judicial District. The document may be prepared either by the clerk of court or by a support enforcement officer. Staff shall follow the process identified in Procedural Implementation Memorandum 2005-09: Issuance of Capias by Support Enforcement Officers Pursuant to C.G.S. §46b-231(s). Please note that in interstate matters the appropriate clerk may be the SES UIFSA clerk.

A Family Capias Transmittal (JD-FM-204) must accompany every capias. If SES is generating the capias, this form will automatically print when the capias document is requested through CCSES (CCSES Forms ID: "ACAP14"). If the clerk's office generates the document and did not attach the Family Capias Transmittal, SES may generate one from CCSES. (CCSES Form ID: "ACAPTN"). This document assists the direction of payment of any cash bonds paid by the NCP at the correctional facility to effect release prior to the hearing.

F. Required SES Staff Activities Prior to Capias Assignment

- 1) SES staff shall complete the following mandatory steps prior to assigning the capias document:
 - a. Conduct locate activities to identify a valid in-state address for the noncustodial parent.
 - b. Check the Department of Correction status of the noncustodial parent. In the event that the noncustodial parent is incarcerated, staff shall follow the procedures highlighted in: SES Procedural Implementation Memorandum 2008-01: Vacating Capias of Presently Incarcerated Noncustodial Parents. Staff shall code the capias in the Capias Log as “Incarcerated” and indicate the Max Release Date in the Comments box.
 - c. Check the criminal/motor vehicle and civil dockets to determine if the noncustodial parent has an upcoming court hearing. In the event that the noncustodial parent has an upcoming hearing, staff shall review the validity of the capias on record for the noncustodial parent. If capias is valid, SES staff shall contact the local Judicial Marshal Authority to refer matter for execution by Judicial Marshal in the appropriate courthouse location.
- 2) If SES is unable to find a valid in-state address for the noncustodial parent, staff shall not assign the capias. Staff shall continue to conduct locate activities and reassign the capias mittimus document upon identifying new address information. Staff shall code the capias in the log as “Unable to Locate”.
- 3) If there is a valid in-state address and the noncustodial parent is not incarcerated, staff shall prepare a service of process package, which will include the following documents for execution of the capias:
 - a. Original capias and one copy
 - b. JD-FM-204 Family Capias Transmittal
 - c. Capias Information Document (CCSES Form ID: ACADOC), including:
 - i. Valid home address and/or valid employer address
 - ii. Physical description
 - iii. Photo (i.e., if available either through the DMV or DOC)

- 4) Prior to assignment of the document to a proper officer, staff shall confirm the validity of the capias mittimus by checking the following:
- a. CCSES order text
 - b. SES Capias Log
 - c. Court Operation's EDISON program
 - d. "Capias" category of CCSES Case Notes
 - e. JD court file or UIFSA court file (Staff shall examine the appropriate court file in the event that any questions arise regarding the validity of the capias mittimus order after checking items a through d listed above).

G. Assignment to a Proper Officer

Support Enforcement Services is responsible for assignment of capias mittimus orders stemming from a IV-D child support matter.⁷ Several factors impact the assignment of capias orders, including the geographic territories in which a proper officer can serve a capias mittimus. The following factors must be considered when assigning capias mittimus documents:

- 1) State Marshals and Department of Social Services special police officers may serve capias mittimus orders in any judicial district.⁸
- 2) Town Constables may execute capias mittimus orders in the town in which they were elected.⁹
- 3) Judicial Marshals may serve a capias on an individual that is either in their custody or in the confines of the courthouse for which they provide security.¹⁰

In addition to geographic considerations, staff must also weigh the availability of proper officers when determining the assignment of capias. Support Enforcement Services will strive toward equitable distribution of capias mittimus orders between and among proper officers. Each office shall maintain a list of individuals authorized to serve capias. At a minimum, the list shall contain the proper officer's name, address, office telephone number, cell phone number and email address, as available. Each SES field office shall

⁷ Pursuant to the cooperative agreement between the CT Judicial Branch and the Department of Social Services, SES is allocated the responsibility of assigning capias mittimus orders.

⁸ C.G.S. §52-56(d)

⁹ C.G.S. §7-89

¹⁰ Pursuant to C.G.S §46b-225

be responsible for gathering the pertinent contact information for proper officers that are assigned capias mittimus orders.

Capias assignments involving the DSS special police officers shall be coordinated directly with each DSS special police officer in accordance with SES / DSS Capias Unit Referral Procedures (Issued 1/22/2015).

SES shall regularly utilize the Judicial Marshals' authority to execute capias mittimus within the confines of the State courthouses. The assignment of capias to Judicial Marshals is coordinated through the local Judicial Marshal Services (JMS) staff located within the local courthouses. Staff may refer to *JMS Policy 213-15 Service of Capias Mittimus (Effective 8/1/14)* for more details on the Judicial Marshal procedures.

Upon assignment or re-assignment to a proper officer, staff shall update the capias status as "Assigned" in the Capias Log and "Capias" category of CCSES Case Notes on the same business day.

H. Rules of Assignment and Recall of the Capias Documents

Capias documents shall not be transferred among proper officers without the prior consent of Support Enforcement Services. SES will only authorize the transfer of the original document. In the event that SES authorizes the transfer of the capias document to another proper officer, staff shall immediately update the Capias Log and "Capias" category of CCSES Case Notes to reflect the correct assignment of the document. It is imperative that SES staff maintain accurate records regarding the movement of the capias document from one proper officer to another. This is particularly true when subsequent court activity impacts the underlying order (e.g., the court vacates the capias). Therefore, staff shall verify that the proper officer assigned the original capias was one of the proper officers to execute the capias. Staff shall advise proper officers not in compliance with this policy that capias may no longer be assigned to them if they do not follow this requirement.

Capias mittimus are assigned to proper officers for a maximum period of 90 days.¹¹ If the proper officer is unable to effectuate service within this time frame, the original

¹¹ Under certain circumstances, a proper officer maybe allocated a limited grace period beyond the 90 days to complete service. The proper officer must contact the assigning SES office to seek permission. In

capias shall be returned to the Support Enforcement Services office that assigned it. Capias referrals made to each proper officer for the 90 days period shall not exceed 30 noncustodial parents. If one noncustodial parent has multiple outstanding capias, that noncustodial parent shall constitute one (1) referral.

Capias documents may be returned prior to the 90-day period if the proper officer has determined that they are unable to serve the document. All proper officers shall record their attempts clearly on the Capias Information Document/cover sheet documenting any new information found during their course of work. SES staff shall update CCSES with any new locate information and also record information relative to the return of the capias in the Capias Log and "Capias" category of CCSES Case Notes, as applicable. In addition, staff shall initiate locate activity to identify a new home or work address for the noncustodial parent.

Any proper officer assigned a capias mittimus order must return the document upon the request of Support Enforcement Services staff. In the event that a proper officer refuses to comply with a request to return the capias document, staff should contact the SES Administration Capias Liaison. Under certain circumstances, SES may require the return of the original capias within a timeframe not to exceed two business days. The proper officer shall make all attempts to comply with this request.

Failure to comply with a request to return a capias document may impact future assignments to that proper officer. In addition, SES Administration will notify the proper officer's Administrative unit.

I. Capias Outcomes

There are a variety of potential outcomes once a capias has been ordered. The following section addresses some of these outcomes, as follows:

- 1) Execution of the capias
- 2) Payment for the capias execution
- 3) Vacating of the capias
- 4) Voluntary turn-in to the clerk's office

the event that SES grants an extension, staff shall record the extension information in the Capias Log and the "Capias" category of CCSES Case Notes.

- 5) Request for turn-in date
- 6) Incarcerated noncustodial parent
- 7) Capias is lost or destroyed
- 8) Deceased noncustodial parent
- 9) Closed IV-D case
- 10) CP requests to hire private officer for service

1) Capias mittimus execution

SES field office staff shall establish a method to prioritize cases coming from court with capias activity, such that staff can process the post-court follow-up immediately upon return to the office.

- a. If a State Marshal, Town Constable or DSS special police officer executes a capias mittimus order, the proper officer shall:¹²
 - i. Notify the SES office that the arrestee is being brought to court.
 - ii. Comply with C.G.S. §54-64d and bring such person before the court that issued the capias.
 - iii. If the courthouse lockup is open, the proper officer shall transfer custody to a Judicial Marshal.
 - iv. If the court is in session, the Judicial Marshal shall present such person before the court.
 - v. If the court is not in session but the clerk's office is open, the Judicial Marshal shall present the noncustodial parent before the clerk.
 - vi. If the court is not in session and the clerk's office is closed, the proper officer shall, without undue delay, transport the noncustodial parent to a community correctional center within the J.D. or, if there is no community correctional center within the J.D., to the nearest community correctional center.
 - vii. Complete the Return of Service on the back of the capias document. Please note that it is necessary to complete the "Place of Arrest" by indicating the actual location where the arrest occurred. It is not sufficient to indicate "Hartford" if the arrest occurred in Hartford. The actual street address must be disclosed to ensure that the appropriate fee is authorized.

¹² In the event that a Judicial Marshal executes a capias mittimus, the Judicial Marshal shall complete all steps *except* iii and vi.

- viii. Attest to the arrest by signing the back of the capias, where indicated. If two individuals completed the arrest, both proper officers must sign the capias return. Both proper officers must indicate their fee under the FEES section (if applicable).
 - ix. Make return of the signed original capias mittimus to the clerk of the court identified on the face of the capias mittimus document.
 - x. Provide a copy of the capias mittimus to Support Enforcement Services, as soon as possible, subsequent to the arrest.
- b. SES staff shall immediately:
- i. Notify the custodial parent of the arrest and imminent court hearing.
 - ii. Update the Capias Log to reflect the arrest.
 - iii. Update the “Capias” category of CCSES Case Notes.
 - iv. Record all court order related activity in CCSES order text.

2) Payment for execution of a capias mittimus

State Marshals and Town Constables operate as “independent contractors”¹³, while DSS special police officers and Judicial Marshals are state employees. State Marshals and Town Constables submit invoices (Judicial form CO-17 or its equivalent, the State Marshal Services Invoice) for services rendered. DSS special police officers and Judicial Marshals are not paid for executing capias mittimus orders.

The Chief Court Administrator (CCA) determines the amount of money paid to execute capias orders. The current fee schedule is:

In community arrest involving one State Marshal or one Constable	\$240
In community arrest involving two State Marshals or two Constables	\$480
Secured facility arrest (only one proper officer is permitted to bill)	\$150

In the event that a State Marshal or Town Constable seeks a fee greater than the established fees above, the proper officer must petition the court for approval. The proper officer must obtain a Judge or Magistrate signature on the invoice. When submitting the invoice for payment, a copy of the order authorizing the increased fee

¹³ Attorney General Richard Blumenthal drafted a legal opinion dated 2/2/07, which in part, identified State Marshals as independent contractors.

should be attached, if available. SES staff are not permitted to authorize payment of an invoice in excess of the fees determined by the CCA.

Prior to authorizing payment of an invoice submitted by a State Marshal, staff shall verify if the State Marshal is on the active State Marshal roster maintained on the Judicial Branch internet website at: <http://www.jud.ct.gov/faq/Marshals/PDF/MarshalList.pdf>. The State Marshal Commission periodically updates the State Marshal roster. SES Administration shall attempt to maintain a list of currently active State Marshals in the SES Capias Log. In the event that a State Marshal name is not in the Capias Log, staff shall immediately notify the SES Administration Capias Liaison.

Please note that a State Marshal may not knowingly bill for, or receive fees for, work that such State Marshal did not actually perform.¹⁴ Consequently, prior to signing the invoice, staff should examine the return of service to determine if the State Marshal submitting the invoice is the same State Marshal that signed the return of service and signed the invoice. The State Marshal assigned the document, per SES records, should be one of the individuals who executed the capias. Staff shall advise State Marshals not in compliance with this policy that capias may no longer be assigned to them if they do not follow this requirement. In addition, if two proper officers effectuate the arrest, two separate CO-17 invoices must be completed and submitted for payment.

SES staff should not sign an invoice for service of a capias on an incarcerated noncustodial parent. SES supervisors should alert SES Administration if an invoice is submitted for service of a capias mittimus on an incarcerated noncustodial parent. In the event that a proper officer seeks payment for "lodging" a capias at a correctional facility, the State Marshal or Town Constable must petition the court for approval of payment.

SES shall retain a copy of the signed CO-17 for a period of nine (9) months. If a State Marshal Services invoice is also supplied at the time of execution, this should also be retained with the CO-17 for a period of nine (9) months.

¹⁴ C.G.S. §6-38d

3) Vacating of the capias mittimus

SES shall establish a method to prioritize cases coming from court with capias activity, such that staff can process the post-court follow-up immediately upon return to the office.

If the court vacates a capias, staff shall take the following steps:

- a. Determine if the capias was directed to and is in the possession of a State Marshal, Town Constable, DSS special police officer or Judicial Marshal
- b. Take steps to retrieve the capias document within 48 hours
 - i. To assist in the timely retrieval of capias documents, staff shall maintain a list of telephone numbers (cell and office, when possible) and email addresses for all State Marshals, Town Constables, Judicial Marshals or DSS special police officers to which the office assigns capias.
 - ii. In the event that a SES office has enlisted the assistance of another SES office to assist in the execution of the capias document, the originating office shall contact the assisting SES office and request return of the document. The assisting SES office shall contact the State Marshal, Constable, Judicial Marshal or DSS special police officer¹⁵ and request return of the document.
 - iii. Upon successful contact with the State Marshal, Constable, Judicial Marshal or DSS special police officer, staff shall:
 - Record the contact in CCSES (in the "Capias" category of CCSES Case Notes).
 - Instruct the State Marshal, Constable, Judicial Marshal or DSS special police officer to write the word "VACATED" in a conspicuous location on the face of the document
 - Instruct the State Marshal, Constable, Judicial Marshal or DSS special police officer to return the capias document and any copies within 2 business days
 - iv. Staff shall update the Capias Log on the day of the court hearing

¹⁵ If the capias mittimus document was assigned to a DSS special police officer, staff shall contact both the assigned officer and the DSS-BCSE central office contact person.

4) Noncustodial parent voluntarily presents him/herself to the clerk's office

The noncustodial parent may voluntarily present him/herself to the clerk of court. SES staff shall communicate this option to the noncustodial parent when discussing the existence of an outstanding capias mittimus order.

On February 27, 2004, the Superior Court Chief Clerks received the following guidance from Court Operations Administration:

"In the event a respondent voluntarily presents him/herself to the Clerk and a capias order remains outstanding, the Clerk shall endeavor to have that respondent brought before the court by contacting the Family Presiding Judge, or Family Support Magistrate if appropriate, for further instructions. If directed by the Judge or Family Support Magistrate, the Clerk shall make the necessary contacts for the appropriate parties to be present for a hearing on the matter.

The Judge or Family Support Magistrate to whom the matter is referred has the authority to determine whether and under what circumstances the respondent shall be detained or released under relevant law until the other parties can be present in court.

The Clerk shall not direct the respondent to any other agency/agent (i.e., Support Enforcement Services, State Marshal) nor take direction from any agency/agent other than the Judge or Family Support Magistrate in the handling of these matters." (emphasis added)

5) Noncustodial parent contacts SES to request a new court date

Staff shall determine if the court ordered SES to send the capias mittimus document directly to a proper officer. If the court ordered the capias direct to a proper officer, staff shall not schedule a new court hearing date. The noncustodial parent should be advised that the capias was assigned to a proper officer for execution at the direction of the court. Staff shall inform the noncustodial parent of their option to avoid capias execution by presenting him/herself to the clerk of court named on the face of the capias mittimus document.

6) Incarcerated noncustodial parents with an outstanding capias mittimus order

In the event that staff or a proper officer identifies an incarcerated noncustodial parent with an outstanding capias order, staff shall follow the guidance provided in Procedural Implementation Memorandum 2008-01: "Vacating Capias of Presently Incarcerated Noncustodial Parents". All activity related to the capias should be recorded in CCSES in both order text and the "Capias" category of CCSES Case Notes, respectively.

If a proper officer determines that the subject of an outstanding capias is incarcerated, the proper officer shall promptly notify Support Enforcement Services. The proper officer shall return the original capias to the office that assigned the capias within two business days (i.e., of determining that the noncustodial parent is incarcerated). SES does not support the practice of "lodging" capias mittimus orders at correctional facilities and will not authorize payment for "lodging" of such capias. Please note that the proper legal document to bring an incarcerated noncustodial parent before the court is a writ of habeas corpus. If a proper officer notifies SES staff that a noncustodial parent is incarcerated, staff shall coordinate with the local clerk of court to arrange for preparation of the writ and docketing of the matter.

SES supervisors should alert the SES Administration Capias Liaison if a CO-17 or State Marshal Services invoice is submitted for service of a capias on an incarcerated noncustodial parent.

7) Capias mittimus is lost or destroyed

In the event that staff or a proper officer determines that a capias document has been lost or destroyed, staff shall:

- a. Instruct the proper officer to file an affidavit with the appropriate clerk of court.
- b. Record the loss of original document in the "Capias" category of CCSES Case Notes.
- c. Update the Capias Log with the "Capias Lost" status.

8) Noncustodial parent is deceased

In the event that staff or a proper officer determines that the noncustodial parent is deceased, staff shall:

- a. Take steps to retrieve the capias document in a timely manner:
 - i. To assist in the timely retrieval of capias documents, staff shall maintain a list of telephone numbers (cell and office, when possible) and email addresses for all State Marshals, Town Constables, Judicial Marshal or DSS special police officers to which the office assigns capias.
 - ii. In the event that a SES office has enlisted the assistance of another SES office to assist in the execution of the capias document, the originating office shall contact the assisting SES office and request return of the document. The assisting SES office shall contact the State Marshal, Constable, Judicial Marshal or DSS special police officer¹⁵ and request return of the document.
 - iii. Upon successful contact with the State Marshal, Constable, Judicial Marshal or DSS special police officer, staff shall:
 1. Record the contact in CCSES (in the “Capias” category of CCSES Case Notes).
 2. Instruct the State Marshal, Constable, Judicial Marshal or DSS special police officer to write the word “DECEASED” in a conspicuous location on the face of the document
 3. Instruct the State Marshal, Constable, Judicial Marshal or DSS special police officer to return the capias document and any copies within 2 business days to the clerk that signed the capias mittimus order.
- b. Update the SES Capias Log and CCSES:
 - i. Select “NCP Deceased, Returned To Clerk” as the status of the new transaction.
 - ii. Place a note in the comment area of the SES Capias Log to indicate that the noncustodial parent is deceased.
 - iii. Update the “Capias” category of CCSES Case Notes to indicate that the NCP is deceased and that the returned capias has been received.

- c. Return the original capias document to the Court Clerk's Office.

9) IV-D case is closed

In the event that a case has been closed, staff shall:

- a. Within 48 hours, secure the return of any assigned capias document and immediately return the document to the clerk that signed the capias mittimus order.
- b. Update the SES Capias Log and CCSES:
 - i. Select "Case Closed, Returned To Clerk" as the status of the new transaction.
 - ii. Place a note in the comment area of the SES Capias Log to indicate that the case is closed.
 - iii. Update the "Capias" category of CCSES Case Notes to indicate that the NCP case is closed and that the returned capias has been received.
- c. Return the original capias document to the Court Clerk's Office.

10) Custodial parent elects to privately hire a proper officer

In the event that a custodial parent elects to privately hire a proper officer to effectuate service, staff shall:

- a. Within 48 hours, secure the return of any assigned capias document and immediately return the document to the clerk that signed the capias mittimus order.
- b. Update the SES Capias Log as follows:
 - i. Select "Returned to Clerk, CP Request"
 - ii. Place a note in the comment area of the SES Capias Log to indicate that the custodial parent was directed to the clerk's office
 - iii. Update the "Capias" category of CCSES Case Notes to indicate that the CP has elected to utilize a proper officer privately.
- c. Direct the custodial parent to the clerk's office identified on the face of the capias mittimus document for redistribution of the original capias mittimus and a list of proper officers.

J.**Capias Reconciliation Process**

Capias Reconciliation projects are encouraged to ensure the validity of the data in the Capias Log. Every SES office should schedule an annual capias reconciliation project. Outlined below are the suggested phases for reconciling capias. For optimum success, each phase should have specifically assigned staff as well as deadlines to aid in the process.

Phase 1:

Goal: Confirm whereabouts of the original Capias for all outstanding capias.

Action: Match all original capias in field office against the "Outstanding Capias" report from the Capias Log. Cross-reference any list of Capias out with a proper officer.

Phase 2:

Goal: Determine which Capias in the Log are still valid.

Action: Divide all cases among project members and caseload SEOs (if applicable). Review CCSES Order Text and Case Notes for all cases to determine if the Capias is still valid.

Phase 3:

Goal: Only have valid outstanding capias in the "Outstanding Capias" report

Action: Update the Capias Log and indicate those cases determined to have been executed or vacated through Phase 2.

Phase 4:

Goal: Determine the status of the cases with outstanding capias. (i.e. incarcerated NCP, deceased NCP, or case closed)

Action: Determine which staff will be involved in reviewing the outstanding capias list. The list will contain all outstanding capias according to the log. CCSES, EDISON and other locate sources will be reviewed to determine the status of the case and NCP and see if it meets any of the following criteria: NCP Incarcerated, NCP deceased, Case Closed, NCP residing out of state more than 6 months, Interstate case in place (NCP out of CT). Other criteria may be added as deemed appropriate at the time of the phase.

IV. CIVIL PROCESS

Summary

Definitions

A **writ of summons and complaint** (“writ”) is designed to provide reasonable and timely **notice** to a party of the existence of a civil action so the party may respond in court in accordance with court procedures. The writ is attached to the **complaint**, which provides the party with the specifics of the civil action, including the parties and claims.

Note: The following discussion uses the service of a writ, which is a form of civil process, as the primary example of civil process. **Process and civil process** are terms used throughout the statutes to refer to various forms of **notice** provided to parties to litigation and others interested in the proceeding. Civil process is generally served by state marshals and other proper officers. State marshals make **service of process** when they serve civil process. Many statutes that do not have their own specific procedures for serving papers **often refer back to the general procedures in the statutes** governing civil process by indicating that a particular process be served as “service of process,” “as in a civil action,” “as in civil process,” or similar language.

Authority

A writ must be signed by a commissioner of the Superior Court (i.e. an attorney), a judge, or the clerk of the court where the case is to be returned. Process in general, including a writ, shall be directed to a state marshal, constable, or other proper officer authorized by statute. Indifferent persons can also make service under very specific, limited circumstances listed in Connecticut General Statutes § 52-50.

A state marshal is required to **stay within his or her county** to serve civil process, including a writ, **unless a specific statute** authorizes him or her to go outside his or her county. A limited extension of a state marshal’s powers to act outside his or her county is outlined in General Statutes § 52-56. In general, if a state marshal commences serving the civil process, including the writ, on a defendant within his or her county, the state marshal can also serve other defendants in the same action even if they reside outside of the state marshal’s county. A state marshal also has the choice of asking a state marshal in the other county to serve the other defendants, as long as the returns properly reflect such action. Execution work and some designated areas allow for some extension of the county rules. *See* the Out-of-County State Marshal Work subsection at the end of this section for further information. Note that a state marshal may **never physically leave the state to serve process**. Some limited types of service are permitted by statute on out-of-state parties by certified mail, postage prepaid, return receipt requested or publication.

Duties

General Statutes § 6-32 provides that a state marshal shall receive each process directed to him or her when tendered, execute it promptly, and make true return thereof. Additionally, without added fees, a state marshal must provide receipts, when demanded, for all civil process tendered to the state marshal, specifying the names of the parties, the date of the writ, the time of the delivery, and the sum or thing in demand. This statute also contains a penalty clause providing that a state marshal who does not duly and promptly execute a return of process or creates a false or illegal return shall be liable to pay double the amount of the damages to the aggrieved party. Violations of this provision can also subject a state marshal to disciplinary action by the Commission.

Timing

A writ must have a **return date**, which is the date the court uses to calculate procedural deadlines. The individual, attorney, or other authorized person signing the writ picks the return date. By statute, process in civil actions must be returnable to court no later than two months from the date of the process and must have a return date that falls on a Tuesday. General Statutes § 52-48. A state marshal **must serve** the writ at **least twelve days**, inclusive, before the return date. The day of service is counted and the first court date is excluded when calculating the twelve days. The original writ, along with the **return** and filing fee, must be filed in court at **least six days** before the return day. The return date is excluded when calculating the six days.

Note that the timing is different for matters involving the Supreme Court, summary process actions, and small claims. *See* the Major Statutes subsection at the end of this section and other specific sections of this manual.

Statute of Limitations: A cause of action will not be lost because of the passage of the statute of limitations if the process is personally delivered to a state marshal within the statutory time frame and the state marshal serves the process within thirty days of the delivery. This is known as the **thirty-day rule**. The phrase “personally delivered” includes delivery by registered or certified mail, postage prepaid, return receipt requested in certain types of matters. The state marshal “shall endorse under oath on such marshal’s return the date of delivery of the process to such marshal.” This is generally done by the state marshal attaching an affidavit of the date of receipt to the return. *See* General Statutes § 52-593a.

Manner

The client provides the state marshal with the original writ, along with copies for each person or entity to be served. The state marshal may charge one dollar per page for

copies. Note that this fee is not for photocopying, but, rather, it is for the state marshal's confirmation that the copies are a true and accurate copy of the original document and is not to exceed a total amount of nine hundred dollars. The state marshal **serves the copy or copies** and gives back the **original** writ along with his or her state marshal return to the client, or the court as noted below. A fee can be charged for each defendant as noted below. *See* General Statutes § 52-261.

On each page of the copies where a signature appears that was an **original signature** on the writ summons and complaint, the state marshal must place an **endorsement on that page or pages. The endorsement consists of the notation of: "A True and Attested Copy," the state marshal's name and title, and the state marshal's signature.** Some state marshals also endorse the last page to attest to the full document. The state marshal must ensure that his or her name is legible. It is permissible to use a stamp with such information, but the marshal must still sign his or her original signature (endorsement) to the pages where the stamp is affixed.

When serving an individual, the statutes permit service of a writ by: 1) reading the writ in the presence of the defendant; 2) leaving an attested copy with the defendant, **in hand**, or 3) leaving an attested copy at the defendant's **usual place of abode**. The return must contain the **address** at which the attested copy was left.

Service is usually made in hand or abode. In hand service means that the individual was served in person. Often, the state marshal can make arrangements with an individual to accept in hand service by having the individual meet the state marshal at a particular place. People may be served at their work site; however, it is important to be sensitive to the work environment. Many employers will not allow state marshals to serve papers at the workplace.

Whether a residence constitutes a usual place of abode for service depends on the facts. The courts have indicated that an abode can be a temporary place of habitation, such as a vacation home or even a hotel room under the proper circumstances, as well as the full-time home or domicile. While a person can have more than one usual place of abode, he or she can only have one abode at any given time. A state marshal needs to verify the validity of the usual place of abode for the purpose of notice. A state marshal attests to the usual place of abode in his or her return. There is a presumption of truth of the matters stated by the state marshal in the return. Accordingly, a state marshal cannot guess at the usual place abode. It is important for a state marshal to exercise due diligence when assessing whether or not an address is an individual's usual place of abode, either asking questions of the client or other third parties, such as neighbors, delivery people and other similar people. Third parties do not have to answer questions. Voluntary cooperation is needed in any such investigation. *See* Attorney General's Formal Opinion 2012-003 in the References section of this manual for further information regarding the application of the Fourth Amendment to state marshal work in obtaining information from third parties. The state marshal may also obtain information by running motor vehicle plates or other identifying information through the Department of Motor Vehicles records databases. State marshals are granted access to this

information through the License and Registration Verification Service administered by the Commission office. Note that to access the service, the state marshal must first sign a user agreement. Please contact the State Marshal Commission for information. *See* the DMV Line section of this manual for further information.

If addresses are invalid and unworkable, the burden is on the client to provide appropriate information. If an individual answers the door and verifies that the person being served lives at the abode, then the papers can be left with the individual at the door. State marshals are not permitted to open mailboxes, as mailboxes are protected under federal postal law.

Minor amendments can be made to the writ of summons with the permission of the client, such as correcting a house number or address. *See* General Statutes § 52-72. Such actions are generally only used when there are time constraints on obtaining a corrected writ. Any changes must be noted on the return.

When making abode service, a state marshal can slip the papers through a mail slot into a house or under a locked door, or put the papers between a screen door and a main door. **A state marshal cannot open any main doors or breach the privacy and property rights of an individual by entering an abode.** A state marshal can enter a house if invited, but discretion is necessary. If an apartment is part of a complex, a state marshal may attempt to enter the complex to leave the papers on or under the door of the actual apartment by, for example, asking the landlord or a neighbor to provide access to the building. The state marshal may not compromise the lock in order to gain entry. Service cannot be left at the main entrance or in the hallway of an apartment complex.

Pursuant to General Statutes § 6-38a, state marshals, when making service of process, shall have the right of entry on private property. Note, however, that this does not permit a state marshal to breach the threshold of the home, including the garage, without consent.

As noted above, the state marshal serves the copy or copies and must give the **original writ**, along with the state marshal return, to the client, or the court if any such arrangement was made with the client.

Notice by Publication: In some circumstances a state marshal must prepare a notice by publication. The state marshal should follow the procedure set forth in General Statutes § 52-52, unless otherwise directed by the court. *See* the sample in the References Section of this manual.

Fees

Service of Process: The maximum fees for civil process are set forth in General Statutes § 52-261, as amended by Public Act 14-87, and General Statutes § 52-261a. The

allowable fees are dictated by the type of client for whom the state marshal is serving process, as follows:

1. Serving process for a **private client** (including clients with fee waivers and restraining orders or civil protection orders that are reimbursed by the Judicial Branch):
 - \$40 for the initial service on a defendant;
 - \$40 for each subsequent service on an additional defendant at a different address; and
 - \$20 for each subsequent service on an additional defendant at the same address.

2. Serving process for the **Judicial Branch** or **Division of Criminal Justice**:
 - \$30 for the initial service; and
 - \$10 for each subsequent service on an additional defendant, regardless of whether or not the additional defendants are at the same or different addresses.

3. Serving process for **an official of any other state agency, board or commission, or municipality** acting in his or her official capacity:
 - \$30 for the initial service;
 - \$30 for each subsequent service on an additional defendant at a different address;
 - \$10 for each subsequent service on an additional defendant at the same address; and
 - \$10 for service of a notice to the Attorney General in a dissolution and post-judgment proceeding involving a party or child receiving public assistance.

The minimum fees for service of process are designated in Regulations of Connecticut State Agencies § 6-38b-10, which states that a state marshal may not receive a fee of less than five dollars for each service of process. *See* the References section of this manual.

State marshals do not tender witness fees. *See* General Statutes § 52-260 and the Subpoenas section of this manual.

A state marshal may **not** charge a fee if the state marshal **does not make service**. *See* General Statutes § 6-38d. If a state marshal cannot make service, the state marshal *must* promptly notify his or her client of the failed service and refund any fees that were paid up-front to the marshal. Also note that, a state marshal may only charge an additional service fee when serving the same process on the same individual more than

once, if the additional service is required under a valid court order. *See* Opinion of the Attorney General, 2015-002 in the References section of this manual.

Copies: As noted above, a state marshal may charge one dollar per page for verified copies. This fee may not exceed a total amount of \$900. *See Francis v Fonfara*, 303 Conn. 292, 33 A.3d 185 (2012). Note that the rate for copies of papers served on behalf of others *but paid by the Judicial Branch* (i.e. fee waivers and restraining orders) is also one dollar per page. The rate for copies for papers served *for the Judicial Branch or the Division of Criminal Justice* is sixty cents per page. *See* General Statutes § 52-261a.

Endorsements: The state marshal may charge forty cents per page where there is an endorsement pursuant to statute.

Mileage: The state marshal may charge for mileage from the place where the writ is received to the place of service. The amount that can be charged is set by statute. *See* General Statutes §§ 52-261 and 52-261a. This rate is communicated annually to the state marshals by the State Marshal Commission office. The best practice is to use mileage charts to calculate the travel, although automobile mileage gauges are also permissible. The state marshal should keep documentation, such as logs, supporting claimed mileage.

Illegal Fees: A state marshal cannot knowingly bill for or receive fees for work that the state marshal did not actually perform. *See* General Statutes § 6-38d. In addition, a state marshal may not charge more than the statutory fees for service. If a state marshal demands or recovers fees in excess of what is permitted by statute or order, the party may receive threefold the amount of the illegal fees that were paid. *See* General Statutes § 52-70. Violations of this section will also subject a state marshal to disciplinary action by the State Marshal Commission.

Returns

Under General Statutes § 6-32, it is a state marshal's duty to both execute process promptly and make a true return. The return is a legal document in which a state marshal attests to the court (swears to the truth of) regarding the facts and manner of the service of process. The court essentially obtains jurisdiction through the proof offered in the return. It is **imperative** that returns are both accurate and returned to the court in a timely manner.

The return must state that service was made in the State of Connecticut and list the county in which the summons was served. The state marshal must then add the notation "ss" (which means signed and sealed) followed by the town name, the date of service, the method of service (in hand or abode) with specific details, including names, agents for service, and any other pertinent information about the service. The address of service must be included if abode service was made. Note that the original papers must be returned with proper endorsements. The state marshal must attest to the truth of the

return and state his or her title and county. The return must be signed by the state marshal. *See* the samples in the References Section of this manual.

The state marshal's fees must be itemized on the return. Fees for the service, copies, endorsements, and mileage should be separately listed on the return if charged. If additional items are charged, such as postage for registered or certified mail, or fees paid to the Office of Secretary of the State, Department of Motor Vehicles, or other entities, those items must also be listed. The state marshal should invoice his or her private clients to collect fees due. If the fees are due from a State of Connecticut agency or office, the state marshal must generally use the CO-17 form. However, if the fees are due from the Judicial Branch, the state marshal must use the State Marshal Services Invoice form. The Office of the Attorney General and other agencies may have their own invoicing requirements. *See* the Invoicing section of this manual.

Attach the return to the original writ, or other civil process as relevant, and return the documents to the client or his or her counsel. The client will then file the documents in court and pay a filing fee to initiate the action. A state marshal may return the documents to the court and pay the filing fee at the direction and consent of the client. Note, however, that the court is essentially now requiring **e-filing** of most civil summons, whereby the client or attorney representing the state marshal's client e-files the papers with the court.

E-filing: Where the plaintiff is represented by an attorney, the Judicial Branch now requires **e-filing** of most civil summons, whereby the attorney must e-file the case initiation documents (including the writ and return) with the court. In an e-filed matter, as with a paper-filed matter, the state marshal serving the writ has two options:

- 1) The state marshal may return the original writ and his or her return to the attorney for formatting and e-filing, while retaining a copy of the return for his or her records; or
- 2) The marshal may e-file the case initiation documents after authorization by the attorney as a ***designated filer***. Under the designated filer status, the marshal is permitted limited access to the E-Services system to e-file the case initiation documents on the attorney's behalf. The marshal may also pay the filing fee using this designated filer access if authorized to do so by the attorney.

Note that it is not mandatory for a state marshal to be a designated filer and to e-file the case initiation documents on behalf of an attorney. He or she may opt to return the documents to the attorney for formatting and e-filing. In addition, it is not mandatory that a marshal pay the filing fee using the E-Services system on behalf of the attorney. The attorney or his or her employees may access the E-Services system and pay the filing fee after the marshal has up-loaded the case initiation documents. If the marshal pays the filing fee with his or her own funds and seeks reimbursement, this should be noted on his or her return and on an itemized invoice sent to the attorney.

Also note that, at this time, a self-represented party is **not** permitted to authorize a state marshal to be a designated filer and, accordingly, if a self-represented party opts to e-file the case initiation documents in a matter, the marshal must return the original writ and his or her return to the self-represented party for formatting and e-filing. *See* the Judicial Branch website at www.jud.ct.gov and the Civil E-Filing subsection of this section of the manual for more information.

Supplemental returns: When a state marshal is directed to make service by registered or certified mail, it is necessary to file a supplemental return to provide the court with the receipt for the mail, or to inform the court that the envelope was returned as unclaimed. The state marshal should send the supplemental return to the client, or to the court directly if requested by the client.

Motor Vehicle Accidents/Service on DMV

If the writ involves a **motor vehicle accident** where the defendant resident driver/owner **can** be located, service should be handled in the same manner as in regular civil process.

If the writ involves a motor vehicle accident where the driver/owner **cannot** be located at his or her recorded address, or **his or her whereabouts are unknown**, the statutes deem the Department of Motor Vehicles as the agent for service of process. The state marshal must make a diligent search for the defendant, then prepare an affidavit of a diligent motor vehicle search, which must be served on the DMV along with the writ. The state marshal must then send the writ and affidavit to the defendant by registered or certified mail, postage prepaid, return receipt requested at the last known address on file with the DMV, along with a return for that defendant reflecting that the DMV has been served at least twelve days before the return date. Note that a state marshal may not make service on the DMV unless “it is impossible to make service of process at the operator’s last address on file in the Department of Motor Vehicles,” and the action alleges that an injury to a person or property has occurred. *See* General Statutes § 52-63.

The state marshal must make good faith and diligent efforts to make service. The courts have indicated that “impossible” means little likelihood of effective in hand or abode service. The state marshal has to certify on the process that a diligent search occurred, but no service could be made. Sometimes an address does not exist, an individual is no longer there, or the state marshal cannot enter a structure to make service. The attesting to, or affidavit of, a due diligent search is noted on the return. *See* the samples in the References Section of this manual.

If a **non-resident** (see statute for definition) defendant is being sued over an accident that occurred in Connecticut, the statutes automatically deem the Department of Motor Vehicles as the agent for service. The state marshal serves the DMV and sends a true and attested copy by registered or certified mail, postage prepaid, return receipt requested, to the last known address of the out of state defendant, along with a

defendant's return reflecting that the DMV has been served, at least twelve days before the return date. *See* General Statutes § 52-62.

For specific procedures on the above see General Statutes §§ 52-62 and 52-63. Service on the DMV can be made in a drop off box at the DMV office at 60 State Street, Wethersfield, Connecticut. Under General Statutes § 52-62, a \$20 fee is required for service on the DMV for a non-resident, and, under General Statutes § 52-63, a \$50 fee is required for service on the DMV if the owner cannot be found. The fee is to be paid by a check made payable to the "DMV". The state marshal must also fill out Department of Motor Vehicles Form J-24, which must accompany the check. *See* Service of Process upon the Department of Motor Vehicles J-24 Rev. 2-2012 on the State Marshal Commission website.

Service on Entities

In Connecticut: For service of a writ and for civil process in general, General Statutes § 52-57 sets forth specific procedures for serving various classes of defendants, including **individuals** and **municipalities**, including towns, school districts, boards, and other entities. The statute also sets forth procedures for service on **private corporations, partnerships, voluntary associations, and procedures in some child support matters**. State marshals need to become familiar with these statutes.

Corporations: When dealing with service on various business entities, it is important for the state marshal to discuss with his or her client the legal nature of the business and the applicable statute for service. In general, service on a private **Connecticut corporation** is made on authorized individuals as listed in General Statutes § 52-57. Additionally, for Connecticut corporations, General Statutes § 33-663 permits service on a registered agent of a stock corporation and General Statutes § 33-1053 permits service on a registered agent of a non-stock corporation. A registered agent, normally on file with the Secretary of the State's office, is usually an individual or some legally authorized entity that is chosen by the corporation to accept service for the corporation. These sections provide for in hand service on the agent or abode service, if a natural person is the agent. If there is no registered agent, or the registered agent cannot with reasonable diligence be served, the statutes direct that service can be made by registered or certified mail, postage prepaid, return receipt requested to the secretary of the corporation at the corporation's principal office.

A necessary resource for state marshals when they are searching for information on businesses in Connecticut is the Office of the Secretary of the State's **CONCORD database**. The state marshal may perform a business search by accessing the Secretary of the State's website at www.sots.ct.gov, selecting "Business Information," and then selecting "Search a Business." The marshal may also call the Office of the Secretary of the State's Commercial Recording Corporation information department. Also note that towns require local businesses to register with the town clerks. Check the applicable

town clerk's office for additional information when searching for non-corporation business locations and owners.

Limited Liability Companies or Registered Foreign Limited Liability Companies: Public Act 16-97 (now codified in General Statutes § 34-243r) made significant changes to the way limited liability companies and registered foreign limited liability companies are served with process. Under the Act, service of process may be made on a limited liability company or registered foreign limited liability company (hereinafter “company”) by serving its **registered agent**. General Statutes § 34-243r (a). If the **Secretary of State has been appointed as the agent** for service of process for a foreign limited liability company, that company may be served by either (1) leaving two true and attested copies of such process together with the required fee at the office of the Secretary of the State or (2) depositing the same in the United States mail, by registered or certified mail, postage prepaid, addressed to said office. General Statutes § 34-243r (b).

If process **cannot be served on a company's registered agent**, service may be made by handing a copy to the **individual in charge** of any regular place of business or activity of the company or foreign company **if the individual served is not a plaintiff in the action**. General Statutes § 34-243r (d).

Note that, if a limited liability company or registered foreign limited liability company **ceases to have a registered agent**, or if **its registered agent cannot be served with reasonable diligence**, the company may be served by registered or certified mail, return receipt requested, or by similar commercial delivery service, addressed to the company or foreign company at its **principal office**. The address of the principal office will be that listed on the company's most recent annual report filed by the Secretary of the State. General Statutes § 34-243r (c). For service sent to the company's principal address, service is effected the earliest of the following: (1) The date the company or foreign company receives the mail or delivery by the commercial delivery service; (2) the date shown on the return receipt, if signed by the company or foreign company; or (3) five days after its deposit with the United States Postal Service, or with the commercial delivery service, if correctly addressed and with sufficient postage or payment. General Statutes § 34-243r (c).

Nonresident Individuals, Foreign Partnerships, and Foreign Voluntary Associations: “Foreign” in the context of business entities refers to business entities created under laws other than that of the state of Connecticut. General Statutes § 52-59b outlines procedures for service on nonresident individuals, foreign partnerships, and foreign voluntary associations. If certain statutory tests are met, then the **Office of the Secretary of the State** can be deemed an agent for service. Such service is done by leaving one true and attested copy of the papers with the Office of the Secretary of the State at 30 Trinity Street, Hartford, Connecticut, at least twelve days before the return date, and by sending to the defendant's last known address, by registered or certified mail, postage prepaid, return receipt requested, a true and attested copy of the papers with an endorsement thereon of the service upon the Secretary of the State. The state marshal

must also tender a \$50 check to the Office of the Secretary of the State. There is a drop box at the Office of the Secretary of the State used for any such service.

Foreign Corporations: General Statutes § 33-929 (stock) and General Statutes § 33-1219 (non-stock) outline the procedures for service on foreign corporations. These sections allow for service on a registered agent. A registered agent, normally on file with the Office of the Secretary of the State, is generally an individual or some legally authorized entity that is chosen by the corporation to accept service for the corporation. These sections provide for in-hand service on the agent of abode service, if a natural person is the agent. Effective dates of service are calculated as noted in the statutes.

If there is no registered agent, a state marshal can make service by sending service by registered or certified mail, return receipt requested, addressed to the secretary of the foreign corporation at its principal office shown in its application for a certificate of authority or in its most recent annual report. If the state marshal cannot locate any valid information and cannot find the registered agent after reasonable diligence (as well as other reasons listed), the state marshal can prepare an affidavit of due diligence and serve the Office of the Secretary of the State.

If the Secretary of the State is chosen as a registered agent, then the state marshal makes service by leaving **two** true and attested copies of the papers with the Office of the Secretary of the State, **or** by sending to the Office of the Secretary of the State, by registered or certified mail, postage prepaid, return receipt requested, two true and attested copies with endorsements thereon. The Office of the Secretary of the State will then send the paperwork to the foreign corporation at its last known address. The state marshal must also tender a \$50 check to the Office of the Secretary of the State. There is a drop box at the Office of the Secretary of the State used for any such service.

If the agent of a foreign corporation is involved in an automobile accident in Connecticut, the state marshal should first serve the registered agent. If there is no agent, it is possible to serve the DMV pursuant to General Statutes § 52-62 with an affidavit of diligent search and mail the service out with the affidavit to the last known address on the accident report.

Note: It is very important for the state marshal to communicate with his or her client to clarify what type of business entity is being served so the appropriate statutory procedures can be followed. The above-noted statutes are **only the most basic**. There are different procedures for other entities, such as limited partnerships and statutory trusts. Additionally, there are several statutes that provide for the involvement of the Office of the Secretary of the State under specified circumstances. State marshals must follow the procedures in the statute that is appropriate for the particular type of service. For more information, please reference the Review Guidelines for Writs (Effective July 1, 2017), published by the Office of the Secretary of the State and provided in the Supplemental Materials subsection of this section. As noted above, there have been significant changes to the laws involving service on the Secretary of the State when a matter involves a limited liability company. **When making service at the Office of the Secretary of the**

State, the state marshal must note on the papers which statute(s) under which the marshal is making service of process.

Insurance Commissioner: There are times when the Insurance Commissioner is an agent for service of process. The circumstances under which the Insurance Commissioner would be served and the procedures for such service of process can be found in General Statutes §§ 38a-25 and 38a-26. The state marshal should serve **two** copies to the Insurance Commissioner, along with a check in the amount of \$50 for each person or insurer to be served. Proof of service will be evidenced by a certificate signed by the Commissioner or by the official designated to receive service of process that shows service was made on him or her and that he or she mailed the service to the appropriate person. The Insurance Commissioner will keep a record of the service in his or her files.

Service in lawsuits against the State: State marshals can find the general procedures for service of process in civil actions against the state and its various entities (e.g. institutions, boards, commissions, departments, or administrative tribunals thereof, or against any officer, servant, agent, or employee of the state) in General Statutes § 52-64. Service in these matters should be served on the **Office of the Attorney General** at 55 Elm Street, Hartford, Connecticut, in person or by registered or certified mail, postage prepaid, return receipt requested. Note that when serving the Office of the Attorney General, a state marshal should only serve **one** copy of the writ with the office (even if there are multiple defendants). Accordingly, the state marshal will also charge only **one service fee**, as opposed to the typical “per defendant” service fees.

Where the defendant is an individual, civil process may only be served at the Office of the Attorney General if the defendant is being sued in his or her *official* capacity. If the individual is being sued in his or her *individual* capacity, he or she must be served either in-hand or abode and the Attorney General will not accept such service. The state marshal should review the face of the writ to determine whether or not the defendant is being sued in his or her official or individual capacity. If the status is unclear from the face of the writ, the state marshal should seek clarification from his or her client. Also note that the Office of the Attorney General does not accept service for quasi-public agencies.

Service on Incarcerated Persons: General Statutes § 52-56 permits a state marshal to serve papers on any person confined in a correctional institution located anywhere in the state even if that correctional institution is located outside of his or her county of appointment. *See* General Statutes § 52-56. For service requests received **from** incarcerated persons to be served against the State, please see the preceding subsection regarding Service against the State.

Special Deputation

Pursuant to General Statutes § 52-53, a state marshal may, “on any special occasion,” depute any proper person to serve process. This authority is “extremely limited” and a state marshal may only depute another in situations of absolute necessity. *See* Opinion of the Attorney General, 2009-009 in the References section of this manual. A state marshal is **not** permitted to depute another in the “ordinary course of business.” *See id.* For example, a state marshal cannot depute another individual because he or she is too busy to take a particular service. In addition, should a state marshal depute another, he or she may be exposed to liability due to the deputed individual’s actions. Unauthorized or non-emergent deputation may subject the state marshal to disciplinary action by the State Marshal Commission. A state marshal should contact the Commission prior to deputing anyone under this provision.

The above review covers the general area of civil process. However, there are numerous statutes that set forth specific service requirements, or refer back to the general provisions as noted above. A state marshal should always check the statutory authority under which he or she is operating to ensure proper procedures are followed in any given service of process.

Major Statutes

There are many statutes that touch on the service of civil process. The state marshal should always check with his or her client, attorney (if applicable), and the statutes if he or she has any questions about a particular service. The following reference list is not exhaustive and sets forth only the most important and commonly used statutes covering civil process:

- 52-45a Commencement of civil actions.
- 6-32 State marshal duty to serve and make prompt and true return; liability.
- 6-38a Authority for a state marshal to serve process and make legal executions; authority for right of entry/not personally liable for damages.
- 6-38d Illegal billing (state marshals cannot bill for work they did not actually perform - they may not charge a fee if they did not complete service).
- 52-46 Timing of service (30 days - Supreme Court; 12 days - Superior Court).
- 52-46a Timing of return (20 days - Supreme Court; 6 days - Superior Court).
- 52-48 Return date (Tuesday - except summary process; returnable not later than two months after date of process).

- 52-593a Statute of limitations (30 day rule - action not lost if delivered to state marshal and served within thirty days of delivery).
- 52-50 Persons to whom process shall be directed.
- 52-54 Methods of service - summons.
- 52-261 State marshal fees for serving process.
- 52-261a State marshal fees for work conducted for the Judicial Branch or the Division of Criminal Justice.
- 52-70 Penalty for charging illegal fees (state marshal cannot receive more than his or her legal fees on civil process).
- 52-52 Orders of Notice (notice by publication); *See also* General Statutes § 1-2.
- 1-2a Definition of the term “postmark.”
- 52-53 Special deputation by state marshal (Extraordinary circumstances-*See* Special Deputation subsection above).
- 52-55 Completion of service by another state marshal.
- 52-56 Service outside of a state marshal’s county. *See also* Capias Warrants and Civil Process sections of this manual.
- 51-15 Small claims matters. *See also* Connecticut Practice Book § 24 and the applicable Small Claims section of this manual.
- 52-57 Manner of service upon individuals, municipalities, corporations, partnerships and voluntary associations.
- 52-57a Service upon a person in another state on someone who has a Connecticut domicile or is subject to the jurisdiction of the court.
- 52-59b Service upon nonresident individuals, foreign partnerships, and foreign voluntary associations (service upon the Office of the Secretary of the State). *See* Review Guidelines for Writs at the end of this section for additional statutory citations regarding writs served on the Office of the Secretary of the State.
- 52-62 Non-resident; motor vehicle accident (DMV).

- 52-63 Connecticut operator/owner, not found at recorded address; motor vehicle accident (DMV).
- 52-64 Service in actions against the State (service on the Office of the Attorney General).
- 52-72 Amendment of process (defective service; amended process shall be served in same manner and shall have same effect, from the date of service, as if originally proper in form).
- 34-243r Service of process on a Limited Liability Company (LLC) or registered foreign limited liability company.
- 33-663 Service of process on a corporation (Connecticut stock).
- 33-1053 Service of process on a corporation (Connecticut non-stock).
- 33-929 Service of process on a foreign corporation (created under the laws of another state or foreign country; stock).
- 33-1229 Service of process on a foreign corporation (created under the laws of another state or foreign country; non-stock).
- 38a-25 & 38a-26 Insurance Commissioner as agent for service circumstances and procedure for service.
- 52-583 Statute of limitations on actions against state marshal (two years for claim of state marshal's neglect or default of state marshal's office or duty).

Connecticut Practice Book: The Judicial Branch issues a Connecticut Practice Book annually. The Practice Book sets forth the rules governing lawyers and judges and the procedures for the Judicial Branch. It is important that state marshals are familiar with the Practice Book, as it contains information regarding service of process.

Forms

The following is a list of the common forms utilized for civil process. Note that these forms are updated frequently by the Judicial Branch. Accordingly, it is important to verify that the most current form has been utilized. These forms are available at the Forms section of the Judicial Branch website located at: <http://www.jud.ct.gov/webforms>

JD-CV-001 Summons - Civil

JD-CV-120 Application For Waiver of Fees - Civil, Housing, Small Claims

JD-FM-003 Summons, Family Actions

JD-FM-075 Application For Waiver of Fees/Appointment of Counsel, Family

Civil E-Filing

For most civil matters, certain family matters (dissolution of marriage, legal separation, annulment, and civil union - dissolution, legal separation and annulment), and housing matters filed after October 1, 2015 or March 1, 2016 (depending on the relevant courthouse) e-filing is **mandatory** for parties represented by attorneys and **optional** for self-represented parties. There are some types of matters for which e-filing is not available. For instance, e-filing is not available in certain family matters or in any civil matter where a fee waiver has been granted. Please see the Judicial Branch website at <https://www.jud.ct.gov/external/super/E-Services/efile/> for more information about the types of cases that are able to be e-filed at this time.

The Chief Court Administrator for the Judicial Branch has issued *E-Services Procedures and Technical Standards* for electronic services offered by the Branch. These services include facsimile filing, e-filing, short calendar markings, small claims and electronic citations. The E-Services system is limited to the following enrolled users:

- 1) Attorneys: enrolled attorneys, law firms, and employees of the law firm under the supervision of an enrolled attorney. E-filing is **mandatory** for this category of filers for cases where e-filing is available;
- 2) Designated filers: state marshals authorized by an attorney to be a designated filer. Access to the E-Services system for designated filers is limited to e-filing case initiation documents and paying the filing fee on the attorney's behalf; and
- 3) Self-represented parties: self-represented parties may enroll and participate in e-filing where it is available, however it is optional. Self-represented parties may **not** authorize a state marshal to be a designated filer in order to e-file case initiation documents.

The Judicial Branch has created a **designated filer** status for state marshals to use when e-filing case initiation documents and/or when paying the filing fee on behalf of an attorney. Note that it is **not** mandatory for a state marshal to be an authorized designated filer for an attorney. Accordingly, a marshal may opt to return the original writ and his or her return to the attorney for formatting and e-filing. As noted above, a self-represented party is **not** permitted to authorize a state marshal to be a designated filer and, accordingly, if the self-represented party opts to use the e-filing system in a matter, the marshal **must** return the original writ and his or her return to the self-represented party for formatting and e-filing.

If a marshal has been authorized by an attorney as a designated filer, he or she must register with E-Services and obtain his or her own login credentials (User ID and password) independent of the attorney's login credentials. In addition, the attorney must login to the E-Services system and authorize the designated filer to e-file the case initiation documents for a particular matter. Any electronic transactions conducted by a

designated filer are presumed to be authorized by the attorney/law firm whose juris number was used by the designated filer.

Only PDF documents may be e-filed. Accordingly, if a state marshal is a designated filer, he or she must first scan and format the case initiation documents as a PDF document in order to file them. In addition, there are size restrictions for e-filed documents. Please see the Judicial Branch website for more information. After filing, you will receive an e-filing confirmation page which confirms that the e-filing was successfully uploaded. You should keep a copy of this page for your records. Note that documents that are e-filed are not screened by the court for content, legibility or other issues. You must review the documents upon filing to confirm that the document contains the correct case caption and is complete, properly formatted and legible. Note that, if mistakes are made during the e-filing process, such as uploading the incorrect document, uploading an illegible document, or incorrectly data entering case information, they may be corrected by the attorney by filing the relevant motion or request.

Note that, for all e-filed cases initiated with a return date of January 1, 2010 and later, with the exception of a bond filed in any action, the attorney is not required by the court to keep the original signed paper case initiation documents. A state marshal who is acting as a designated filer should send the original signed documents back to the attorney after filing, along with a copy of his or her return and the e-filing confirmation page. The marshal should also retain a copy of these documents for his or her records. The marshal may wish to keep a copy of the e-filed writ.

Attorneys and self-represented parties enrolled in the E-Services system may access the entire content of a file online. State marshals who are designated filers have limited access to the E-Services system and may only view the case initiation documents that he or she has filed. If you wish to view the entire contents of an e-filed matter, public access to all non-sealed electronic documents in matters pending statewide is available at public access computers in every Judicial District courthouse. You do not have to be in the specific Judicial District courthouse in which the matter is pending to view e-filed items from one of the public access computers. Public access from a location other than a judicial district courthouse is more limited.

The information in this Manual represents a summary and is not a substitute for information available directly from the Judicial Branch. Information about the E-Services system is available on the Judicial Branch website at: <https://www.jud.ct.gov/external/super/E-Services/efile/>. State marshals who are designated filers should review this webpage periodically to see if there are any changes or updates regarding e-filing policies and procedures.

Out-of-County State Marshal Work

State marshals hold power and authority by virtue of their appointment in one of eight counties in Connecticut. The general rule is that a state marshal may exercise his or her powers only within his or her county of appointment (also known as a precinct). There are some limited instances where a marshal has statutory authority to act outside of his or her county of appointment. General Statutes § 52-56 sets forth certain instances where a state marshal may conduct service of process or executions outside of his or her county of appointment as summarized below. Other statutes authorize service by publication or certified mail or, in the case of wage executions, service at an out-of-county address designated by an employer.

Actions with Multiple Defendants/Garnishees: Where there are two or more defendants/garnishees in a civil action, and at least one of the defendants/garnishees resides in the state marshal's county, the state marshal may serve the defendant/garnishee in his or her county and then may go out of his or her county to serve the remaining defendants/garnishees. *See* General Statutes § 52-56 (b). Note that if a state marshal utilizes this extension of precinct, the returns for the out of county defendants/garnishees should note this extension and state the name and address of the in-county defendant/garnishee served. A state marshal who exercises this authority to work out of his or her county of appointment should keep a copy of his or her return or other documentation showing that the state marshal served at least one defendant/garnishee in his or her county. Note that, in this scenario, the state marshal may also serve the in-county defendants/garnishees and then deliver the process to a marshal in the other county for service on defendants/garnishees in that county. If this option is exercised, all serving marshals must endorse their actions as to the service on the process and the marshal who completes the service shall return the process to court.

Please note that, when a state marshal is commencing a civil action, he or she may not go out of his or her county unless at least one of the defendants/garnishees resides in his or her county. This means that if all of the defendants/garnishees reside in another county, the marshal may not serve the summons. Please note, however, that service of a summons on the Secretary of the State, the Commissioner of Motor Vehicles, the Attorney General, or the Insurance Commissioner is deemed to be commencing the action in the serving marshal's county. *See* General Statutes § 52-56 (c). Accordingly, if a state marshal serves the summons on one of these articulated state offices, then that state marshal would be permitted to serve any remaining out of county defendants/garnishees.

Actions Commenced in County: Where a state marshal has commenced a civil action by serving the writ, summons and complaint on at least one defendant within his or her county of appointment, he or she may go out of county to secure property on prejudgment attachments or garnishments. *See* General Statutes § 52-56 (a). In addition, the marshal who commenced the action may later go out of county to execute post-judgment wage executions, financial institution executions, and property executions

ordered in the matter. Note that if a state marshal utilizes this extension of precinct, the return should indicate that the state marshal initiated the action in his or her county and list the in-county address where the process was initially served. A state marshal who exercises this authority to work out of his or her county of appointment should keep a copy of his or her return or other documentation showing that the state marshal commenced the underlying civil action by serving the initial process.

Service on Certain State Offices: In any action where process is permitted to be served upon the Secretary of the State, the Commissioner of Motor Vehicles, the Attorney General, or the Insurance Commissioner, a state marshal appointed in any county may make such service. *See* General Statutes § 52-56 (c). In addition, as noted above, service on one of these state offices constitutes commencement of service in that state marshal's county such that he or she may complete service on other defendants/garnishees residing out of his or her county.

Capias Warrants: A state marshal appointed in any county may execute a capias warrant issued by a court or family support magistrate statewide. *See* General Statutes § 52-56 (d).

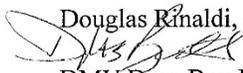
Service on Inmates in Correctional Centers: A state marshal appointed in any county may serve a person confined in *any* correctional institution or community correctional center located in Connecticut. *See* General Statutes § 52-56 (e).

Service of Wage Executions on Designated Out-of-County Office: A Connecticut employer may specifically designate an out of county or out of state office (e.g. a payroll office/or executive headquarters) to receive service of wage executions. In such instances, the state marshal may serve the wage execution on the employer by certified mail, return receipt requested, sent to the designated out of county or out of state office. *See* General Statutes § 52-361a (d), as amended by Public Act 16-64. Note that if a state marshal serves an employer under this provision, the return should so indicate.

State of Connecticut
Department of Administrative Services
State Marshal Commission

Peter J. Martin, Esquire
Chairperson

Douglas Rinaldi
Administrative Director

DATE: January 11, 2012
TO: State Marshals
FROM:  Douglas Rinaldi, Administrative Manager
SUBJECT: DMV Drop Box Relocation and Form JV24

Administrative Bulletin
12-02

I am pleased to announce that the DMV Drop Box has been relocated to a more convenient location. The new location is located at the west entrance (public parking lot) inside the second set of doors on the right wall. Please note that you may use the newly renovated cafeteria for any form completion work you may need to do onsite.

Efforts are being made to convert form J24 to a writable PDF that will become part of the State Marshal Commission web page. This will allow you to print the completed form prior to your visit to the DMV. I will announce when the new form is posted online.

Please contact my office with any questions you may have on this administrative bulletin.

Thank you for your attention in this matter.

165 Capitol Avenue, Room 483
Hartford, Connecticut 06106
Tel. (860) 713-5372 Fax. (860) 713-5377

State of Connecticut
Department of Administrative Services
State Marshal Commission
das.ct.gov/statemarshal

Peter J. Martin, Esq.
Chairperson

Douglas Rinaldi
Administrative Manager

DATE: May 8, 2012

TO: State Marshals

 FROM: Douglas Rinaldi, Administrative Manager

SUBJECT: Service of Process upon the Department of Motor Vehicles
Form J24

ADMINISTRATIVE BULLETIN
12-12

I am pleased to announce that form J24, Service of Process upon the Department of Motor Vehicles, has been converted into a writable PDF document and is posted at the bottom of the State Marshal Commission web page. You do not need to print three copies for the DMV drop box. You are now allowed to drop one J24 if you utilize the writable PDF. I hope this helps with completing Service of Process upon the DMV.

Thank you for your attention to this matter.

165 Capitol Avenue, Room 483
Hartford, Connecticut 06106
Tel. (860) 713-5372 Fax. (860) 713-5377

U.S. Postal Service: 5-2 Requests for Employee or Customer Information



Guide to Privacy, the Freedom of Information Act, and Records Management

Handbook AS-353

March 2016
Transmittal Letter

- A. Introduction.** Key strategies of the Postal Service's Transformation Plan are to achieve growth by adding value for customers and to improve the workplace environment. The proper collection, use, and protection of customer and employee information are key parts of that value proposition.
- B. Instructions.** This handbook replaces the original publication dated September 2005.
- C. Explanation.** This handbook provides direction and guidance for Postal Service™ employees, suppliers, or other authorized users with access to Postal Service records and information resources. The handbook also provides direction and guidance for customers, employees, suppliers, or other individuals about how their information is collected, maintained, used, disclosed, and safeguarded. This version of the handbook includes a completely revised appendix of Privacy Act systems of records, as last published in their entirety in the *Federal Register*. In addition, chapters 1 through 4 were revised to clarify current procedures. For ease of use, rules involving special categories of records, such as customer names and addresses, were relocated from chapter 4 to a new chapter 5.
- D. Distribution.** This handbook is available online on both the USPS® Intranet (<http://blue.usps.gov/cpim/>) and the FOIA page at [usps.com](http://www.usps.com/foia) (<http://www.usps.com/foia>).
- E. Comments.** Submit questions, comments, or suggestions about this handbook to:
- THOMAS J MARSHALL
GENERAL COUNSEL AND EXECUTIVE VICE PRESIDENT
US POSTAL SERVICE
475 L'ENFANT PLZ SW RM 6004
WASHINGTON DC 20260
PHONE: 202-268-5555
- F. Effective Date.** This handbook is effective March 2016.

Thomas J. Marshall
General Counsel and Executive Vice President

5 Requests for Special Categories of Records

5-1 General

The following procedures apply when responding to requests for certain categories of records that are frequently requested and involve special processing rules. This chapter concerns requests for three special categories of records:

- Employee or customer records, such as customer name and address data
- Records requested on behalf of Congress
- Records subject to litigation

Custodians must follow the timetables, fee schedules, reporting requirements, and other administrative requirements set forth in chapter 4.

5-2 Requests for Employee or Customer Information

a. *General.*

- (1) If requesters seek records about themselves, the records must be released subject to the following exceptions. If the records are contained in a system of records, the requester is generally entitled to access to the records under the Privacy Act. However, the records should be withheld if they are exempt from disclosure under both the Privacy Act and the FOIA (see sections [3-4.1b\(7\)](#) and [4-5](#)). Typically if there is a Privacy Act exemption there is a FOIA exemption that will apply as well. If the records are not contained in a system of records, then the requester is entitled to access the records under the FOIA. The records must be released unless a FOIA exemption applies.
- (2) If the requester seeks records about another customer, employee, or other individual, privacy rules apply. If the information is contained in a system of records, it may only be released as allowed under the Privacy Act as described in section [3-5](#). Even if not so protected, records about individuals may be exempt from disclosure under one or more FOIA exemptions, particularly Exemption 6 (see section [4-5.6](#)).

Nonpublic or confidential information about business customers or the Postal Service should not be disclosed if exempt, such as under FOIA Exemptions 3 or 4 (see sections 4-5.3 and 4-5.4).

- b. *Employee Information.* The following information about employees may be disclosed. Other information may only be disclosed under the general rule above.
 - (1) *Employment Data.* The following data is considered public information: the name, job title, grade, current salary, duty station, and dates of employment of any current or former Postal Service employee.
 - (2) *Release of Employee Records for Credit or Job References.* Public information about a current or former employee may be given to prospective employers, or to credit bureaus, banks, federal credit unions, and other commercial firms from which an employee is seeking credit. For former employees, prospective employers may also be given the date and reason for an employee's separation from the Postal Service, but the reason for separation must be limited to one of the following terms: retired, resigned, or separated. Other terms or variations of these terms (e.g., retired — disability) may not be used. If a credit firm or prospective employer requests more information, it must submit a release form signed by the individual.
 - (3) *Employee Listings.* On written request, the Postal Service provides, to the extent required by law, a listing of employees working at a particular Postal Service facility (but not their home addresses or Social Security numbers).
- c. *Third Party Business Information.* A custodian may only release nonpublic third party business information in accordance with these procedures.
 - (1) *General.* Under FOIA Exemption 4, any person or entity who submits business information to the Postal Service ("submitter") is entitled to request that the information not be disclosed. The submitter may request that information be withheld: (1) when submitting the information, by designating all or part of the information as not releasable (e.g., by marking designated information as privileged or not releasable); or (2) in response to notice of a FOIA request. If information is supplied on a recurring basis, a simplified means of identifying non-releasable information may be agreed upon by the submitter and the custodian. Protective designations expire 10 years after the records were submitted unless the submitter provides a reasonable justification for a longer period. No action is needed by the custodian unless a request for the submitter's information is received.

(2) *Notification:*

- (a) *General.* Unless an exception applies, the custodian must notify a submitter within 5 days (excluding weekends and federal holidays) after a FOIA request is received for the submitter's business information if:

- The submitter has designated the information as protected from disclosure; or
- In the opinion of the custodian, or the general counsel in the case of an appeal, disclosure of the information could result in competitive harm to the submitter.

The notification must either describe the exact nature of the business information requested, or provide copies of the records or portions of records containing the business information. The custodian must notify the requester that notice and an opportunity to object are being provided to the submitter.

- (b) *Exceptions.* Notification does not need to be made if:

- The custodian determines that the information will not be disclosed.
- The information lawfully has been published or has been officially made available to the public.
- Disclosure of the information is required by law (other than FOIA).
- Disclosure of the particular kind of information is required by a Postal Service regulation. In such cases, the custodian must provide advance written notification to the submitter if the submitter had designated the information as protected.

- (3) *Submitter Objections to Disclosure.* The custodian must give the submitter a reasonable time to provide a detailed written statement of any objection to disclosure. The objection must specify the grounds for withholding any of the information under any FOIA exemption. Specifically, under FOIA Exemption 4, the submitter must demonstrate why the information is a trade secret or commercial or financial information that is privileged or confidential. When possible, the objection should be supported by a statement or certification by an officer or authorized representative of the submitter that the information in question is confidential, has not been disclosed to the public by the submitter, and is not routinely available to the public from other sources. The objection and any accompanying information may also be subject to disclosure under FOIA.

- (4) *Disclosure.* If planning to disclose records over the submitter's objection, the custodian must furnish the submitter a written notice that includes:

- (a) A description of the business information to be disclosed.

- (b) A statement of the reasons the submitter's objections were not sustained.
- (c) The specific date on which disclosure is to occur. The notice of intent to disclose must be provided to the submitter in a reasonable number of days before the specified disclosure date, and the requester must be notified that the notice of intent has been provided to the submitter.
- (5) *Nondisclosure.* If the custodian determines that any part of the requested records should not be disclosed, the custodian must notify the requester in writing, and include the right to appeal the decision. See section 4-3.6. A copy of the letter of denial must also be provided to the submitter in any case in which the submitter had been notified of the request. If a requester brings a lawsuit seeking to compel disclosure of business information, the general counsel or designee must promptly notify the submitter.
- d. *Customer Names and Addresses.* The procedures related to the disclosure of customer names and addresses are as follows:
 - (1) *Customer or Mailing Lists.* Mailing lists or other lists of names or addresses (past or present) of Postal Service customers or other persons may not be made available to the public by any means or for any purpose.
 - (2) *Address Location.* If the location of an address is known, a Postal Service employee may disclose the location or give directions to the address.
 - (3) *Release of Address Information:*
 - (a) *General.* Information relating to boxholders, permanent and temporary change of address, and commercial mail receiving agencies may only be disclosed as permitted by the Privacy Act and routine uses for the applicable system of records. See the Appendix, additional instructions in section 5-2d(3)(b), and Exhibit 5-2a, Address Disclosure Chart.
 - (b) *Additional Instructions.* The following additional instructions must be followed relating to requests for change of address or boxholder information.
 - (i) *General.* Disclosures must be limited to the address of the specific individual about whom information is requested, not other family members or individuals whose name may appear on the change of address form. The address of an individual may be withheld to protect the individual's personal safety. If an individual has filed for a protective order, the address may not be disclosed except pursuant to a court order and on the advice of counsel.
 - (ii) *To persons serving legal process.* This includes persons empowered by law, the attorney for a party

on whose behalf service is to be made, or a party who is acting pro se (the term pro se means that a party is self-represented, and is not represented by an attorney). When responding, do not provide a copy of PS Form 3575, *Change-of-Address Order*, or PS Form 1093, *Application for Post Office Box or Caller Service*, to the requester. The USPS does not have a standard form for use when requesting address information. Requesters are encouraged to use the standard format in Exhibit 5-2b. If the requester uses the standard format on its own letterhead, the standard format must be used in its entirety, and the warning statement and certification must appear immediately before the signature block. If the request lacks any of the required information or a proper signature, the custodian must return it to the requester specifying the deficiency. Requests via facsimile from process servers are acceptable. Each request must specify all of the following information:

- A certification that the name or address is needed and will be used solely for service of legal process in connection with actual or prospective litigation.
- A citation to the statute or regulation that empowers the requester to serve process, if the requester is anyone other than a party acting pro se or the attorney for a party for whom service will be made.
- The names of all known parties to the litigation.
- The court in which the case has been or will be commenced.
- The docket or other identifying number, if one has been issued.
- The capacity in which the individual is to be served (e.g., defendant or witness).

(iii) *To a federal, state, or local government agency.* Address verification is provided to government agencies that provide written certification that the information is needed to perform their duties. Address verification may also extend to a government contractor if its request is submitted on the agency's letterhead and contains a certification signed by a duly authorized agency official that the contractor requires the information to perform official agency business pursuant to the contract with the agency. The contractor's request may also be on its own letterhead if accompanied by the agency certification. Verification means advising the agency

as to whether the address provided is one at which mail for that customer is currently being delivered. It does not mean or imply knowledge on the part of the Postal Service about the actual residence of the customer or the actual receipt of mail delivered to that address. Agencies must use the standard format in Exhibit 5-2c when requesting address verification. If the request lacks any of the required information or a proper signature, the custodian must return the request to the agency specifying the deficiency in the space marked "other." Requests via facsimile from government agencies are acceptable.

- (iv) *For jury service.* The known mailing address of any customer sought for jury service is provided without charge to a court official, such as a judge, court clerk, or jury commissioner, upon prior written request.

Exhibit 5-2a
Address Disclosure Chart

Secretary of the State: Review Guidelines for Writs

REVIEW GUIDELINES FOR WRITS (Effective July 1, 2017)

Corporation						
Domestic	33-663	NO SERVICE				
Foreign Corporation	33-929	SOS agent			2 copies	\$50.00
Nonstock Domestic	33-1053	NO SERVICE				
Nonstock Foreign	33-1219	SOS agent			2 copies	\$50.00
Limited Liability Company						
Foreign	34-243r	SOS agent			2 copies	\$50.00
	34-243r	Foreign Unauthorized (SOTS agent pursuant to 34-275a)			2 copies	\$50.00
Limited Partnership						
Domestic	34-13b	Only with affidavit of due diligent search			1 copy	\$50.00
Foreign	34-38q	SOS agent			2 copies	\$50.00
	34-38q	(If SOS not agent, only w/affidavit of due diligent search)			1 copy	\$50.00
	34-38l(d)	Foreign Unauthorized			2 copies	\$50.00
Individuals						
Non-resident	52-59b				1 copy	\$50.00
Connecticut resident	52-57	Only with affidavit of due diligent search			1 copy	\$50.00
Statutory Trusts						
Domestic	34-508(c)	Only with affidavit of due diligent search			1 copy	\$50.00
Foreign	34-533	SOS agent/OR Affidavit of due diligent search			2 copies	\$50.00
	34-539(c)	Foreign Unauthorized			1 copy	\$50.00
	47-244b	Only with affidavit			2 copies	\$50.00
Unincorporated Association						
					1 copy	\$50.00
Miscellaneous						
Chartered in Connecticut	52-57	AS APPLICABLE			1 copy	\$50.00
Insurance Company		Only if 38a-273 is specified on writ			2 copies	\$50.00
Service on any State agency		Refer to Attorney General's Office				

This chart is meant as a quick reference and does not represent the only means of service of process. CHECKS SHOULD BE MADE PAYABLE TO THE SECRETARY OF THE STATE. Clearly indicate the defendant being served through this office. Statutory citation must be indicated on process.

Revised 7/1/2017

V. DMV CALL-IN LINE

Summary

The Department of Administrative Services (DAS), the Department of Emergency Services and Public Protection (DESPP), and the Department of Motor Vehicles (DMV) entered a Memorandum of Understanding (MOU) enabling state marshals to obtain DMV license and registration verification information from DAS via a dedicated telephone line.

Any state marshal who wishes to utilize the License and Registration Verification Service (“DMV Call-In Line”) must first complete, sign and submit a License Verification Service User Agreement to the Commission office. State marshals who attempt to use the DMV Call-In Line without a current User Agreement on file will not be provided with information and may be subject to discipline.

Dedicated DMV Call-In Line Telephone Number: There is a dedicated telephone number for the DMV Call-In Line which is provided to state marshals once they sign a user agreement. State marshals may make license verification requests only to this dedicated telephone number. In addition, state marshals should not call this dedicated line for any other purpose. Hours of operation for the DMV Call-In Line will vary depending on staff availability and are only during regularly scheduled business days for DAS. Although call volume and staff availability dictate hours and response times, staff will make every effort to return voicemails within 48 hours of receipt.

State marshals shall adhere to the following procedures when utilizing the DMV Call-In Line:

1. A state marshal must have a signed User Agreement on file with the Commission office in order to utilize the DMV Call-In Line.
2. The state marshal may only call the dedicated telephone number for the DMV Call-In Line when requesting license information. The state marshal may not call any other telephone number when requesting license information including the main telephone number for the Commission or the telephone number of any staff member.
3. When the marshal calls for service, he or she must provide his or her badge number. A state marshal seeking to verify a Connecticut address must provide either (1) a subject’s name and driver’s license number; (2) a subject’s name and date of birth; (3) a vehicle identification number (VIN); or (4) a vehicle registration number and class code. These information options are the basis of the search of the DMV database.
4. The state marshal will receive *verbal* address verification based upon information in driver and vehicle records contained within the DMV database. DAS cannot provide written documents or copies of DMV records. Only verbal information will be provided.

5. This is **not** an emergency hotline answered by a dispatcher or operator. Accordingly, should a state marshal call the designated telephone number and the call is sent to voicemail, the marshal must leave a voice message. As noted above, staff will make every effort to return voicemails within 48 hours of receipt.
6. The DMV Call-In Line is not monitored during the evenings, on weekends, or during state holidays. State marshals should limit their calls to business hours only unless utilizing the emergency after-hours verification service provided by DESPP described below.

DESPP Emergency After-Hours Verification Service: Under the MOU, state marshals may contact DESPP for address verification information in very limited circumstances where they have a need for such information on an emergency basis for capias warrants or restraining orders, and only when DAS is not open for business. Note that, as with the DAS DMV Call-In Line, marshals may only call DESPP for information if they have a user agreement on file with the Commission.

Authorized Use: DAS, DESPP, and DMV provide this license verification information to state marshals solely for use in the performance of their statutory duties. Each call made to the DMV Call-In Line is logged. The license verification information provided is confidential personal information which may not be wrongfully disclosed or used for an unauthorized purpose. If a state marshal wrongfully discloses or uses information received from the DMV Call-In Line, he or she may be subject to sanctions under both state and federal law as well as discipline by the Commission including but not limited to the revocation of his or her appointment as a state marshal.

The DMV Call-In Line provides essential information to state marshals in the performance of their statutory duties. All state marshals should follow the above procedures and guidelines and be adaptable to any changes that may be required.

VI. EVICTIONS (SUMMARY PROCESS)

Summary

Definitions

The first step in the Summary Process (eviction) process is the **notice to quit possession**. A notice to quit possession is a formal request that a tenant (lessee) or occupant vacate any land, building, house or dwelling unit, apartment, trailer, or trailer land. Essentially, the tenant or occupant has three full days to resolve the condition outlined in the notice to quit, or vacate the premises before formal eviction proceedings are filed in court. Note that the notice to quit is a request that the tenant vacate the property and not a court order requiring the tenant to do so.

A **summary process summons and complaint** is the document filed by the landlord or owner in court which formally initiates the eviction action. In the writ, summons and complaint the landlord or owner sets forth facts justifying a judgment for immediate possession or occupancy of specific premises and makes a claim for possession or occupancy of that premises. Generally, a service of a notice to quit must be done before the complaint process can be initiated. The General Statutes provide a few exceptions to this rule for where there is illegal use of the premises or a waiver of the notice.

A **judgment for immediate possession** is entered by the court as the final order after the tenant or occupant fails to appear or plead, or after a trial. There is an automatic stay of a summary process execution for five days, not counting Sundays, legal holidays or the date of the judgment. The tenant or occupant may apply for other stays of execution under statute. *See* General Statutes § 47a-37.

A **summary process execution for possession (eviction)** goes into effect after the **five day stay period** following the judgment or **later if other stays are requested and granted**. The execution permits the landlord or owner to take possession of a premises by hiring a state marshal to execute the eviction by removing individuals and their property from the premises. After a clerk signs the execution, the landlord or owner must give the original to a state marshal for service. The state marshal is authorized to serve and execute the eviction in accordance with the statutes.

Authority

State marshals are empowered under statute to complete the service of the notice to quit, the summary process summons and complaint and the summary process execution. In addition, they are empowered to conduct the summary process execution (eviction). Note that a notice to quit possession can be served by an indifferent person anywhere in the state, a constable in his or her town, or a state marshal in his or her county. The summary process summons and complaint may **only** be served by a constable or a state marshal within his or her jurisdiction. Likewise, the summary

process execution for possession may only be served and executed by a constable or a state marshal within his or her jurisdiction.

Manner

Notice to quit possession: The landlord or owner must sign the notice and list the name and address of all of the tenants (lessees) and/or occupants living in the premises. If the landlord or owner knows that there are adults living in the premises, but does not know their names, he or she may list “Jane Doe” or “John Doe” on the notice. *See* the Major Statutes subsection of this section regarding service on unknown individuals. The landlord or owner may leave off his or her own address from the notice and supply that information separately to the marshal. Note that **each** person listed on the notice must be served separately by the marshal with a **verified true and attested copy** of the notice to quit. For residential matters, service may be made in hand or abode. In non-residential matters the notice may be left at a commercial establishment, or with an officer, owner, or person in charge of an office or principal place of business. There must be at least **three full days** between the date of service and the date on which the occupants must vacate the premises. For example, if the notice specifies a May 20th move out date, service must be made by May 16th. The individual has until midnight of the last date specified to vacate the property.

The landlord or owner must list a reason for the eviction in the notice to quit. While there are several reasons that may be utilized, the most common are for the nonpayment of rent or the termination of a lease for lapse of time. There are special rules regarding timing for service of the notice to quit for certain types of leases. The Judicial Branch has published a guide which outlines specific examples, entitled A Landlord’s Guide to Summary Process (Eviction) and available at: <http://www.jud.ct.gov/pub.htm>. For more information about this Guide or questions about the process, you should call the Housing Court directly.

The notice to quit form has a section at the bottom where the marshal may fill in his or her **return of service**. *See* the Forms subsection at the end of this section. A marshal may also create his or her own return. *See* the samples in the References section of this manual. The marshal must return the original notice to quit with his or her return to the landlord or owner. The endorsement process and fee is the same as for civil process.

Summary process writ, summons and complaint: A summary process writ, summons and complaint is served in the same way as a regular civil summons. The landlord or owner must attach the original notice to quit along with the marshal’s return to the summons and complaint. He or she may also attach a copy of the written lease (if applicable). For residential property, the marshal may make in hand or abode service. For commercial property, the marshal must leave a copy **in hand** with the person in charge at the commercial premises, the leaseholder, or a registered agent for service, or at the usual place of abode of the leaseholder. Service must be made **six days** before the

return day, and the landlord or owner must file the return with the court at least **three full business days** before the return day. **State marshal service fees** are as in civil service.

Motion and order for payments for use and occupancy: A state marshal may be asked to serve a motion and order for payment for use and occupancy with the summary process complaint, wherein the court orders the defendant to deposit money with the court pending the housing court proceedings. *See* General Statutes § 47a-26b. If this motion is served with the complaint, the defendant has **five days** from the date the defendant appears in court to file an objection.

Summary process execution for possession (eviction): The execution (eviction) occurs after judgment is entered and the statutory stays are over. The execution must be completed within **60 days** of the date the order is signed by the court (clerk). State marshals have considerable responsibilities and authority while conducting an eviction. The following list provides an overview of the process, however note that it is important for marshals to familiarize themselves with the applicable statutes. Note that the **state marshal fee** for the service of the execution on a summary process judgment is not more than \$50. In addition, the marshal may charge up to \$100 per hour for the removal of property under the execution. *See* General Statutes § 52-261 (b). A marshal may not charge additional fees beyond those provided for in the statute. The marshal may collect the mover's fees upfront from the landlord or owner or invoice for the fees. Alternatively, the landlord or owner may contract with the movers independently.

Eviction of tenants – residential property: The eviction of tenants (lessees) and occupants from **residential** property is outlined in General Statutes § 47a-42. The eviction must be completed within **60 days** of the signature on the order.

- a) At least **24 hours** before the eviction, the state marshal must give the chief executive officer of the town where the eviction will occur notice of the eviction, stating the date, time and location of the eviction and a general description, if known, of the types and amount of property to be removed from the premises and delivered to the designated place of storage. Some towns will only do a set number of evictions a week.
- b) Before giving the **24-hour notice** to the chief executive officer of the town, the state marshal shall use reasonable efforts to locate and notify the defendants (tenants, lessees or occupants) of the date and time of the eviction and the removal and possible sale of their property. The marshal must serve **a true and attested** copy of the summary process execution on each defendant or other persons in occupancy, in hand or at the place of residence. The notice must advise the defendants that if they claim a right to remain on the premises, they should contact an attorney. The notice must also provide clear instructions as to how and where the defendant may reclaim any possessions and personal effects removed and stored at the designated place of storage, including a telephone number that may be called to arrange release of such possessions and personal effects.

- c) The state marshal must arrange for movers. The marshal is advised to use only bonded, licensed movers for the protection of the marshals, their clients, the town and the defendants. The movers will transport the property to the storage facility designated by the chief executive officer of the town or city. Note that the chief executive officer may delegate that authority to the public works division, or another official of the town or city. The state marshal is required to stay on the premises during the course of the eviction and stay with the goods and the movers until they are delivered to the storage facility. The goods are stored for fifteen days at the defendant's expense at the storage facility. The tenant can come and claim the goods and pay any storage expenses. At the end of fifteen days, the town is authorized to sell the goods at an auction. It is good professional practice for the marshal to create a detailed inventory of all items transported to the town storage facility. The marshal may also want to take pictures of expensive items that were transported (i.e. televisions or electronics). Such an inventory or pictures may be helpful if the marshal is faced with a claim of lost, stolen, or damaged items. As noted above, the state marshal is responsible for informing the tenant how and where he or she may reclaim the possessions, including providing a telephone number for the facility. The state marshal should provide this information on the execution form.
- d) Once an eviction is properly noticed, tenants are subject to a criminal trespass charge if they remain on the premises. The state marshal may exercise discretion when determining whether or not to permit the tenant take critical items such as medicine and personal papers or other essential items. The marshal should not interfere with the efficient flow of the eviction and may not allow the tenant on the property against the landlord's wishes. The marshal must direct the movers to take the property to the storage facility designated by the town or city. The marshal may not permit the movers to take the goods to a place directed by the tenant, even if the tenant wants to pay for that action. The storage facility may not take items which pose a health hazard or items that are broken or trash. The marshal should contact each storage facility directly to determine its rules regarding storage and the items that are not permitted. The state marshal must exercise reasonable discretion in determining which items to take. It is also advisable that the marshal create a general list of the items which are not taken.
- e) If there are animals present on the property, the state marshal should contact the animal control officer in the town or city. If there are cars or boats or other large unusual items, the marshal should contact the town or city to determine where they should be transported for storage.
- f) While the statute authorizes marshals to remove individuals from the premises, such action is inadvisable. The best professional practice is to seek the assistance of the police in cases involving the removal of an individual.

Subsequent to the eviction, the police may charge the individual with criminal trespass.

- g) General Statutes § 52-261(b), sets maximum fees for the service of process and an hourly rate for the eviction. The movers may be paid by the marshal who will then invoice his or her client. In the alternative, the client can pay the movers directly. Marshals should work with their clients before the eviction to determine how the movers will be paid.

Subsequent to conducting the eviction, the state marshal must provide a return. There is space for the marshal's return on the bottom portion of the Summary Process Execution for Possession. **Eviction of tenants – commercial property:** The eviction of tenants (lessees or occupants) from **commercial** property is outlined in General Statutes § 47a-42a. This action needs to be done within **60 days** of the order signature date.

- a) The state marshal must make reasonable efforts, at least 24 hours before the eviction, to locate and notify the defendants (tenants, lessees or occupants) of the date and time of the eviction and the removal and possible forfeiture property to the landlord or owner. The documents give notice to the individual that if they claim a right to remain on the property they should contact an attorney. The marshal must serve **a true and attested copy** of the summary process execution on each defendant or other persons in occupancy, in hand, abode or at the commercial property. For particular situations always check with the client and the statutes. *See* the Major Statutes subsection below.
- b) If the defendants (tenants, lessees or occupants) have not vacated, **the plaintiff (landlord or owner) in the presence of the state marshal shall prepare, sign and date, an inventory** of such possessions and personal effects and provide a copy of the inventory to the marshal. The marshal will then attach the inventory to the original eviction papers. The plaintiff must make arrangements to store the goods on the premises or hire movers to remove and store such possessions at the expense of the defendant. Fifteen days after the eviction, if the defendant does not claim the goods and pay storage costs, the defendant forfeits the goods to the plaintiff, who may dispose of the possessions. After fifteen days, the marshal should return the original papers and inventory list to the plaintiff.
- c) While the statute authorizes marshals to remove individuals from the premises, such action is inadvisable. The best professional practice is to seek the assistance of the police in cases involving the removal of an individual. Subsequent to the eviction, the police may charge the individual with criminal trespass.

- d) Subsequent to conducting the eviction, the state marshal must provide a return. There is space for the marshal's return on the bottom portion of the Summary Process Execution for Possession (nonresidential).

Entry and Detainer procedures: In general, these procedures apply when someone has made forcible entry onto property or otherwise takes possession of the property thus putting a party out of possession. *See* General Statutes § 47a-43. The court will direct to a proper officer a hearing notice to be served on the party who has taken possession of the property.

Appointment of Receiver of Rents: There are special procedures for **service** in matters where the court deems it necessary to appoint a receiver because of a noncompliant landlord or owner. *See* General Statutes § 47a-56b.

Ejectment: In matters involving the foreclosure of a mortgage or lien upon land, plaintiffs can seek an execution for **ejectment**. State marshals are charged with putting the plaintiff into possession of the property in the same manner as with a residential property summary process execution. *See* General Statutes § 49-22. Note that if a tenant takes possession after a lis pendens is filed, that tenant needs to be joined as a party to the foreclosure action in order to be ejected pursuant to General Statutes § 49-22 (a). *See Tappin v. Homecomings Financial Network*, 265 Conn. 741 (2003).

Major Statutes

There are many statutes/regulations that touch on evictions and ejectments. The state marshal should always check with his or her client, attorney (if applicable), and the statutes if he or she has any questions about a particular eviction. The following reference list is not exhaustive and sets forth only the most important and commonly used statutes covering evictions and ejectments:

- 47a-21 (f) Nonresident landlord must appoint in writing the Secretary of the State as his/her attorney upon whom all process in any action or proceeding against the landlord may be served.
- 47a-23 Notice to quit possession.
- 47a-23a Summary process summons and complaint.

- 47a-23b Service on tenant (lessee/occupant) who is a nonresident or whose whereabouts are unknown. Note deadlines and notice by publication sections.
- 47a-23c Prohibition on eviction of certain tenants without cause (disabled individuals or those sixty-two years of age or older).
- 47a-26b Motion for order of payments for use and occupancy.
- 52-261 (b) State marshal fees.
- 47a-26h Persons bound by summary process judgment/exemptions.
- 47a-31 Illegal use of the premises.
- 47a-35 Stays of execution. *See also* General Statutes §§ 47a-26i (motion to set aside stay), 47a-37 (applications for stay) and 47a-39 (grounds for stay).
- 47a-41a Execution (eviction) on a judgment cannot be issued more than six months after the entry of judgment on the matter; periods of stays excluded.
- 47a-42 Eviction procedures for residential property.
- 47a-42a Eviction procedures for commercial property.
- 47a-25 Waiver of notice to quit.
- 47a-11b Abandoned property; landlord's remedies.
- 47a-11d Death of tenant; landlord's remedies.
- 47a-26a Service of Judgment for Failure to Plead.
- 47a-14d Service procedure for judgment of tenement receivership.
- 47a-14h Action by tenant to enforce landlord's responsibilities.
- 47a-15 Breach by tenant; landlord's remedies.
- 52-48 Return day.
- 49-22 Foreclosure ejectment.

Forms

The following is a list of the common forms utilized for the eviction process and mortgage foreclosure ejectments. Note that these forms are updated frequently by the Judicial Branch. Accordingly, it is important to verify that the most recent form has been utilized. These forms are available at the Forms section of the Judicial Branch website located at: <http://www.jud.ct.gov/webforms>

- JD-HM-007 Notice To Quit (End) Possession
- JD-HM-008 Summary Process (Eviction) Complaint, Nonpayment of Rent
- JD-HM-003 Claim of Exemption - Summary Process (Eviction)
- JD-HM-032 Summons - Summary Process (Eviction)
- JD-HM-002 Summary Process Execution For Possession
- JD-HM-034 Summary Process Execution for Possession- Nonresidential
- JD-CV-030 Execution for Ejectment, Mortgage Foreclosure

VII. INACTIVE STATUS/RESIGNATION

Summary

Inactive Status

A marshal who requires a sizeable leave of absence, but who wishes to eventually return to active duty, may apply to the State Marshal Commission to go on Voluntary Temporary Removal (VTR) (or “inactive status”) from his or her appointment in lieu of resignation. Such requests are granted for substantial personal cause (illness, injury, military service, etc.).

Substantial personal cause includes, but is not limited to illness (either the marshal’s or that of a family member), military duty, temporary political positions, temporary disability, and similar circumstances. Inactive status is not available for marshals who wish to go on an extended vacation or live out of state for a portion of the year. As noted below, inactive status is granted in one year blocks of time, with the option of earlier reinstatement.

To apply for inactive status, the marshal must submit his or her request in writing to the Administrative Office of the Commission, stating the reason for the request. Unless additional material is required, or a hearing is needed, the office will mail the marshal an Affidavit for Inactive Status. The marshal must sign the affidavit, have it notarized, and return it to the Commission office. Once the affidavit is returned to the office, the request will be considered by the Commission at its next meeting. The marshal will be notified in writing of the Commission’s decision.

Inactive status is granted in one-year blocks of time. Near the end of this one-year block, the Commission will notify the marshal that the Commission is reviewing the marshal’s status, which may or may not be renewed, depending on the circumstances. Given the voluntary nature of inactive status, the Commission may reinstate a marshal before the one year time period has elapsed, if the marshal requests such early reinstatement in writing.

Once on inactive status, a marshal may not complete **any** state marshal work and is taken off the list of active state marshals. In addition, during inactive status, annual fees are stayed. Absent unusual circumstances, the marshal must pay any outstanding annual fees prior to reinstatement to active duty. A marshal need not carry personal liability insurance while on inactive status, however, the marshal must provide proof of liability insurance before the Commission will grant reinstatement to active duty.

Resignation

If a marshal wishes to voluntarily retire and resign from his or her appointment as a state marshal, he or she may do so by sending a written request to the Commission office. The office will then mail an Affidavit to Resign State Marshal Appointment to the

requester. The marshal must sign the affidavit, have it notarized, and return it to the Commission office. Once the affidavit is returned to the office, the request will be considered by the Commission at its next meeting. The marshal will be notified in writing of the Commission's decision. There may be certain instances in which further action must be taken, such as the Commission's review and final determination of pending complaints, prior to granting resignation. Unlike with requests for inactive status, requests to resign may be granted for any reason and there is no need to establish substantial personal cause. Note that resignation of appointment constitutes final removal from appointment and cannot be reversed. Once the effective date of the resignation passes, a marshal's appointment is terminated and the individual may not complete **any** state marshal work (including collecting under executions) and is taken off the state marshal list.

VIII. INVOICING

Summary

State marshals are independent contractors who must create their own invoices to bill private citizens. When a state marshal does work for a state agency, however, there are specific invoice forms that must be used. If the marshal has questions about a particular agency's forms or procedures, he or she must contact the agency directly.

Judicial Branch: When invoicing the state for fee waiver services, service of restraining orders, execution of *capias* warrants, or other work done for the Judicial Branch, the marshal should use the State Marshal Services Invoice For Service of Process. *See* the Supplemental Materials subsection at the end of this section. The state marshal should contact the Judicial Branch directly with questions about filling out the invoice or the appropriate form for his or her claims for reimbursement. The failure to follow the state's requirements for reimbursement claims may lead to rejected claims or delayed reimbursement.

Please Note: The State Marshal Services Invoice for Service of Process is updated periodically due to mileage rate changes and other changes to the law. The State Marshal Commission will work in conjunction with the Judicial Branch to circulate these updated invoices when changes are made. It is important that the state marshal utilize the most current version of the invoice or his or her claim for reimbursement may be rejected by the Judicial Branch.

Most Other State Agencies: Most other state agencies utilize the CO-17 form for invoicing. Contact the agency directly about the correct invoice or form to use for reimbursement claims.

Probate Courts: For reimbursement by a probate court, you should utilize the Probate Court Invoice. *See* the Supplemental Materials subsection at the end of this section.

State of Connecticut
State Marshal Commission

Dennis F. Kerrigan, Jr., Esquire
Chairman

James E. Neil, Esquire
Director of Operations

DATE: October 19, 2007
TO: State Marshals
FROM: James E. Neil, Esquire, Director of Operations
SUBJECT: Judicial Branch Invoicing



ADMINISTRATIVE BULLETIN
07-13

Enclosed is correspondence this office received from the Office of the Chief Court Administrator, Judicial Branch Fiscal Administration office. Please note that the Judicial Branch has specific policies on how invoices should be submitted to the Judicial Branch. For efficiency and for maintaining a good working relationship with the Branch, please establish procedures that are in accordance with the enclosed directive.

Thank you for your cooperation in this matter.

765 Asylum Avenue
Hartford, Connecticut 06105
Tel. (860) 566-7109 Fax. 566-3743



JUDICIAL BRANCH
FISCAL ADMINISTRATION
90 WASHINGTON STREET
HARTFORD, CT 06106
Telephone: (860) 706-5230
Fax: (860) 706-5097
Web Page: www.jud.ct.gov

Office of the Chief Court Administrator

Thomas N. Sitaro, Director of Fiscal Administration

E-Mail: Thomas.Sitaro@jud.ct.gov

September 26, 2007

Mr. Dennis F. Kerrigan, Jr., Esquire, Chairman
State Marshal Commission
765 Asylum Avenue
Hartford, CT 06105

Dear Mr. Kerrigan,

The Accounts Payable division of the Judicial Branch endeavors to review and process the State Marshal Services Invoices for Service of Process as quickly and efficiently as possible. We recognize that as independent contractors, the State Marshals should receive compensation for their services in a timely fashion. To that end, the cooperation of the State Marshals is necessary regarding preparation of their invoices. Submission of incomplete or incorrect invoices impedes the process and results in payment delays. It is also time consuming to the Accounts Payable division that must continue to process the huge volume of invoices despite a staffing shortage.

In general, all State Marshals should be using the current version of the State Marshal Services Invoice for Service of Process, revised to 3-1-2007 (file attached). Effective with dates of service beginning October 15, 2007, modified or older versions of the form will be returned unprocessed to the court clerks. The current invoice, when prepared in Excel format, provides the most efficient presentation of the information and results in fewer computation errors. We encourage the use of this form in Excel, though legible, handwritten invoices will be accepted.

Several common errors on the invoices have been identified. They are discussed below and are grouped by the corresponding section of the Marshal Services Invoice.

Marshal Information

Missing or Incorrect Social Security Numbers/FEIN Numbers
Marshal's address on invoice does not match address on file (Please notify the Accounts Payable department in writing of address changes -- fax to 860-706-5097)

Case Information

Missing Docket Numbers / Case Numbers
Missing or Inconsistent Date of Service (Date of Service on invoice should agree with Marshal's return of service)

Name(s) of Persons Served (In cases where several persons are served, all names should be listed on the invoice or the invoice should reference the attached return of service where the information can be found.)

Mileage Record

As you may be aware, the mileage section of the invoice has come under greater scrutiny by the Auditors of Public Accounts. C.G.S. §52-261(a), in pertinent part, provides that mileage is *“to be computed from the place where such officer or person received the process to the place of service, and thence in the case of civil process to the place of return. If more than one process is served on one person at one time by any such officer or person, the total cost of travel for the service shall be the same as for the service of one process only.”* Online mapping tools are now utilized to verify mileage, and excessive mileage must be questioned. State Marshals can avoid payment delays when their travel for the service is accurately described in the mileage record section of the invoice. This includes supplying clear and complete street and city addresses and indicating when multiple trips were required in order to complete the service. Terms in the mileage record such as “home”, “to office”, “to post office” are not acceptable as they do not provide for mapping verification without a street and city address.

Fees

The invoice is formatted with the detailed fee structure allowed by statute. Note that witness fees and postage expenses are NOT covered by the statute (C.G.S. §52-261). Postage expenses can be paid only when specified on the fee waiver (JD-FM-75) or court order to pay AND when accompanied by a receipt.

Certification

The State Marshal’s signature is required because it completes the request for payment and allows the marshal to certify that *“the services have been performed and the expenses incurred as stated were necessary and proper and that the amounts claimed are those allowed by statute”*.

It is our hope that the information offered above will be communicated to the State Marshals in order to improve the accuracy of the invoices, resulting in the return of fewer invoices and quicker processing. Please contact me should you have any questions.

Sincerely,

Thomas N. Sitaro

c: Nancy L. Kierstead, Director of Court Operations
James R. Maher, Director of Administration, Superior Court Operations
George Dombroski, Deputy Director, Superior Court Operations, Audit and Compliance
Lori Macsata, Manager, Fiscal Administration
Luanne Griswold, Program Manager, Fiscal Administration
Michele Piotrowski, Fiscal Administration Supervisor, Accounts Payable

STATE MARSHAL SERVICES INVOICE
FOR SERVICE OF PROCESS
Judicial Use Only (Rev. 3-1-2007)

STATE OF CONNECTICUT
JUDICIAL BRANCH
ACCOUNTS PAYABLE DIVISION

BUSINESS UNIT NAME JUDM1		CONTROL GROUP	VOUCHER #	INVOICE AMOUNT				
INVOICE DATE		INVOICE DATE	ACCOUNTING DATE	VENDOR FEIN				
MARSHAL INFORMATION								
MARSHAL'S NAME				MARSHAL'S TELEPHONE NUMBER				
TITLE				MARSHAL'S FAX NUMBER				
ADDRESS								
CITY		STATE	COUNTRY	ZIP CODE				
VENDOR BILLING IDENTIFICATION (E.G. SERVICE DATE, CASE NAME)								
VS.								
CASE INFORMATION								
COURT INFORMATION:	COURT TYPE (JD / JUV / HOUSING / GA)		COURT LOCATION					
at								
COURT ADDRESS:								
DOCKET NUMBER:								
DATE OF SERVICE:								
CASE NAME:								
VS.								
NAME OF PERSON(S) SERVED:								
E/TYPE OF JMENT SERVED:								
MILEAGE RECORD								
FROM:	TO: (STREET ADDRESS, CITY/TOWN)			TOTAL MILES	RATE	AMOUNT		
					\$0.485			
					\$0.485			
					\$0.485			
					\$0.485			
					\$0.485			
				TOTAL MILEAGE				
FEES								
DESCRIPTION OF FEE				QUANTITY	UNIT PRICE	AMOUNT		
SERVICE					\$30.00			
2ND AND SUBSEQUENT SERVICES - DIFFERENT ADDRESS					\$30.00			
2ND AND SUBSEQUENT SERVICES - SAME ADDRESS					\$10.00			
SERVICE NOTIFICATION TO ATTORNEY GENERAL'S OFFICE					\$10.00			
COPY FEES					\$1.00			
ENDORSEMENT FEES					\$0.40			
				TOTAL FEES				
INVOICE TOTAL								
				TOTAL MILEAGE + TOTAL FEES				
INVOICE AMOUNT	GL UNIT	FUND	DEPARTMENT	SID	PROGRAM	ACCOUNT	PROJECT / GRANT	BUDGET REFERENCE
	STATE	11000		10020	22003	51930	JUD_NONPROJECT	
CERTIFICATION								
I CERTIFY THAT THE SERVICES HAVE BEEN PERFORMED AND THE EXPENSES INCURRED AS STATED WERE NECESSARY AND PROPER, AND THAT THE AMOUNTS CLAIMED ARE THOSE ALLOWED BY STATUTE.				SERVICES RENDERED - SIGNATURE				
MARSHAL'S SIGNATURE				DATE				

Note: This Form is Not Updated - Do Not Use. Use the Version of this Invoice from the State Marshal Commission website only.

State Marshal Services Invoice

STATE MARSHAL SERVICES INVOICE FOR SERVICE OF PROCESS Judicial Use Only - Revised 2-1-2017		FEES INCREASED PER P.A. 14-87 EFFECTIVE OCTOBER 1, 2014				STATE OF CONNECTICUT JUDICIAL BRANCH ACCOUNTS PAYABLE DEPT	
BUSINESS UNIT JUDM1		CONTROL GROUP	VOUCHER #	INVOICE AMOUNT			
DOCUMENT DATE		INVOICE DATE	ACCOUNTING DATE	VENDOR FEIN			
PAYEE	PAYEE NAME						PAYEE'S TELEPHONE NUMBER
	TITLE						PAYEE'S FAX NUMBER
	ADDRESS						
	CITY		STATE	ZIP CODE			
CASE INFORMATION	COURT INFORMATION:		COURT TYPE (JD / JUV / HOUSING / GA)		COURT LOCATION		
			AT				
	COURT ADDRESS:						
	DOCKET NUMBER:		DATE OF SERVICE:				
	CASE NAME:		V.				
MILEAGE RECORD	FROM: (STREET ADDRESS, CITY/TOWN)		TO: (STREET ADDRESS, CITY/TOWN)		MILES	RATE	AMOUNT
						\$0.535	
						\$0.535	
						\$0.535	
						\$0.535	
						\$0.535	
				TOTAL MILEAGE			
SERVICE FOR OTHERS PAID BY JUDICIAL - C.G.S. § 52-261(a)(2)	DESCRIPTION OF FEE				QUANTITY	UNIT PRICE	AMOUNT
	SERVICE (Examples: Stationing Center, Service Authorized by Fee Waiver or Court Order)					\$40.00	
	2ND AND SUBSEQUENT SERVICES - DIFFERENT ADDRESS					\$4.00	
	2ND AND SUBSEQUENT SERVICES - SAME ADDRESS					\$20.00	
	NOTIFICATION OF SERVICE TO ATTORNEY GENERAL'S OFFICE					\$20.00	
	COPY FEES					\$1.00	
	ENDORSEMENT FEES					\$0.40	
	POSTAGE (Not a statutory fee; paid only with judge's approval and with postal receipt included)						
				TOTAL FEES			
SERVICE FOR THE JUDICIAL BRANCH - C.G.S. § 52-261a	DESCRIPTION OF FEE				QUANTITY	UNIT PRICE	AMOUNT
	SERVICE (Examples: Service for Judicial Branch Offices or Service Ordered from the Bench)					\$30.00	
	2ND AND SUBSEQUENT SERVICES - DIFFERENT ADDRESS					\$10.00	
	2ND AND SUBSEQUENT SERVICES - SAME ADDRESS					\$10.00	
	COPY FEES					\$0.60	
	ENDORSEMENT FEES					\$0.40	
	POSTAGE (Not a statutory fee; paid only with judge's approval and with postal receipt included)						
				TOTAL FEES			
CERTIFY	INVOICE AMOUNT	GL UNIT	DEPARTMENT	FUND	SID	ACCOUNT	PROGRAM
		STATE		11000	10020	51930 51931	22003
							INVOICE TOTAL
I CERTIFY THAT THE SERVICES HAVE BEEN PERFORMED AND THE EXPENSES INCURRED AS STATED WERE NECESSARY AND PROPER, AND THAT THE AMOUNTS CLAIMED ARE THOSE ALLOWED BY STATUTE.					SERVICES RENDERED - SIGNATURE		
MARSHAL'S SIGNATURE					DATE		DATE

Note: This Form is current as of February 1, 2017 and will not be updated. Do not use this version of the Invoice. Instead use the invoice posted on the State Marshal Commission website only.

Probate Court State Marshal Invoice

STATE OF CONNECTICUT
 Probate Court Administration

Invoice for Marshal Services

Payee Information

State of CT Vendor Number: _____

Marshal's Name _____
 Address _____
 Address _____
 City _____ St _____ Zip _____

INVOICE No.

INVOICE DATE

INVOICE AMOUNT

Case Number:
 Case Name:
 Name of Person(s) Served:
 Name/Type of Document(s) Served:

MILEAGE RECORD				
FROM: (Street address, City/Town)	TO: (Street address, City/Town)	# MILES	\$ RATE	AMOUNT
			\$0.535	
			0.535	
			0.535	
			0.535	
TOTAL MILEAGE				

**** Please attach a copy of Citation and Return ****

FEES			
DESCRIPTION OF FEES	QUANTITY	UNIT PRICE	AMOUNT
Service		\$40.00	
2 nd and subsequent service-DIFFERENT address		40.00	
2 nd and subsequent service-SAME address		20.00	
Service notification to Attorney General's Office		10.00	
Copy Fees		1.00	
Endorsement Fees		0.40	
TOTAL FEES			
TOTAL MILEAGE AND FEES			

CERTIFICATION:

I CERTIFY THAT THE SERVICES HAVE BEEN PERFORMED, THE EXPENSES INCURRED AS STATED WERE NECESSARY AND PROPER, AND THAT THE AMOUNTS CLAIMED ARE THOSE ALLOWED BY STATUTE.

 Marshal's Signature

 Telephone No.

 Date

Reset Form

FOR ADMINISTRATIVE USE	VOUCHER #

Rev. 01/04/2017

IX. JUDICIAL MARSHALS/ COURTHOUSE PROTOCOL

State of Connecticut
Department of Administrative Services
State Marshal Commission

W. Martyn Philpot, Jr, Esq.
Chairperson

Robert Giuditta
Interim Administrative Director

August 11, 2015

TO: State Marshals
FROM: Robert Giuditta, Interim Administrative Manager 
SUBJECT: Judicial Branch Policies Concerning Judicial Marshal Services' Interaction with State Marshals

ADMINISTRATIVE BULLETIN
15-14

There have recently been several inquiries by state marshals regarding Connecticut Judicial Branch policies concerning screening and other procedures at state courthouses. Enclosed is set of policies and procedures adopted by the Judicial Branch entitled "Summary of Judicial Branch Policies Concerning Judicial Marshal Services' Interaction with State Marshals." Note that this policy is not new and has been in place since May 25, 2011. Also note that this policy statement differs slightly from the version in the 2012 State Marshal Manual. It adds Section 1. B. Expedited Entry For State Marshals which states as follows:

State Marshals, by presenting an active Connecticut State Marshal identification card and State Marshal badge and giving due courtesy to individuals waiting in line, may proceed to the front of the existing line where State Marshals will be properly screened through the metal detector according to Judicial Marshal policy and procedure..

Thank you for your attention in this matter.

Enc.

165 Capitol Avenue, Room 279
Hartford, Connecticut 06106
Tel. (860) 713-5372 Fax. (860) 713-7458



STATE OF CONNECTICUT
JUDICIAL BRANCH

**SUMMARY OF JUDICIAL BRANCH POLICIES CONCERNING JUDICIAL
MARSHAL SERVICES' INTERACTION WITH STATE MARSHALS**

1. **Metal Detector**
 - A. **Judicial Marshal Policy and Procedure**
 - Pursuant to Judicial Marshal Policy and Procedure, **all individuals** entering a public entrance of a courthouse are to be properly screened by a metal detector or x-ray machine. There are no exceptions to this policy.
 - B. **Expedited Entry for State Marshals**
 - State Marshals, by presenting an active Connecticut State Marshal identification card and State Marshal badge and giving due courtesy to individuals waiting in line, may proceed to the front of the existing line where State Marshals will be properly screened through the metal detector according to Judicial Marshal policy and procedure.
2. **Firearms**
 - A. **Policy of the Superior Court Judges**
 - Peace officers, except Judicial Marshals, State Marshals and adult probation officers, are permitted to carry exposed firearms in the courthouse, when engaged in the performance of their official duties.
 - Unless waived by the judge, firearms must be concealed in the courtroom.
 - Armored car personnel under contract with the Judicial Branch may carry firearms into a courthouse while transporting funds. Such personnel must be accompanied at all times by a Judicial Marshal.
 - B. **Judicial Marshal Policy Concerning Law Enforcement Sign In Sheet**
 - This form is to be signed by law enforcement personnel who are carrying firearms in a courthouse.
 - Since State Marshals are not permitted to carry firearms in a courthouse, State Marshals are not to sign this form.
 - C. **Storage**
 - Judicial Marshal Services will not store firearms for State Marshals.
3. **Other Weapons**
 - A. **Judicial Marshal Policy and Procedure**
 - State Marshals are not permitted to carry into a courthouse any weapons or handcuffs that State Marshals are otherwise authorized to carry (including, but not limited to, conducted energy weapons, pepper spray and batons).

- B. **Storage**
 - Judicial Marshal Services will not store weapons (including, but not limited to, conducted energy weapons, pepper spray and batons) or handcuffs for State Marshals.
4. **Chief Court Administrator Policy Concerning Capias Arrestees**
- A. **Delivery to Courthouse**
 - Capias arrestees are to be delivered to the courthouse via the lockup area.
 - State Marshals are advised to call Judicial Marshal Services in the specific location of delivery to pre-arrange for drop off.
 - B. **Firearms and/or other weapons**
 - All areas of a courthouse, including but not limited to a courthouse lock-up, sally-port or any other secure area of the courthouse are also subject to the superior court judges' policy concerning firearms.
 - State Marshals delivering capias arrestees are not permitted to carry firearms and/or other weapons into the courthouse lock-up or sallyport.
 - State Marshal firearms and/or other weapons will not be stored in the lock-up or sallyport areas.
5. **Chief Court Administrator Policy Concerning the Service of Capias, Process, Restraining Order, Etc.**
- A. **Inside a Courthouse**
 - 1. **Appropriate Areas**
 - Service will only be permitted in public areas of the courthouse. Service will not be permitted in areas (including but not limited to, courtrooms and jury assembly areas) where such service may result in the disruption of Judicial Branch functions.
 - 2. **Call Ahead**
 - State Marshals wishing to make service inside the courthouse are advised to call Judicial Marshal Services in the specific location to coordinate their efforts with Judicial Marshal Services.
 - 3. **Firearms**
 - State Marshals serving capias are not permitted to carry a firearm while actively engaged in serving a capias inside a courthouse.
 - B. **Inside a Judicial Branch Facility Other Than a Courthouse**
 - 1. **Appropriate Areas**
 - Service will only be permitted in areas where such service will not result in the disruption of Judicial Branch functions.
 - 2. **Call Ahead**
 - State Marshals wishing to make service inside a Judicial Branch facility other than a courthouse are advised to call the Chief Judicial Marshal for the district covering the facility to coordinate their efforts with Judicial Marshal Services.

X. RECORDKEEPING/AUDIT POLICY

State of Connecticut
Department of Administrative Services
State Marshal Commission
Das.ct.gov/statemarshal

W. Martyn Philpot, Jr., Esq.
Chairperson

Douglas Rinaldi
Administrative Manager

DATE: October 28, 2014
TO: State Marshals
FROM:  Douglas Rinaldi, Administrative Manager
SUBJECT: New Audit Policy

ADMINISTRATIVE BULLETIN
14-15

The State Marshal Commission, after receiving input from the State Treasurer's Office, voted October 15, 2014 to amend the State Marshal Commission's Audit Policy. This new policy incorporates into one document the changes that have been made to the Audit Policy over the years.

A copy of the amended policy is enclosed. It is effective immediately. The new policy replaces the policy issued on October 19, 2006, as amended by Administrative Bulletin 09-09.

Please review the new policy. It is very similar to the old policy however note that there is a new annual reporting requirement for state marshals who maintain Client Fund/Trust Accounts. Each state marshal who maintains a Client Fund/Trust Account must submit to the State Marshal Commission an annual account reconciliation complete though December 31st of the previous year within 45 days after the close of the year. The first such reconciliation under this audit policy will be due by February 16, 2015. Note that our office will make every effort to assist you as you complete the initial submission under this new requirement. Please do not hesitate to call with questions or concerns about the policy or the new reporting requirement. We will send further information about the reporting requirement as the date grows nearer.

Thank you for your attention to this matter.

165 Capitol Avenue, Room 279
Hartford, Connecticut 06106
Tel. (860) 713-5372 Fax. (860) 713-7458

State Marshal Commission

Client Fund/Trust Account and Audit Policy

Purpose

State marshals, as public officers, are empowered to collect funds under court and statutory authority. These collection actions generally involve financial institution executions, wage executions, property sales and tax warrants. State marshals who engage in execution work must maintain a Client Fund/Trust Account. The State Marshal Commission has adopted this policy to establish uniform procedures for state marshals in the management of their trust accounts that is consistent with laws, regulations, procedures and the professional standards of the Commission.

State marshals are required to follow this Client Fund/Trust Account and Audit Policy to perform execution work and to safeguard, document and process any sums they collect under statutory or court authority. All state marshals who perform execution work under the terms of state statutes and this policy are subject to the audit and review of their records and accounts under Conn. Gen. Stat. §§ 6-38e and 2-90a.

Policies and Procedures for the administration of a Client Fund/Trust Account

General Requirements:

- Be a state marshal in good standing with the State Marshal Commission.
- Notify the State Marshal Commission of the intent to perform collection work prior to engaging in the work.
 - Completing a Client Fund/Trust Account Intent form satisfies this general requirement.
- Provide the name of the financial institution and Client Fund/Trust Account number to the State Marshal Commission.
 - Completing a Client Fund/Trust Account Intent form satisfies this general requirement.
- Client Fund/Trust Account:
 - The Client Fund/Trust Account must be a specific noninterest bearing account opened under only the state marshal's name and title to handle the collected sums. No other names or signatories are allowed on the account. The checks and account must include fiduciary language such as "trustee", "client fund" or "garnishment". Each state marshal that performs executions should only have one Client Fund/Trust Account. With good cause shown, more than one account may be permitted.

- Notify the State Marshal Commission of any opening or closing of or any changes to your Client Fund/Trust Account. You must provide the Commission with the name and address of the bank along with the name and number of the account. Additionally, you must notify the State Marshal Commission of any overdrafts to the Client Fund/Trust Account. For overdrafts, please inform the State Marshal Commission in writing with the date and amount of the overdraft and the reason for the occurrence. You must notify the State Marshal Commission of any changes to or overdrafts of your account within five business days.
- A state marshal may keep up to \$5,000 of earned execution fees in the trustee account for bank fees, insufficient fund checks and other incidental errors. The \$5,000 maximum amount must be calculated at the end of each month.
- You may not deposit or commingle non-client funds in the account, with the exception of authorized marshal fees that are subject to the \$5,000 maximum.
 - If a sum of \$1,000 or more is collected and immediately disbursed as required, then the fees associated with that collection would be deducted upon the immediate disbursement to stay below the \$5,000 maximum.
- State marshals must complete a periodic questionnaire from the State Marshal Commission to inform the Commission if and how they are engaged in collection work.

Administration within the Client Fund/Trust Account:

Receipts, Deposits & Disbursements:

It is the responsibility of the state marshal to disburse trust funds within 30 days of receipt or upon collection of \$1,000.00 whichever occurs first or in accordance with the agreed upon delivery time between the state marshal and the person for whom he is collecting money. For the purpose of this policy section the term "receipt" will be defined as collected/received deposited and cleared. To properly execute this responsibility it is necessary to record the dates the trust funds are received, deposited and disbursed.

Receipts:

The state marshal must maintain a record of date of receipt of client's funds supported by timely deposit into the trust bank account. Documentation shall include:

- Date check/cash received (collected and cleared).
- Date check/cash deposited.
- Source from whom the funds were received.
- Name of the individual/entity from whom the check was collected.
- Amount of the check.
- Authorized party's name and due date of payment.

Upon receipt, checks should be immediately endorsed for deposit only.

Deposits:

All funds, by cash, check or otherwise collected by the state marshal on an execution or other statutory authority must be deposited into the Client Fund/Trust Account. Deposits into the trust account must be on a timely basis. The ideal situation would be daily deposits. Daily deposits assist in preventing the threat of a lost or stolen check. At a minimum, deposits shall be made not less than on a weekly basis for checks or collections over \$100.00 and not less than on a monthly basis for checks or collections under \$100.00. Checks that are not deposited daily should be kept in a secure place until deposited. Since the Client Fund/Trust Account acts as a clearing house for execution dollars, timely deposits provide time for the check to clear.

Each deposit into the trust account requires documentation of where the funds came from. The source documentation shall consist of any one of the following:

- The bank deposit slip, with source notation.
- Copies of the checks received.
- Computer listing.
- Source documentation from whom the funds were received, which can include, but is not limited, to a log detailing the source of the deposit(s).

Disbursements:

Disbursements from the trust account are only permitted for: payment to the authorized party, the state marshal's expenses and fees related to the execution. Payments to the authorized party shall be disbursed within 30 calendar days from the date of receipt of the money, or upon the collection of \$1,000.00, whichever first occurs or in accordance with the agreed upon delivery time between the state marshal and the person for whom he/she is collecting money. For the purpose of this policy section the term "receipt" will be defined as collected/received, deposited and cleared. This will alleviate problems with bank errors, checks returned for insufficient funds and other similar problems so the marshal will not be in the position of having to distribute funds the marshal never actually acquired within their Client Fund/Trust Account. The state marshal's fee is to be paid when the money is actually collected and paid to the authorized party, or upon collection, even if the client wishes later distribution of his or her funds. Except for an amount not to exceed \$5,000.00, marshal's fees are not to accumulate in the trustee account in excess of one month from the time of receipt or in accordance with the agreed upon delivery time between the state marshal and the person for whom he or she is collecting money. In very exceptional circumstances, a check may be cashed rather than deposited, as long as proper tracing records of the transaction are kept and disbursement to the authorized party is immediate, or in accordance with the agreed upon delivery time between the authorized party and the state marshal.

To timely disburse funds, records must be maintained documenting amounts received by the date of receipt and from whom collected with a tickler date to be disbursed. Documentation shall include the following:

- Date of receipt.
- From whom collected.
- Amount collected.
- Date due for disbursement.
- Agreed upon delivery time from the person for whom the state marshal is collecting money if funds are not to be distributed within 30 days, or immediately if \$1,000.00 or more is involved. The presumption will be that the statutory time frames apply. If your distribution timeframe differs from the statutory requirement, to assist you in rebutting the presumption and to protect yourself, the Commission recommends that you put your agreement with your clients in writing.
- Date of disbursement.
- Check number of disbursement
- Amount of disbursement.
- The state marshal's fee should be the total amounts received multiplied by the appropriate state marshal fee percentage.

You must maintain cash disbursement documentation for each disbursement from the trustee's account. All checks are to be written in a sequential order and paid to a specific payee. All voided checks should be defaced with the signature portion of the check removed and the defaced check retained and accounted for in numerical sequence. You may not write checks to cash from the Client Fund/Trust Account.

Prior to the payment for the state marshal's expenses, source documentation should indicate the following: 1) for which execution the expense was incurred, 2) a description of the expense, and 3) the amount of the expense with applicable receipts. Upon payment, all documentation should be annotated as "paid" with the check number, the amount, and the date of payment. This disbursement should correlate with the date the authorized party received the funds.

Book and Bank Reconciliation:

The state marshal is responsible for maintaining up-to-date and complete records of all receipts and disbursements from the client fund account. The state marshals' fees collected, but not yet disbursed, in addition to all other receipts shall be reconciled to the book balance of the Client Fund/Trust Account. At least monthly, the state marshal should prepare a record of funds received but not yet disbursed to support the book balance of the account.

To account for cash receipts and cash disbursements from the Client Fund/Trust Account, the account should be reconciled monthly. Note that under this policy a reconciliation must be done at least on a quarterly basis. You should prepare a reconciliation starting from the bank statement balance and annotating individual deposits in transits with dates and individual outstanding checks to arrive at the book balance.

Record Retention and Unclaimed Property:

All supporting documentation used in the collection and disbursement of Client Fund/Trust Accounts must be retained for a minimum of 3 years after the state marshal’s business year end or for any additional period requested by the state marshal Commission. If the state marshal’s records are being contested, an inquiry should be made to the State Marshal Commission for guidance on the retention of the records prior to destroying any.

Through the regular reconciliation process of the Client Fund/Trust Account, identification of disbursed but not cashed checks from the client fund account will occur and could remain unclaimed. The State of Connecticut Office of the State Treasurer has a division dedicated to Unclaimed Property. There are requirements for identifying and declaring unclaimed property and its transfer to the Office of the State Treasurer. The following link is to the State Treasurer’s division of Unclaimed Property and is provided as a reference material if you have unclaimed funds within your Client Fund/Trust Account that requires action within this category.
http://www.ott.ct.gov/unclaimed_overview.html

Reporting Requirement:

State marshals who engage in Client Fund/Trust Account activity are required to submit to the State Marshal Commission Office their trust account reconciliation as of December 31st of each year. The reconciliation should be submitted within 45 days after the close of the year, and include a listing of the owners of the monies being held and the total marshal fees remaining in the account, reconciled to the account balance. A copy of the December 31st bank statement must be part of this submittal package. The reconciliation summary reports will be reviewed for compliance and may lead to follow up audit activity if required.

Bank Statement Balance as of 12/31	Client Fund/Trust Account Checkbook Balance as of 12/31	Owners of Monies received, deposited and not yet disbursed	Marshal Fees held in account
100.00	100.00	25.00 Jane Doe 25.00 John Smith 25.00 ABC Law Firm	25.00 outline origin of fees
<u>100.00</u>	<u>100.00</u>	<u>75.00</u>	<u>25.00</u>

Please note your bank statement balance does not need to reconcile exactly to the book balance of your account. For example, these balances may differ due to checkbook activity that is in transit, e.g. disbursed checks that have not cleared your bank account.

State of Connecticut
Department of Administrative Services
State Marshal Commission
das.ct.gov/statemarshal

W. Martyn Philpot, Jr., Esq.
Chairperson

Jeffrey Beckham
Staff Director

DATE: January 4, 2017
TO: State Marshals
FROM: Jeffrey Beckham 
SUBJECT: 2017 Annual Client Fund/Trust Account Reporting Requirement

ADMINISTRATIVE BULLETIN 17-01

Please be advised, pursuant to the State Marshal Commission Audit Policy (rev. 10/15/2014), all state marshals who maintained a Client Fund/Trust Account during all or part of 2016 are required to complete an annual account reconciliation due on **Wednesday, February 15, 2017**.

- 1) We have not provided a form for this reporting requirement; however, you may utilize the chart provided on page 6 of the Audit Policy as a template (attached hereto).
- 2) Each filing must include a copy of the December 2016 bank statement for the account. This statement must accompany your filing in order for it to be considered complete.
- 3) While the Audit Policy states the reconciliation should be complete as of December 31, 2016, it is sufficient to reconcile the account according to the **closing date** of your December 2016 bank statement. This date likely falls on an earlier date than December 31, 2016.
- 4) You must complete this reporting requirement if you maintained a Client Fund/Trust Account at any time during the 2016 Calendar Year. This is true even if there was no account activity during 2016. If you hold a Client Fund/Trust Account, but had no activity during the 2016 Calendar Year, please submit a copy of your December 2016 bank statement and a written statement that there was no account activity. If your account has a balance, please provide the bank statement with a written statement indicating to whom the money in the account belongs (i.e. \$75.00 - marshal fees generated from Smith Jones Execution).

450 Columbus Boulevard, Suite 1504
Hartford, Connecticut 06103
Tel. (860) 713-5372 Fax (860) 622-2938

- 5) Please submit your filing via **regular mail** or **fax only**. Our email system is not equipped for the volume generated by this filing requirement. Thank you for your compliance with this matter.
- 6) If you cannot complete the reporting requirement by February 15, 2017 for any reason, please contact our office as soon as possible and send a written request for an extension of time for our records.

Please contact this office with any questions concerning this matter.

Encl.

XI. RESTRAINING ORDERS AND CIVIL PROTECTION ORDERS

Summary

Definitions

A **restraining order** is a civil order of protection issued by the family court to any family or household member who has been subject to a continuous threat of present physical pain or physical injury, stalking, or a pattern of threatening by another family or household member, as defined by General Statutes § 46b-38a (2).

The **Applicant** is the person who has applied for the restraining order and the **Respondent** is the subject of the restraining order who must be served. Under General Statutes § 46b-15, if an Applicant alleges an immediate and present physical danger to himself or herself or his or her minor children, then the court may order an **ex-parte restraining order**, which is a temporary restraining order ordered prior to a hearing. At the hearing, the court will determine whether to extend or deny the restraining order post hearing. There are instances where the court does not order an ex-parte restraining order based on the allegations in the application affidavit. In those cases, the court will **schedule a hearing** to decide whether or not to order a restraining order and will issue an **Order and Notice of Court Hearing** which must be served on the Respondent. For all applications for a restraining order there is a hearing scheduled.

A **civil protection order** is a civil order of protection issued by the civil court to an Applicant who is a victim of sexual abuse, sexual assault, or stalking, as defined by General Statutes §§ 53a-181c, 53a-181d, and 53a-181e, who has not obtained any other order of protection arising out of the abuse, assault, or stalking, and **who does not qualify for a restraining order because the Respondent is not a family or household member**. See General Statutes § 46b-16a. Such civil protection orders are ordered by the civil court and are served in the same manner as restraining orders. Note, however, the different timing requirements for service described below.

Timing

Service of a restraining order **must** be made **at least three days** before the hearing date. See General Statutes § 46b-15 (h) (1), as amended by Public Act 16-34. Service of a civil protection order **must** be made **at least five days** before the hearing date. See General Statutes § 46b-16a (d). If an ex-parte restraining order has been issued, the hearing date will be set no later than **fourteen days** from the date of the order, unless the application indicates that the Respondent holds a permit or eligibility certificate for a firearm or ammunition or possesses a firearm or ammunition, in which case the hearing date will be set no later than **seven days** from the date of the ex-parte order. See General Statutes § 46b-15, as amended by Public Act 16-34. The expedited hearing date in these instances will mean that such orders must be served within **four days** of issuance.

The original papers and a return of service must be returned to the court prior to the hearing so that the court has proof that the Respondent has been served. Preferably, the papers should be returned at least two days prior to the hearing to provide for the proper administration of the restraining order or civil protection order. If service has been made close to the hearing date, it is strongly advisable that the state marshal email or fax a copy of his or her return to the court in addition to sending/delivering the original return to the court. This ensures that the hearing moves forward subsequent to proper service. Also, as noted below, if service is unsuccessful, the state marshal must input this information into the Protection Order Registry prior to the date of the hearing. In addition, prior to the hearing date, the marshal should contact the Applicant and inform him or her regarding whether or not service was made. If service was unsuccessful, the Applicant may file a request on or before the hearing date for an extension of time for service. In addition, as discussed below, if there has been an ex-parte restraining order issued, and service has not been made, the Applicant can request an extension of the ex-parte restraining order.

Extension of Ex-Parte Restraining Orders: Where proper service of an ex-parte restraining order has not been made, the court may extend the order for up to fourteen days from the original hearing date. In those instances, the court will issue a new Order For and Notice of Court Hearing containing the new hearing date which must be served at least **three** days prior to the new hearing date. *See* General Statutes § 46b-15 (c), as amended by Public Act 16-34.

Manner

With restraining orders, the Applicant will provide the state marshal with the original Application for Relief From Abuse, the Applicant's Affidavit (and, if relevant, an Affidavit Concerning Children), the Order of Protection (if one has been ordered), and the Order and Notice of Court Hearing. The clerk should provide the Applicant with two copies of the Order of Protection. With civil protection orders, the Applicant will provide the state marshal with the original Application for Civil Protection Order, the Applicant's Affidavit, the Order of Protection (if one has been ordered), and the Order For and Notice of Court Hearing. In addition, Applicants should have received a Respondent Profile Form from the clerk which provides service information for the Respondent (i.e. address, employment, physical characteristics) as well as the Applicant's contact information. At the outset of their meeting, the state marshal should identify himself or herself to the Applicant and provide the Applicant with his or her name and telephone number(s), preferably on a business card. If possible, the marshal should review the Respondent Profile Form with the Applicant and clarify service details. It is essential that the state marshal safeguard confidential information on the Respondent Profile Form. In addition, Applicants may obtain specific court orders protecting certain information.

It is very important for the state marshal to review the entire package of papers prior to service. If the court has issued an ex-parte restraining order and the application indicates that the Respondent holds a permit or eligibility certificate for a firearm or

ammunition or possesses a firearm or ammunition, there are special rules regarding the timing of the hearing and related service as well as an obligation that the state marshal notify law enforcement, as is detailed below. Furthermore, if the court has not ordered an ex-parte restraining order, then the marshal will be serving only an Order for Notice of Hearing and there is no authority under which the Respondent may be removed from his or her home prior to the hearing. If it is unclear from the face of the papers whether or not an ex-parte order has been issued, the state marshal should clarify this with the court prior to service.

In-Hand Service Preference: Although in-hand service is not mandatory, it is the best professional practice for the marshal to make in-hand service of a restraining order or civil protection order on the Respondent. If a restraining order application indicates that the Respondent holds a permit or eligibility certificate for a firearm or ammunition or possesses a firearm or ammunition, and the court has issued an ex-parte order, the law provides that the state marshal **shall, whenever possible, provide in-hand service of the order**. See General Statutes § 46b-15 (h) (2), as amended by Public Act 16-34.

Out-of-County Service: As is detailed below, state marshals are required to serve restraining order duty as assigned by the State Marshal Commission. If an order is issued by the court for service on a Respondent who resides in **another county**, it is the **responsibility of the state marshal on duty in the issuing county** to promptly transfer the papers to the on-duty marshal in the service county on that date. Due to the time sensitivity inherent with the service of restraining orders and civil protection orders, the state marshal transferring the paperwork must make prompt, direct contact with the appropriate state marshal in the service county via telephone to make arrangements to transfer the papers expediently in person, by facsimile, or by mail. The marshal in the issuing county may not return the restraining order or civil protection order to the Applicant nor may they task the Applicant with calling the marshal in the service county. Once the marshal in the issuing county has notified and made arrangements to transfer the papers, he or she should immediately notify the Applicant of the name and contact information for the state marshal who will be handling service.

Service of Orders Issued by Other States: If a restraining order or civil protection order is issued by another state for service on a Respondent residing in Connecticut, then the state marshal on duty has the same obligation to serve the restraining order or civil protection order. As with Connecticut orders, the service fee for such out-of-state orders is paid for by the Judicial Branch. Note that reimbursement for out-of-state orders is processed by a different office than other reimbursement requests. To receive reimbursement, a state marshal who serves an out-of-state order must send 1) a completed and signed State Marshal Invoice form, 2) the return of service, and 3) the Foreign Protection Order to the Judicial Branch at the following address: Toby Padegenis, Court Planner, Superior Court Operations, 225 Spring Street, Second Floor, Wethersfield, CT 06109. Note that this payment procedure is **ONLY for service of out-of-state orders and NOT service of restraining orders or civil protection orders**

issued by a Connecticut Court. See the Fees subsection below for further information about seeking reimbursement for service of Connecticut orders.

Out-of-State Service of Connecticut Orders: If a state marshal is given a Connecticut-issued restraining order or civil protection order requiring service in **another** state, he or she should return the order to the Applicant and inform the Applicant that he or she must directly contact the appropriate person or entity to complete service in the service state. Often this is a county sheriff or local law enforcement. The state marshal may direct the Applicant to contact the local member organization of the Connecticut Coalition Against Domestic Violence (CCADV), as they can assist the Applicant in determining the correct entity to contact for out-of-state service. See the CCADV Agency Listing attached to Administrative Bulletin 17-08 at the end of this section.

General Service Guidelines: The circumstances surrounding restraining orders and civil protection orders are necessarily volatile. A state marshal should contact local law enforcement if a situation becomes threatening or if there is reason to suspect the Respondent will become violent during service. Prior to service, the state marshal must review the application to identify whether the Respondent possesses a firearm or firearm permit. As noted below, if the application indicates that the Respondent possesses a firearm or permit and an ex-parte restraining order has been issued, the marshal **must** notify local law enforcement and request their presence during service.

The state marshal should make himself or herself aware of the Applicant's location (and the location of the Applicant's children, if applicable) during the time of service to ensure the safest service possible for all parties. It is extremely important to identify whether or not the Respondent is still residing with the Applicant.

As noted above, the Applicant should have received a Respondent Profile Form from the clerk. The Respondent Profile Form is an extremely useful tool for locating and identifying the Respondent to complete service. If possible, the state marshal should review the Respondent Profile Form with the Applicant during their initial meeting. If the Applicant has not filled out a Respondent Profile Form, the state marshal should assist the Applicant in obtaining one from the clerk and filling it out.

It is extremely important that the state marshal inform the Applicant of the status of service prior to the hearing date. This notification informs the Applicant of whether or not the Respondent has notice of the order and also confirms that the hearing date is valid. This notification also permits the Applicant to request an extension of time for service in the event that the service was unsuccessful.

Mandatory Restraining Order Duty

Pursuant to General Statutes § 6-38b (f), the State Marshal Commission is responsible for the equitable assignment of service of restraining orders to the state marshals in each county. The Commission administers a Restraining Order Rotation

system for assignment of state marshals to restraining order duty shifts at each courthouse at which restraining orders are issued. All state marshals are assigned to restraining order duty. Each state marshal is required to attend his or her shifts. The failure to attend mandatory restraining order duty as assigned may be the basis for disciplinary action including revocation of the state marshal's badge. The State Marshal Commission generally sends out the Restraining Order Rotation schedule every six months.

Restraining Order Rotation duty assignments rotate daily or weekly, depending on the courthouse. There are two daily shifts at each applicable courthouse from 12:30 p.m. to 1:00 p.m. and 4:30 p.m. to 5:00 p.m. Note that if, during his or her shift, the on-duty marshal has been notified that there is a pending restraining order application under review by the court, the marshal must stay at the courthouse until the order has been issued.

Certain courthouses are participating in a call-in pilot program administered by the Judicial Branch. If assigned to restraining order duty in one of these courthouses, the marshal may call in to the courthouse prior to his or her shift to determine whether or not there are restraining orders requiring service necessitating that the marshal physically report for the shift. *See* the Restraining Order Call-In Pilot Program Protocol subsection at the end of this section for more information on the call-in procedure and the courthouses participating in the pilot program. This pilot program is subject to change by the Judicial Branch.

Upon arrival at the courthouse for his or her assigned shift, the state marshal should check in with the clerk's office. This ensures that the clerk's office is aware of which marshal is on duty for a given shift and when the marshal is present in the courthouse. The Chief Court Administrator is required to, where feasible, allocate space in each courthouse for the state marshal to meet with applicants to discuss service. *See* General Statutes § 46b-15d. State marshals should contact the clerk at each courthouse directly for information about the location of the allocated meeting space, if such space has been designated.

The state marshal on duty is required to accept and serve papers provided to him or her for service. This is true even if the order was not issued on the day of his or her shift. Note that the Applicant is not required to utilize the marshal on duty at the courthouse and may choose any state marshal in the county where the restraining or civil protection order is to be served. Accordingly, a state marshal may be contacted and asked to serve a restraining order or civil protection order outside of his or her scheduled restraining order duty shifts. If the marshal is unable to serve it for any reason, he or she should arrange for another state marshal to serve the order. A marshal may not return a restraining order to an Applicant or require that the Applicant find another marshal for service.

Also note that restraining orders are generated by the family court and civil protection orders are generated by the civil court. Accordingly, during his or her restraining order duty shift, a state marshal may be approached by a civil protection order

Applicant to serve a civil protection order that was issued by a different court. In addition, as is described above, restraining orders and civil protection orders must be served by a marshal in the county where the Respondent resides. Accordingly, the on-duty marshal may be contacted by a marshal in another county to arrange transfer and service of a restraining order or civil protection order on a Respondent in his or her county.

Coverage: A state marshal is required to fulfill his or her assigned duty shifts and is fully responsible for the service of those restraining orders and civil protection orders received during his or her shift. If a state marshal is unable to fulfill his or her assigned shifts, it is his or her responsibility to obtain coverage from another state marshal. If a marshal has obtained coverage for his or her shift by another marshal, he or she must notify *both* the appropriate clerk's office in the courthouse where the marshal is assigned *and* the State Marshal Commission Office. This notification should be made **prior to** the shift and at least **48 hours** in advance of any change. Notification to the Commission office should be in writing and sent to: marshal.commission@ct.gov.

If a state marshal, on the day of his or her shift, discovers that he or she will not be able to attend his shift for any reason, he or she must immediately call the clerk and the Commission office. **Note that it is the marshal's responsibility to find coverage for his or her shifts and not the clerk or the Commission office.**

Fees

The fees for service of restraining orders or civil protection orders are calculated using the fee schedule for civil process. *See* General Statutes § 52-261. The fees for such service are paid for by the Judicial Branch after service is completed. General Statutes § 46b-15 (h) (1). **The Applicant is not required to pay the fee for service of a restraining order or civil protection order.** To request reimbursement for the fee, the state marshal should submit a State Marshal Service Invoice For Service of Process. *See* the Invoicing section of this manual. This invoice should be submitted to the clerk's office, along with the original papers and the marshal's return of service. The Judicial Branch will remit payment to the state marshal directly. Note that the Judicial Branch will pay the fee for successful services only.

Mandatory Protection Order Registry

The Judicial Branch maintains an online Protection Order Registry Service Tracking System ("Registry") for use in conjunction with the service of restraining orders and civil protection orders. The Registry is a web-based application that allows state marshals to record service information regarding restraining and civil protection orders through the use of electronic devices (i.e. smart phones, tablets, PCs, and laptops). Once

service information is entered, the Registry automatically sends notification to the applicable law enforcement agencies.

As soon as possible, but not later than **two hours** after making service, the state marshal must input the date, time, and method of service into the Registry. *See* General Statutes § 46b-15 (h), as amended by Public Act 16-34. The Registry will automatically notify the applicable law enforcement agencies of the service information. If, prior to the date of the scheduled hearing, service has not been made, the marshal must input that service was unsuccessful into the Registry. *See* General Statutes § 46b-15 (h), as amended by Public Act 16-34.

Note that use of the Registry is mandatory and marshals are required to utilize the Registry to notify both the court and the applicable law enforcement agencies about service information. For further information concerning the Protection Order Registry, please contact Toby Padegenis, Court Planner, Superior Court Operations, 225 Spring Street, Third Floor, Wethersfield, CT 06109, Phone: (860) 263-2708.

Additional Firearms Notification Requirements: In addition to utilizing the Protection Order Registry subsequent to service, there are special law enforcement notification requirements where the court has issued an ex-parte restraining order and the restraining order application indicates that the Respondent possesses a firearm or ammunition or holds a permit or eligibility certificate for a firearm or ammunition. In those instances, the state marshal shall, *prior to* service:

- 1) Provide **notice** to the law enforcement agency in the town of service concerning *when and where* the service will take place;
- 2) Send a **copy** of the papers by facsimile or other means to such law enforcement agency; and
- 3) Make a **request** that a police officer from the law enforcement agency be present when service is executed.

Note that while the requested law enforcement agency may designate a police officer to be present during service, it is not mandatory that the agency assign an officer. *See* General Statutes § 46b-15 (h) (2), as amended by Public Act 16-34.

Major Statutes

The following list is a guide to some of the important and relevant statutes in the area of restraining and civil protection orders. Always check particular statutes in any given area if you have questions about service. The following reference list is not exhaustive and sets forth only the most important and commonly used statutes covering service of restraining and civil protection orders:

46b-15	Primary restraining order statute. <i>See also</i> General Statutes §§ 46b-38c and 54-1k.
46b-15 (b) (3)	Protection of animals owned or kept by Applicant.
46b-15 (h)	Service of restraining orders/hearing notices; payment of service fees by the Judicial Branch.
46b-16 (a) and 54-1k.	Primary civil protection order statutes.
52-261 6-38b (f)	State marshal fees for serving process. State Marshal Commission mandate to provide equitable assignment of service of restraining orders to the state marshals in each county.
51-5c	Protection Order Registry.
52-259 (a) (3)	Waiver of court entry fees for restraining order matters.
53a-217 and 53a-217c	Criminal possession of a firearm when person is subject of a state or foreign restraining or protective order.
29-28 (b) (6) and 29-36f (b) (6)	Issuing a permit to carry handguns or gun eligibility certificate to acquire firearms to anyone under a restraining or protective order issued for the use, attempted use, or threatened use of physical force against someone.

Forms

The following is a list of the common forms utilized for restraining orders and civil protection orders. Note that these forms are updated frequently by the Judicial Branch. Accordingly, it is important to verify that the most current form has been utilized. These forms are available at the Forms section of the Judicial Branch website located at:

<http://www.jud.ct.gov/webforms>

JD-FM-137 Application For Relief From Abuse

JD-FM-138 Affidavit – Relief From Abuse

JD-CV-143 Application for Civil Protection Order

JD-CV-144 Affidavit – Civil Protection Order

Restraining Order Call-In Pilot Program Protocol

The State Marshal Commission, in conjunction with the Judicial Branch, has developed a call-in pilot program for state marshals serving restraining order duty in the following locations: Ansonia-Milford, Litchfield¹, Middletown, New London, Norwich, Rockville, and Putnam. The state marshals assigned to restraining order duty at these courthouses remain bound by the overall policies of restraining order assignment and service. The following sets forth the call-in protocol for these courthouses only:

- The restraining order duty shifts for participating courthouses, if a state marshal is needed, are the same as for other courthouses - 12:30 p.m. to 1:00 p.m. and 4:30 p.m. to 5:00 p.m. As with the non-pilot program courthouses, if a state marshal is notified that an order will be issued, the state marshal is required to remain at the courthouse until after the order is issued, even if this occurs after his or her shift.
- All state marshals assigned to the above-noted courthouses must provide and maintain an accurate cell phone number to the Commission. The Commission will provide the cell phone numbers to each Judicial District Chief Clerk for those state marshals assigned to restraining order duty in that Judicial District. These cell phone numbers are for the clerk's use only and will not to be given to the public.
- The on-call state marshal **must call** the clerk at the applicable courthouse each day at **12:00 p.m.** and at **4:00 p.m.** to inquire if there will be any applicants at the courthouse in need of service of a restraining order.
- If the clerk notifies the state marshal that one or more applicants will be present and will need the service of a restraining order or hearing notice, the state marshal must arrive at the courthouse at the appointed time (12:30 p.m. or 4:30 p.m.) and must remain at the courthouse for the duration of the shift.
- If the clerk is not aware of any applicant in need of the state marshal for the designated shift (12:30 p.m. or 4:30 p.m.), the clerk will so inform the state marshal during the call and the state marshal will not be required to physically report to the courthouse for his or her shift. However, if between 12:00 p.m. and 1:00 p.m. or between 4:00 p.m. and 5:00 p.m., the clerk becomes aware of an applicant who needs state marshal service, the clerk will call the on-call state marshal's cell phone to so inform the marshal. The marshal is then required to report to the courthouse as soon as is possible.

¹ Note that, the Litchfield Judicial District moved to a new courthouse location in Torrington in August of 2017. This did not impact this courthouse's participation in the call-in pilot program and the state marshals serving restraining order duty at this courthouse may utilize the call-in procedures outlined in this section of the Manual.

- If the on-call state marshal does not call at the appointed time or does not appear at the courthouse when expected, the clerk will attempt to call the state marshal. If the state marshal is unavailable by cell phone, the clerk will notify the Commission office as well as the Court Operations Unit.
- The above call-in procedure will not apply to any state marshal who has not provided his or her cell phone number to the Commission. If a state marshal has not provided his or her cell phone number to the Commission, that state marshal must report in-person to the applicable courthouse for his or her assigned restraining order duty shifts.

State Marshal Commission Restraining Order Rotation System

Courthouse	County	Daily Asgmt	Wkly Asgmt	Shift Details	Call-In
Ansonia/ Milford	NH	Yes		1 SM both shift	Yes
Bridgeport	F		Yes	1 SM at 12:30; 1 SM at 4:30	No
Danbury	F	Yes		1 SM both shifts	No
Hartford	H	Yes		1 SM both shifts	No
Litchfield ²	L		Yes	1 SM both shifts	Yes
Meriden	NH	Yes		1 SM both shifts	No
Middletown	M	Yes		1 SM both shifts	Yes
New Britain	H	Yes		1 SM both shifts	No
New Haven	NH	Yes		1 SM both shifts	No
New London	NL		Yes	1 SM at 12:30; 1 SM at 4:30	Yes
Norwich	NL		Yes	1 SM at 12:30; 1 SM at 4:30	Yes
Stamford	F		Yes	1 SM at 12:30; 1 SM at 4:30	No
Waterbury	NH	Yes		1 SM both shifts	No
Rockville	T	Yes		1 SM at 12:30; 1 SM at 4:30	Yes
Putnam	W	Yes		1 S M both shifts	Yes

² The Litchfield Judicial District moved to its new location in Torrington in August of 2017. The move did not impact the participation in the call-in pilot program. The courthouse is known as the Litchfield Judicial District Courthouse at Torrington.

State of Connecticut
Department of Administrative Services
State Marshal Commission
das.ct.gov/statemarshal

W. Martyn Philpot, Jr., Esq.
Chairperson

Jeffrey Beckham
Staff Director

DATE: April 28, 2017
TO: State Marshals
FROM: Jeffrey Beckham, Staff Director 
SUBJECT: Information Regarding Out of State Restraining Order Service

ADMINISTRATIVE BULLETIN
17-08

The Connecticut Coalition Against Domestic Violence (CCADV) has indicated that its local domestic violence organizations are a resource for restraining order applicants seeking to serve restraining orders in other states, including helping applicants identify the appropriate agent for service in those states. To facilitate this, the CCADV has provided a list of the contact information for its member organizations and the supervisors of these organizations listed by JD. These lists are attached to this bulletin. If, during restraining order duty, you encounter an applicant who requires service of a restraining order out of state, you may wish to refer them to these lists.

In addition, attached please find a chart provided by the CCADV containing information regarding agents of service for restraining orders in the New England states as well as contact information for each state domestic violence coalition. This information may also be helpful for restraining order applicants who must identify the appropriate agent for service of a restraining order out of state. Note that this information was compiled by the CCADV and the Commission has not verified and will not update this information.

Thank you for your attention to this matter.

450 Columbus Boulevard, Suite 1504
Hartford, Connecticut 06103
Tel. (860) 713-5372 Fax (860) 622-2938



Connecticut Coalition Against Domestic Violence

Agency Listing

24 Hour Hotline Number
888.774.2900 English
844.831.9200 Español

Ansonia

The Umbrella Center for Domestic Violence Services
158 Main Street*
Ansonia, CT 06401
HOTLINE: (203) 736-9944
Office: (203) 736-2601
Fax: (203) 736-2910
**mail to PO Box 148, Ansonia 06401*

Hartford

Interval House
P.O. Box 340207
Hartford, CT 06134-0207
HOTLINE: (860) 527-0550
Office: (860) 246-9149
Fax: (860) 247-2042

Norwalk

Domestic Violence Crisis Center
16 River Street, First Floor
Norwalk, CT 06850
HOTLINE: (203) 852-1980
Office: (203) 853-0418
Fax: (203) 852-6729

Bridgeport

The Center for Family Justice

753 Fairfield Avenue
Bridgeport, CT 06604
HOTLINE: (203) 384-9559
Office: (203) 334-6154
Fax: (203) 579-8882

Meriden

Chrysalis Domestic Violence Services
14 West Main Street
Meriden, CT 06451
HOTLINE: (203) 238-1501
Office: (203) 630-1638
Fax: (203) 237-1097

Sharon

Women's Support Services
158 Gay Street
P.O. Box 341
Sharon, CT 06069
HOTLINE: (860) 364-1900
Office: (860) 364-1080
Fax: (860) 364-5767

Danbury

Women's Center
2 West Street
Danbury, CT 06810
HOTLINE: (203) 731-5206
Office: (203) 731-5200
Fax: (203) 731-5207

Middletown

New Horizons
P.O. Box 1036
Middletown, CT 06457-1036
HOTLINE: (860) 347-3044
Office: (860) 344-9599
Fax: (860) 344-9953

Stamford

Domestic Violence Crisis Center
777 Summer Street, Ste. 400
Stamford, CT 06901
HOTLINE: (203) 588-9096
Office: (203) 588-9100
Fax: (203) 588-9101

Dayville

Domestic Violence Program United Services, Inc.
1007 N. Main Street
Dayville, CT 06241
HOTLINE: (860) 774-8648
Office: (860) 457-4751
Fax: (860) 779-1694

New Britain

Prudence Crandall Center, Inc.
P.O. Box 895
New Britain, CT 06050-0895
HOTLINE: (860) 225-6357
Office: (860) 225-5187
Fax: (860) 826-4994

Torrington

Susan B. Anthony Project
179 Water Street
Torrington, CT 06790
HOTLINE: (860) 482-7133
Office: (860) 489-3798
Fax: (860) 482-6268

Enfield

The Network
139 Hazard Avenue, Bldg. #3-9
Enfield, CT 06082-4583
HOTLINE: (860) 763-4542
Office: (860) 763-7430
Fax: (860) 763-7436

New Haven

The Umbrella Center for Domestic Violence Services
127 Washington Avenue East Building 2nd Flr.*
North Haven, CT 06473
HOTLINE: (203) 789-8104
Office: (203) 736-2601
Fax: (203) 562-9450
**mail to PO Box 148, Ansonia 06401*

Waterbury

Safe Haven Grt. Waterbury
P.O. Box 1503
Waterbury, CT 06721-1503
HOTLINE: (203) 575-0036
Office: (203) 575-0388
Fax: (203) 574-3306

Greenwich

Domestic Abuse Service
Greenwich YWCA
259 E. Putnam Avenue
Greenwich, CT 06830
HOTLINE: (203) 622-0003
Office: (203) 869-6501 x170
Fax: (203) 618-9464

New London

Safe Futures
16 Jay Street
New London, CT 06320-5910
HOTLINE: (860) 701-6000
Office: (860) 447-0366
Fax: (860) 440-3327

Willimantic

Domestic Violence Program United Services, Inc.
132 Mansfield Avenue
Willimantic, CT 06226
HOTLINE: (860) 456-9476
Office: (860) 942-5751
Fax: (860) 450-7262

domesticviolenceagencies.xls 9.23.14

CCADV, 912 Silas Deane Hwy, Lower Level, Wethersfield, CT 06109 Office: (860) 282-7899 Fax: (860) 282-7892

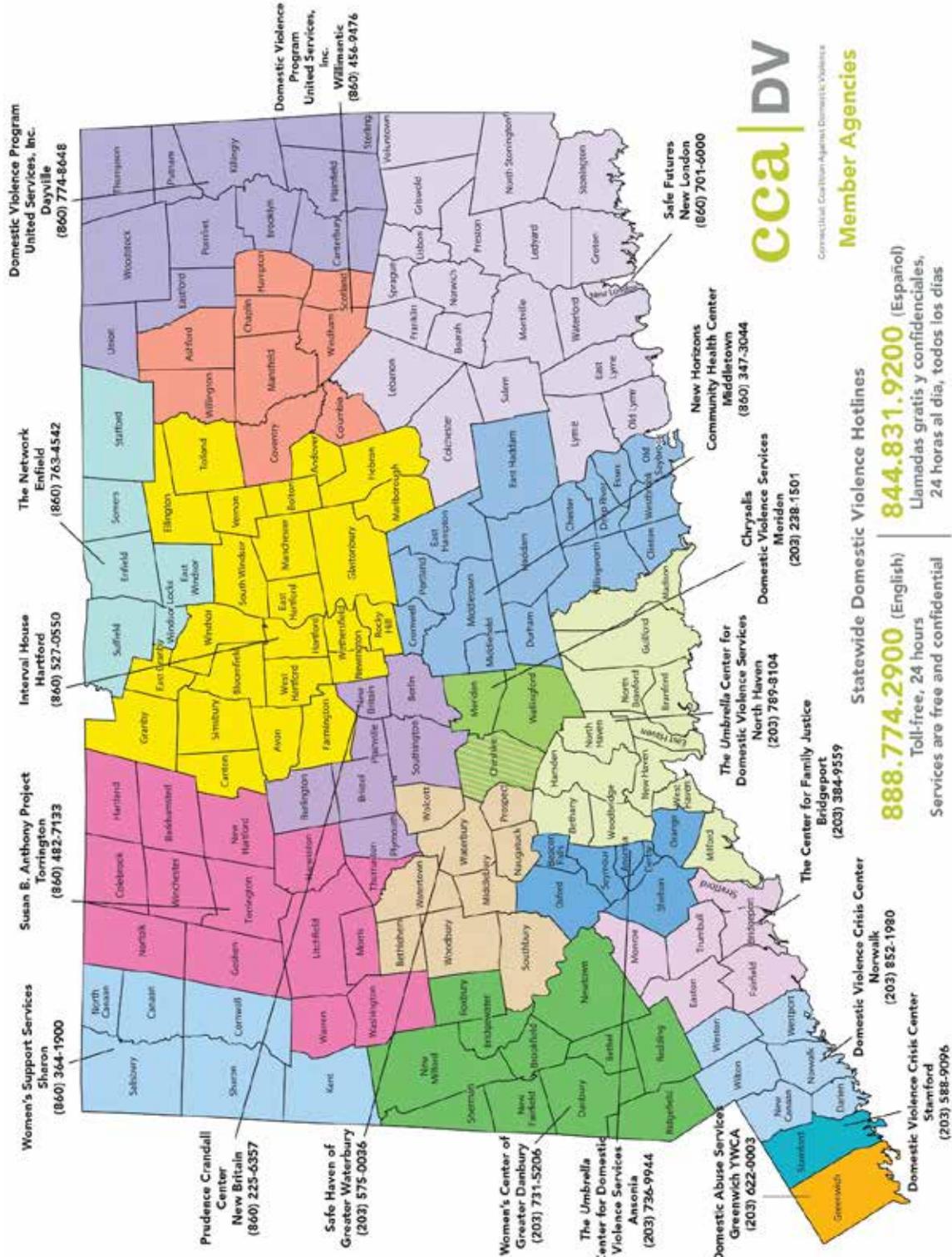
ADULT ADVOCATE & CIVIL FAMILY VIOLENCE VICTIM ADVOCATE SUPERVISORS			
cca DV <small>Connecticut Coalition Against Domestic Violence</small>			
JD	Domestic Violence Organization	Supervisor	PHONE
Ansonia-Milford JD	The Umbrella Domestic Violence Svcs.	Barbara Bellucci Cindy Carlson	(203) 773-6743 (203) 736-2601 x1337
Danbury JD	Women's Center	Kathryn Jones Raquel Lopez	(203) 207-8701 (JD) (203) 731-5200
Fairfield JD (Bridgeport)	The Center for Family Justice	Jennifer Roth Marisa Garwacki	(203) 579-6750 (203) 334-6154 x116
Hartford JD	Interval House	Jennifer Lopez	(860) 246-9149 x317
Meriden JD	Chrysalis Domestic Violence Svcs.	Linsey Walters	(203) 630-1638
Middlesex JD	New Horizons	Kimberly Citron	(860) 490-4237
Litchfield JD	Susan B. Anthony Project (Torrington)	Michelle Marrone Gail Manna	(860) 489-3798 x329 (860) 489-3798
New Britain JD	Women's Support Services (Sharon)	Maggie Ianello	(860) 364-1080
New Haven JD	Prudence Crandall Center, Inc.	Adam Grabowski	(860) 225-5187x36
New London /Norwich JD	The Umbrella Domestic Violence Svcs.	Barbara Bellucci Cindy Carlson	(203) 773-6743 (203) 736-2601 x1337
Stamford - Norwalk JD	Safe Futures Domestic Violence Crisis Center	Chelsea Randall Allison Roach Norwalk Marielynn Herrera-Urquidez	(860) 443-3959 Ext.4052 (203) 847-5825 x4102 (203) 588-9100
Tolland JD	The Network	Kathy Barron Rachael Walsh	(860) 763-7430 x306 (860) 741-3697 3162
Waterbury JD	Safe Haven Greater Waterbury	Susan Gaddis Margaret Rosa	(203) 236-8078 (203) 575-0388
Windham (Putnam) JD	Domestic Violence Program	Julie Hoagland	(860) 942-5762

**Service of Civil Orders of Protection (Restraining Orders)
Nationwide Agents of Service Contact Information**



New England States							
	Maine	Massachusetts	New Hampshire	New Jersey	New York	Rhode Island	Vermont
State Coalition Phone Number	MCEDV 207-430-8334	Jane Doe, Inc. 617-248-0922	NHCADSV (603) 224-8893	NJCEDV 609-584-8107	NYSCADV 518-482-5465 (Albany Office) 585-413-0887 (Rochester Office)	RICADV 401-467-9940	VNADSV 802-223-1302
Authorized Agent(s) of Service	<ul style="list-style-type: none"> ◦ LE (State Police, sheriff, municipal police) ◦ Court security officer is ◦ defendant present in court ◦ DOC if defendant is incarcerated 	<ul style="list-style-type: none"> ◦ Law Enforcement agency-law officers (i.e. any officer authorized to serve criminal process) 	<ul style="list-style-type: none"> ◦ Local Police ◦ State Police 	<ul style="list-style-type: none"> ◦ Local Law Enforcement ◦ If no local LE in the county Sheriff's Dept. serves. 	<ul style="list-style-type: none"> ◦ Sheriff's Office ◦ Municipal/Police Dept. ◦ Police Dept. 	<ul style="list-style-type: none"> ◦ Sheriffs (primary agent for service) ◦ Constables ◦ Local Police officers 	<ul style="list-style-type: none"> ◦ Law Enforcement Officer
Statutory Citation	ME. REV. STAT. Tit. 19A §4002	MASS. GEN LAWS ch. 208 §34C & 209A §§1, et. seq.	N.H. REV. STAT § 173-B:3, et. Seq.	NJ STAT §§5:7A & 2C:25-17, et. Seq.	NY Fam. CT. Act §§ 826 & 828 and NY Exec. Law §221a	RI Gen Laws §§ 15151, et. seq. §45164.3	VT. STAT. 15§§ 1101, et. Seq.

State Coalition Contact Information			
State	Phone Number	State	Phone Number
Alabama	(334) 832-4842	Kansas	(785) 232-9784
Alaska	(907) 586-3650 Juneau (907) 586-3650 Sitka	Kentucky	(502) 209-5382
Arizona	(602) 279-2900	Louisiana	(225) 752-1296
Arkansas	(501) 907-5612	Maryland	(301) 429-3601
California	(916) 444-7163	Michigan	(651) 646-6177
Colorado	(303) 831-9632	Minnesota	(651) 646-6177
Delaware	(302) 658-2958	Mississippi	(601) 981-9196
Florida	(850) 425-2749	Missouri	(573) 634-4161
Georgia	(404) 209-0280	Montana	(406) 443-7794
Hawaii	(808) 832-9316	Nebraska	(402) 476-6256
Idaho	(208) 384-0419	Nevada	(775) 828-1115
Illinois	(217) 789-2830	New Mexico	(505) 246-9240
Indiana	(317) 917-3685	North Carolina	(919) 956-9124
Iowa	(515) 244-8028	North Dakota	(701) 255-6240
		Ohio	(800) 924-9840
		Oklahoma	(405) 524-0700
		Oregon	(503) 230-1951
		Pennsylvania	(717) 545-6400
		South Carolina	(803) 256-2900
		South Dakota	(605) 945-0869
		Tennessee	(615) 386-9406
		Texas	(512) 794-1133
		Utah	(801) 521-5544
		Virginia	(804) 377-0335
		Washington	(206) 389-2515
		West Virginia	(304) 965-3552
		Wisconsin	(608) 255-0539
		Wyoming	(307) 755-5481



**Domestic Violence Programs
Shelter • Information • Referrals**

Domestic Violence programs are located throughout the State of Connecticut. The programs provide a 24-hour hotline, information, referrals, and shelter to victims of domestic violence.

**Statewide Domestic
Violence Hotline
1-888-774-2900
1-844-831-9200 (Spanish)**

ADA Notice

The Judicial Branch of the State of Connecticut complies with the Americans with Disabilities Act (ADA). If you need a reasonable accommodation in accordance with the ADA, contact a court clerk or an ADA contact person listed at www.jud.ct.gov/ADA/.

Disclaimer: This publication has been put together by the Judicial Branch as a public service and under the provisions of section 46b-15b of the Connecticut General Statutes. It is based on the Connecticut General Statutes in effect at the time of publication. This information is not intended as a substitute for getting legal advice from a Connecticut attorney. You are responsible for any actions you take on your own behalf. The clerk's office may assist you with procedural questions; however, the staff cannot act as your attorney or give legal advice and are not responsible for any errors or omissions in these procedures. If you need more information or assistance, you should either contact an attorney or read the appropriate sections of the Connecticut General Statutes and the Connecticut Practice Book.

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Restraining Orders: How to Apply for Relief from Abuse



www.jud.ct.gov

State of Connecticut Superior Court

The Forms You Need to Apply for a Restraining Order

Fill out an Application for Relief From Abuse form (JD-FM-137), and an Affidavit – Relief From Abuse form (JD-FM-138).

If you want temporary custody of your children, fill out an Affidavit Concerning Children form (JD-FM-164). If the respondent is your spouse or someone you have a civil union with, or you live with the Respondent and have a dependent child who also lives with you, and you would like to ask the court to make additional orders of maintenance, check the box on the Application for Relief From Abuse form (JD-FM-137) that says that, and fill out the Supplemental Affidavit and Request for Orders of Maintenance form (JD-FM-233). You also need to fill out a Restraining Order Service Respondent Profile form (SMC-2), so that the State Marshal can find and deliver the papers to the Respondent.

Note: The person who fills out the Application for Relief From Abuse form (JD-FM-137) is called the "Applicant" in the restraining order process.

The person the Application for Relief From Abuse form is filed against is called the "Respondent."

Application Procedures

You must give the filled-out forms to the court clerk. The Application and Affidavits must be signed in front of a clerk, notary public or lawyer.

The Application and Affidavits will be reviewed by a Judge. If your application for an ex parte (immediate) order was granted and you checked any of the boxes on page 1 of your application that the respondent has firearms or ammunition, a permit to carry a pistol or revolver or an eligibility certificate for a pistol, revolver or a long gun eligibility certificate, or an ammunition certificate, your hearing will be held within 7 days from the date of the order. Otherwise, the court will order your hearing to be held within 14 days from the date of the order.

Fees

You do not have to pay court fees to file the Application or for any motion to change or extend the order. The fee for delivery of the Application (known as service) and any orders issued without a hearing (ex parte) will be paid for by the Judicial Branch.

After the Judge Rules on the Application

If the Judge grants your request for a restraining order, the clerk's office will process the papers and give you two (2) copies of the:

- Order of Protection form (JD-CL-99) and, if appropriate
- Additional Orders of Protection form (JD-CL-100) and Orders of Maintenance form (JD-FM-234)

The clerk will also return to you the original:

- Application for Relief From Abuse form (JD-FM-137)
- Affidavit – Relief From Abuse form (JD-FM-138)
- Affidavit Concerning Children form (JD-FM-164)

The clerk will also give you the:

- Order and Notice of Court Hearing form (JD-FM-140)
- General Restraining Order Notifications form (JD-CL-104)
- Restraining Order Service Respondent Profile form (SMC-2) if you have not already received one

You should keep one of the copies of the Order of Protection form (JD-CL-99) and Additional Orders of Protection form (JD-CL-100), if ordered, with you at all times and the other copy of the orders in a safe place.

Any ex parte orders granted by the Judge will last until your hearing date unless otherwise ordered. The orders can be extended later at the hearing.

The clerk will send a copy of the order or information in the order to law enforcement within forty-eight (48) hours.

Delivery to the Respondent (Service of Process)

To make sure that the Respondent knows about the restraining order, if the court ordered one, and the clerk gave you to a State Marshal, also known as a process server or proper officer, for delivery to the Respondent. (The clerk or someone at a Court Service Center can explain to you who a "proper officer" is). You may get a current list of State Marshals from the clerk's office or the Judicial Branch web site at www.jud.ct.gov. At some courthouses, a State Marshal is at the courthouse at certain times during the day to help with service.

The Restraining Order Service Respondent Profile form (SMC-2) is needed so that the State Marshal can find and deliver the papers to the Respondent. It is very important to give the State Marshal as much information as you can about how to find the Respondent.

The forms must be delivered to the Respondent at least three (3) days before the hearing date. If you do not know where the Respondent lives or cannot give enough information about how to find the Respondent, the State Marshal may not be able to find the Respondent to deliver the papers and your protection might be limited.

If an ex parte order was issued and the State Marshal was not able to deliver the forms to the respondent at least 3 days before the hearing, you may file a Request for Additional Time for Service of Ex Parte Restraining Order (Family) JD-FM-256 before or on the day of your hearing to ask the court for more time.

After the State Marshal delivers the forms, the original forms must be returned to the clerk's office so that the court has proof that the Respondent was served. Therefore, it is recommended that the forms be returned to the clerk's office as soon as possible.

Firearm Restrictions

Firearm restrictions apply to Respondents who are subject to orders of protection. A notice of the firearm restrictions is printed on the General Restraining Order Notification form (JD-CL-104).

Testimony by Other Means

Before the hearing, you may file a motion asking that your testimony be taken in a different place, away from the Respondent. The Judge may order the use of videoconferencing or another way for you to give testimony. If you want to request this, you should file a motion with the court as soon as possible before the hearing.

The Court Hearing

You must go to the hearing if you want the court to give you a restraining order, if it hasn't given you one already, or to extend the restraining order if it already gave you one. During the hearing you will be able to tell the Judge why you want the restraining order or why you want to extend one.

If you think you need more security when you are in court for the hearing, contact the clerk's office or the Court Service Center where the hearing will be.

On the day of the hearing and before going in front of the Judge, you and the Respondent must meet separately with a Family Relations Counselor (FRC) from the Court Support Services Division.

There will be a sign-up sheet in the area of the courthouse where the FRC has the meetings. A Judicial Marshal can tell you where that is. The FRC will ask for information about any existing court orders, possession of firearms or permits, history of the relationship, and information on child-related matters. The FRC may make recommendations and

may refer you to other agencies for other services. At the end of the meeting you and the Respondent will go to the courtroom to wait for your hearing.

Witnesses or evidence that will support your claims should be brought to the hearing.

If the court is closed on the scheduled hearing date, the hearing will be held on the next day the court is open and any ex parte order will stay in effect until the hearing is held.

After the Hearing

If the restraining order is granted by the Judge, you will get two (2) copies of a new Order of Protection form (JD-CL-99) and, if ordered, a new Additional Orders of Protection form (JD-CL-100) and Orders of Maintenance form (JD-FM-234). A copy of the order(s) will be given or mailed to the Respondent by the clerk.

The clerk will send a copy of the order(s) or the information in the order(s) to law enforcement within forty-eight (48) hours.

You should keep one of the copies of the Order of Protection form (JD-CL-99) and, if ordered, a new Additional Orders of Protection form (JD-CL-100) and Orders of Maintenance form (JD-FM-234) with you at all times and the other copy of the orders in a safe place.

Change of Address

If you move after the court issues the restraining order, contact the clerk's office to find out how to update your information.

Length of the Restraining Order

The new Order of Protection, and Additional Orders of Protection if ordered, are good for one (1) year, unless the Judge orders a different length of time. If Orders of Maintenance were made, they are good for a maximum of 120 days. It is important to make sure that you understand the order and know

how long each part of it lasts. Ask someone at the Court Service Center or Clerk's Office for help if you do not understand what the orders say or how long they will remain in effect.

About five (5) weeks before the end of the restraining order, the Office of Victim Services will mail you a letter to the address listed in the order, or your new address if you gave it to the court, telling you when the restraining order will end.

Violating the Restraining Order

If the Respondent did not follow any part of the order you should contact the police immediately and file a complaint.

Extending the Restraining Order

If you want the restraining order to continue after the period ordered by the court, you must file a Motion to Extend with the clerk's office. To keep the order from running out, you should file the motion at least two (2) to three (3) weeks before the restraining order ends.

After the motion is filed, the clerk will schedule a hearing, and return the motion to you for delivery to the Respondent. Delivery may be made by first-class mail to Respondent's last known address. You cannot extend or modify the Orders of Maintenance.

On the hearing date, the same court procedures apply as described in "The Court Hearing" section of this brochure.

For more information contact:

Office of Victim Services
1-800-822-8428
225 Spring Street
Wethersfield, CT 06109
www.jud.ct.gov/crimevictim

XII. SMALL CLAIMS

Summary

Writs

Small claims court has somewhat different rules from the Superior Court regarding the service of writs. Small claims matters involve suits for money damages of up to \$5,000, with the exception of suits for the return of a security deposit which may exceed \$5,000 depending on the value of the security deposit. The plaintiff is allowed to serve the writ by using one of four methods:

- priority mail with delivery confirmation;
- certified mail, return receipt requested;
- a nationally recognized courier service with delivery confirmation; or
- a proper officer, such as a state marshal.

Note that, as a general rule, the plaintiff does not have to hire a proper officer to make service and may utilize one of the first three service options. An exception to this rule exists if the person being sued is an *out-of-state* business, corporation or limited liability company (LLC). In such cases, the writ must be served by a proper officer. Also note, generally a person may not sue a non-resident individual in small claims court. There is an exception where the individual does not live in Connecticut but owns real or personal property in Connecticut and the writ contains a statement that the out-of-state individual owns property in the state.

State marshals should receive from their client the original writ and notice of suit and any documents attached to the writ, along with the Instructions to the Defendant, form JD-CV-121, with enough copies for service. Service is made in the same manner as in any other civil action. The state marshal must then file the originals and his or her return with the court not later than **one month** after the date of service. Once the clerk receives the Small Claims Writ and Notice of Suit, the clerk will set an answer date and send notice to the plaintiff and an answer form to the defendants.

Application for Examination of Judgment Debtor

The judgment creditor in a small claims matter may also hire a state marshal to serve an Application for Examination of Judgment Debtor in relation to an execution ordered post judgment in a small claims matter. The state marshal should serve the application, order, notice of hearing, and subpoena on the judgment debtor at least 12 days before the hearing date. Once service is made, the marshal must provide the client with the original petition and his or her return of service. The petition and return of service must be filed at least 6 days before the hearing date.

For more information, please read the Small Claims section, Chapter 24, in the Connecticut Practice Book. Also the Judicial Branch has drafted a publication regarding

small claims matters entitled: “How Small Claims Courts Work” JDP-CV-45, available at <http://www.jud.ct.gov/pub.htm>.

Forms

The following is a list of the common forms utilized for small claims matters. Note that these forms are updated frequently by the Judicial Branch. Accordingly, it is important to verify that the most current form has been utilized. These forms are available at the Forms section of the Judicial Branch website located at:

<http://www.jud.ct.gov/webforms>

JD-CV-040 Small Claims Writ and Notice of Suit

JD-CL-043 Subpoena - Civil/Housing/Small Claims/Family/Family Support
Magistrate/Criminal/Motor Vehicle

XIII. SUBPOENAS

Summary

Definitions

A **subpoena** is a writ commanding a person to appear at a specified time and place (hearing, deposition, etc.) to give testimony about the particulars of a matter.

A **subpoena duces tecum** (Latin for “bring with thee”) is a subpoena with an additional command to the witness to produce and bring with them papers, records or other documentary material sought in a matter.

Power

A subpoena can be issued by an attorney (i.e. Commissioners of the Superior Court), a clerk of the court, and a wide range of administrative boards and adjudicatory bodies.

In general a subpoena can be served by an individual (indifferent person, which can include a state marshal) anywhere in the state, by a constable in his or her town, and by a state marshal in his or her county. Doing the work as a marshal, when possible, may be preferable, since marshals have liability insurance to cover their work.

Manner

The state marshal should receive a signed subpoena and a copy from the client. He or she should endorse the copy on the signature page with a notation of “A True and Attested Copy” and the marshal’s title of “State Marshal.” Note that, if a state marshal is serving a subpoena as an indifferent person, he or she should not state on the signature page that he or she is a state marshal and should instead state the words “Indifferent person.” He or she should serve the copy and send the original back to the issuer with his or her signed return attached and an invoice. The state marshal may wish to supply a file copy for the client. If serving a subpoena for the State or a state agency, the state marshal should use the CO-17 Invoice Form. If serving a subpoena for the Judicial Branch, the state marshal should use the State Marshal Services Invoice Form. Other state agencies may require a specific form. Note that, each subpoena served represents a separate service and requires a separate return.

The Office of the Attorney General does not accept service of subpoenas for state employees, unless the employee actually works for the Office of the Attorney General.

The return must reflect the State of Connecticut and the town and county where the subpoena was served. The marshal should include the notation “ss” (which stands for

signed and sealed) followed by the town name and the date of service. The marshal must also include a statement describing how service was made (i.e. reading the same in the presence and hearing of, leaving a true and attested copy thereof in the hand of, or leaving a true and attested copy thereof at the usual place of abode or with a particular agent). The statutes and your client will determine the specific service needed. In-hand service is the preferred form of service for subpoenas, as the court will not issue a *capias* warrant to enforce the subpoena and arrest a non-appearing witness unless the court is satisfied about actual notice.

As in civil service of process, the state marshal should list as part of his or her return the standard fees for service, travel, endorsements, and copies. **Note that witness fees are no longer tendered by the marshal.** They are paid by the party on the day of the hearing or appearance for which the witness was summoned. If the subpoena was issued by the Judicial Branch, witness fees will be paid by the clerk of the court.

Major Statutes

There are many statutes that touch on the service of subpoenas, especially in the area of civil litigation and administrative agencies. The state marshal should always check with his or her client, attorney (if applicable), and the statutes if he or she has any questions about a particular service. The following reference list is not exhaustive and sets forth only the most important and commonly used statutes covering service of subpoenas:

- 52-143 Witnesses (covers witnesses in general, service must be **not less than 18 hours** prior to the appearance date of the person summoned. Note specific rules for police, state witnesses, doctors and others).
- 52-260 Witness fees (state marshals no longer tender these fees; they are paid directly to the witness by the party on the day of the appearance).
- 52-57 Manner of service of process (lists specific categories).
- 52-261 State marshal fees for serving process.
- 52-144 Statutory form of subpoena.
- 52-400b Discovery orders.
- 4-104 Hospital records (requires service **24 hours** before appearance date, with an exception if written notice is given by the party of an intent to serve).

- 36a-43 Bank records (requires service **10 days** before appearance date and service on the customer of the account; allows regular service or certified mail service on the customer).
- 4-151 Subpoenas issued by Claims Commissioner; *capias* power.
- 52-397 Judgment debtors.

Depositions: *See* General Statutes §§ 52-148a - 52-148e for the subpoena process used for depositions. A deposition is a type of discovery where a party obtains the oral testimony of another party or a witness outside of court. A deposition notice will state the time and place of the deposition. Subpoenas and subpoenas duces tecum are commonly used for depositions to summon the party to be questioned.

Capias: A *capias* or *capias mittimus* is a court order to take an individual into custody for failure of that person to appear in court. The court will not issue a *capias* warrant to arrest an individual for the failure to appear unless that individual was first served in-hand with a valid subpoena ordering the appearance. *See* General Statutes §§ 1-3b, 52-143, 52-400b and the *Capias Warrants* section of this manual.

Forms

The following is a list of the common forms utilized for subpoenas. Note that these forms are updated frequently by the Judicial Branch. Accordingly, it is important to verify that the most current form has been utilized. These forms are available at the Forms section of the Judicial Branch website located at: <http://www.jud.ct.gov/webforms>

JD-CL-043 Subpoena - Civil/Housing/Small Claims/Family/Family Support
Magistrate/Criminal/Motor Vehicle

JD-CL-136 (Formerly JD-CV-062) Application for Issuance of Subpoena

JD-CL-137 Request for Hearing, Denied Application for Issuance of Subpoena

JD-JM-150 Application For Issuance of Subpoena, Juvenile Matters

XIV. USE OF FORCE POLICY

State of Connecticut
Department of Administrative Services
State Marshal Commission
das.ct.gov/statemarshal

W. Martyn Philpot, Jr., Esq.
Chairperson

Jeffrey Beckham
Staff Director

DATE: December 16, 2016

TO: State Marshals

FROM: Jeffrey Beckham, Staff Director



SUBJECT: Revised Use of Force Policy

ADMINISTRATIVE BULLETIN
16-26

At its December 15, 2016 meeting, the State Marshal Commission voted to adopt a revised Use of Force Policy. (See attached Use of Force Policy rev. 12/15/2016). This revised policy replaces the previous Use of Force Policy adopted on April 30, 2013. Previous versions of this policy should be discarded.

Summary of Revisions:

Additional Training

The revised Use of Force Policy makes additions to the training requirements for both 1) state marshals seeking or maintaining membership on the Capias Unit (See attached Use of Force Policy, Section H); and 2) state marshals seeking or maintaining authorization to carry a firearm during the course of their official duties (See Use of Force Policy, Section G). In addition, the training for both of these categories of marshals will now be held at the Police Officer Standards and Training Council (POSTC) Training Academy. Commission staff is currently working with officials at the Academy to develop training modules to meet these training requirements. The Commission will establish a date by which marshals must come into compliance with these training requirements and Commission staff will advise you of this deadline when it is set.

450 Columbus Blvd., Suite 1504
Hartford, Connecticut 06103
Tel. (860) 713-5372 Fax (860) 622-2938

Less-Than-Lethal Force Options

Under this policy, state marshals who carry firearms while conducting their official duties are now required to carry, while carrying a firearm, one or more less-than-lethal weapon options (i.e. pepper spray or baton) (See Use of Force Policy, Section G.1.e).

Use of Force/Medical Aid 72-Hour Reporting Requirements

State marshals must report certain uses of force to the Commission within **72 hours**. (See attached Use of Force Policy, Section F). In addition, marshals must also report medical aid rendered to a person as a result of the marshal's use of force to the Commission within **72 hours**. (See attached Use of Force Policy, Section E). Note that these reporting requirements are not new and existed in the previous Use of Force Policy. This policy simply mandates that such reporting occur within a set timeframe. The Commission has developed a form for making such mandatory reports (Attached hereto). This form will be available on the State Marshal Commission website. Reports can be made by filling out and signing this form and sending it via email to Marshal.Commission@ct.gov or fax to (860) 622-2938. You may attach any additional relevant documents (i.e. a police report) to this form that you wish to be considered by the Commission as part of your report.

Handcuffs

Under this policy, only marshals who are on the Capias Unit may carry or utilize handcuffs during the course of their official duties. Note that the only use of handcuffs authorized by the Commission is use while making a civil capias arrest under a valid capias warrant.

Authorization to Carry Pepper Spray/Batons

Under this policy, marshals who are not on the Capias Unit or authorized to carry a firearm, in order to obtain authorization to carry pepper spray or a baton during the course of their official duties, must complete the applicable POSTC-approved Less than Lethal (OC or Baton) training course under the supervision of a Connecticut POST certified law enforcement instructor **every three years** and submit a certificate of completion to the State Marshal Commission. Only those marshals who have submitted the requisite training certificate and have subsequently received written authorization from the Commission are authorized to carry pepper spray or a baton during the course of their official duties.

STATE MARSHAL COMMISSION

POLICY STATEMENT & IMPLEMENTING PROCEDURES FOR USE OF FORCE BY STATE MARSHALS EXERCISING THE POWERS OF A PEACE OFFICER

PURPOSE:

When acting in the course of their official duties, state marshals may use physical force as provided in chapters 950 and 951 of the General Statutes and, in doing so, are considered peace officers, as defined by Connecticut General Statutes § 53a-3 (9). Accordingly, marshals have the legal authority to use reasonable force in the execution of their official duties and responsibilities. The use of force is a power that must be exercised in accordance with both law and policy. The law recognizes that, when arresting a person on a civil capias warrant, one shall use no more force than is objectively reasonable to overcome any resistance that may be offered, and with which to defend oneself, or others, from harm. The reasonableness of a particular use of force will be judged from the perspective of a reasonable marshal on the scene, taking into account all of the facts and circumstances with which that marshal was confronted. State marshals who use excessive force in light of this standard violate the law. Whether or not the force used by a marshal is found to be legally excessive, a marshal's actions may still violate this policy.

State marshals who use force in the performance of their duties must answer for their actions and the consequences to the law and to the State Marshal Commission. Their legal responsibility may become a question for the courts and for the Commission. Accordingly, this Use of Force Policy applies to any state marshal who uses force or carries a firearm during the course of his or her official duties, and the failure to adhere to any provisions of this policy may subject the marshal to discipline.

It is important that each marshal be familiar with Attorney General Formal Opinion 2001-017 (on peace officer status/criminal warrants) and Attorney General Formal Opinion 2012-03. The latter has sections on the law governing entering homes only with consent and how to interact with individuals who are not the subject of capias warrants. The State Marshal Commission does not certify or authorize state marshals to enforce the criminal laws of the State of Connecticut.

POLICY:

A. GENERAL REQUIREMENTS FOR STATE MARSHALS

1. Knowledge of the law must be current. State marshals should be knowledgeable about state and federal law, as well as State Marshal Commission policy, concerning the application of physical force.

2. Do not exceed legal authority. State marshals shall not exceed the scope and authority of applicable laws and policies relevant to the use of force.
3. Duty to carry a badge and state marshal identification. State marshals shall carry a badge and identification card at all times when executing their official duties.

B. USE OF PHYSICAL FORCE

1. Appropriate uses of physical force (General Statutes § 53a-22).
 - a. A state marshal acting in the capacity of a peace officer is justified in using physical force upon another person when and to the extent that he or she reasonably believes such to be necessary to:
 - i. Effect a civil capias arrest or prevent the escape from custody of a person whom he or she reasonably believes to be the subject of the capias warrant unless he or she knows that the arrest or custody is unauthorized; or
 - ii. Defend himself or herself or a third person from the use of imminent use of physical force while effecting or attempting to effect a civil capias arrest or while preventing or attempting to prevent an escape during such arrest.
 - b. A state marshal acting in the capacity of a peace officer while effecting a civil capias arrest pursuant to a warrant or preventing an escape from custody is justified in using physical force unless such a warrant is invalid and is known by such officer to be invalid.
2. Level of force. State marshals must utilize the lowest level of physical force necessary to achieve a lawful purpose. State marshals are never justified in using physical force for personal motives or revenge or to punish or retaliate for physical or verbal abuse.
3. Physical force.
 - a. The State Marshal Commission shall construe the use of pepper spray, batons, handcuffs, conducted energy weapons or firearms, when employed by a marshal, as a use of physical force.

C. USE OF DEADLY PHYSICAL FORCE

1. Definition of deadly physical force (General Statutes § 53a-3 (5)).
 - a. Deadly physical force means physical force which can be reasonably expected to cause death or serious physical injury. This includes but is not limited to the intentional discharge of a firearm.
2. When it is acceptable to use deadly physical force (General Statutes § 53a-22 (c)). A state marshal acting in the capacity of a peace officer is justified in using deadly physical force upon another person only when he or she reasonably

believes such to be necessary to defend himself or herself or a third person from the use or imminent use of deadly physical force.

D. STANDARD FOR EVALUATING THE USE OF FORCE

1. Legal standard for evaluating uses of physical force. The reasonableness of a use of force under this Use of Force Policy will be guided by the standards established by the Supreme Court in *Graham v. Connor*, 490 U.S. 386 (1989). The reasonableness of a particular use of force must be judged from the perspective of a reasonable marshal on the scene, in light of the facts and circumstances confronting him or her. The inquiry into the decision to use physical force is objective.
 - a. Important factors considered when determining the reasonableness of a particular use of force are:
 - i. The severity of the situation at issue;
 - ii. Whether the person against whom the force is used poses an immediate threat to the safety of the marshal or others;
 - iii. Whether such person is actively resisting a civil capias arrest or attempting to evade arrest by flight; and
 - iv. Any other fact or circumstance which reasonably bears upon the decision to use force.
 - b. The question is whether the “totality of the circumstances” justifies a particular use of force applied in the situation. The most important factor is whether the person poses an immediate threat to the safety of the marshal or others.
 - c. Under the Supreme Court’s standard in *Graham*, a state marshal’s actual intent is irrelevant as to whether a use of force is excessive. “An officer’s evil intentions will not make a Fourth Amendment violation out of an objectively reasonable use of force; nor will an officer’s good intentions make an objectively unreasonable use of force constitutional.” *Graham*, 490 U.S. at 397.
2. State marshals may not use deadly physical force in the following situations:
 - a. Where the person is unarmed, non-dangerous, and poses no immediate threat to the marshal or others.
 - b. To prevent the escape of a person wanted on a civil arrest warrant.
3. Warnings required before using deadly force.
 - a. Before using deadly force, a verbal warning shall be given whenever it is feasible and where doing so will not unreasonably increase the risk or injury to the marshal or any other person.
 - b. Warning shots are substantial danger to the marshal and citizens alike and are not authorized by the State Marshal Commission.
4. Shooting in the area of bystanders. In the event that firing a weapon is likely to endanger a third party, a marshal shall not discharge his or her weapon.

5. Shooting at/from motor vehicles. Firing at a motor vehicle in motion or from a motor vehicle in motion is prohibited unless the intended target is using deadly force against the marshal.

E. MEDICAL AID

1. When a state marshal must render medical aid.
 - a. Whenever an injury results from a state marshal's use of force, medical aid shall be rendered or secured as soon as possible.
 - b. When medical aid has been rendered to a person because of a marshal's use of force, the marshal shall notify the State Marshal Commission as soon as possible but in no event later than seventy-two (72) hours, on a form prescribed by the Commission.

F. DOCUMENTING THE USE OF PHYSICAL FORCE

1. Written reporting requirement. A written report regarding a use of force shall be provided to the State Marshal Commission within seventy-two (72) hours, on a form prescribed by the Commission, whenever a state marshal:
 - a. For other than training or recreational purposes, discharges his or her firearm, including an accidental discharge, or draws and points his or her firearm at someone or something;
 - b. Takes action that results in or is alleged to have resulted in the injury or death of another person; or
 - c. Uses physical force in the discharge of his or her official duties except as described below in subsection 2.
2. Reportable uses of force do not include: Reasonable holding, resisting, or positioning of an individual necessary to apply handcuffs and other restraints; or to effect compliance with a lawful command.

G. FIREARMS POLICY

1. Requirements for carrying a firearm. State marshals are authorized to carry firearms in the course of their official duties only under the following circumstances.
 - a. The state marshal has successfully completed, at his or her own cost, the following Police Officer Standards and Training Council (POSTC) approved basic recruit or refresher training/certification requirements, as appropriate, at the POSTC Connecticut Police Academy, subject to any prerequisites that may be required by POSTC:
 - Firearms training course within the preceding year;
 - Practical Shooting Decisions training course within the preceding year;
 - Use of Force training course within the preceding three years;

- Civil Liability training course within the preceding three years;
 - Defensive Tactics training course within the preceding three years;
 - Less Than Lethal Force training course within the preceding three years;
 - Less Than Lethal Force (Baton) training course within the preceding three years;
 - Less Than Lethal Force (OC) training course within the preceding three years; and
 - Emergency Medical Aid training course, as specified by POSTC, within the preceding three years.
- b. The state marshal possesses a valid Connecticut permit to carry pistols or revolvers.
- c. The state marshal has successfully completed a law enforcement oriented psychological examination by a licensed psychiatrist or clinical psychologist.
- d. The State Marshal Commission has reviewed the request at a Commission meeting, voted by a majority vote at said meeting to approve the request, and the state marshal has received written approval from the Commission to carry a firearm in the course of his or her official duties. In considering the request to carry a firearm during the state marshal's official duties, the Commission may consider:
- i. Any written request or evidence submitted by the state marshal;
 - ii. The Psychological Examination Report issued pursuant to subdivision c of this section;
 - iii. The state marshal's disciplinary history before the Commission; and
 - iv. Any other relevant information before the Commission.
- e. At all times while carrying a firearm during the course of his or her official duties, a state marshal shall also carry on his or her person a less-than-lethal option such as a baton and/or pepper spray consistent with this policy.
- f. No state marshal can carry a firearm while making arrests under capias warrants unless he or she has completed the firearm policy procedures noted herein and is on the Capias Unit.
- g. The state marshal shall provide the State Marshal Commission with proof of insurance consistent with Connecticut General Statutes § 6-30a (a) in an amount of not less than one million dollars (\$1,000,000.00) which names the state of Connecticut, the Department of Administrative Services, the State Marshal Commission and their officers, agents and employees as additional insureds. Such insurance policy shall protect and indemnify the insured from liability, to the limits of the policy, for all claims, including those involving use of a firearm, related to the use of force by a state marshal alleged to have been performed in the course of his or her official duties, including but not limited to, claims of supervisory liability and wrongful death under Connecticut common law and violations of a claimant's civil rights under federal law.

2. Review of permission to carry a firearm.
 - a. The State Marshal Commission reserves the right, at any time, to review permission for a state marshal to carry a firearm while conducting his or her official duties. This includes where a marshal has permission to carry as a member of the Capias Unit and membership on the Capias Unit has lapsed for any reason or is revoked by the Commission.
 - b. The State Marshal Commission reserves the right, at any time, to require that a state marshal successfully complete again any of the above conditions articulated in subsection 1 of this section in order to continue his or her permission to carry a firearm while conducting his or her official duties.
3. State marshals may only use authorized firearms and ammunition.
 - a. State marshals are authorized to carry, in the course of their official duties, any semiautomatic pistol of any caliber that is routinely and customarily used in the police environment by departments in the State of Connecticut. However, state marshals must also comply with General Statutes § 29-38m on the purchase of ammunition and General Statutes § 53-202w on the 10 round limit for large capacity magazines and are subject to procedural and penalty time frames set forth in General Statutes § 53-202x.
 - b. Each state marshal shall provide the State Marshal Commission with a written certificate indicating that his or her approved firearm has been inspected by a qualified armorer within the preceding year, is in good working order, and is operating within the manufacturer's specifications.
 - c. State marshals shall only carry factory-loaded ammunition manufactured by a recognized commercial manufacture of ammunition, suitable to the firearm type being carried by the state marshal. Bullet weight shall be consistent with firearm type and caliber of the firearm being carried by the state marshal. However, state marshals must also comply with General Statutes § 29-38 m on the purchase of ammunition, and General Statutes § 53-202w on the 10 round limit for large capacity magazines and are subject to procedural and penalty time frames set forth in General Statutes § 53-202x.
4. State marshals shall carry firearms discreetly.
 - a. State marshals shall carry firearms in such a manner so as not to unnecessarily cause public alarm.
 - b. State marshals in possession of a firearm during the course of their official duties shall, at all times, display their badges in plain view or otherwise conspicuously identify themselves as a state marshals.
5. Revocation of firearms authorization.
 - a. State marshals who fail to demonstrate compliance with this section, or any other provisions of this Use of Force Policy, who are arrested for a felony, provided the decision will be reviewed upon resolution of the

criminal matter, or who do not otherwise comply with State Marshal Commission Regulations, including § 6-38b-6 et. seq., or state or federal law may have their authorization to carry a firearm revoked, in addition to any other remedial action deemed appropriate by the State Marshal Commission.

- b. A state marshal whose official actions may have caused death or serious physical injury to another person through the use of his or her firearm shall have his or her authorization to carry a firearm or other authorized weapons administratively suspended, and may have his or her state marshal appointment administratively suspended, pending the outcome of an investigation conducted pursuant to State Marshal Commission Regulations §§ 6-38b-7 and 8.

6. Medical Attention.

- a. State marshals shall secure immediate, qualified medical attention, such as an ambulance or paramedic, for any person who is injured or in distress from any action which may be the direct or indirect result of a marshal's use of force.

7. Firearm safety.

- a. Storage of firearms (General Statutes § 29-37i and General Statutes § 53a-217a). Storage of firearms must be consistent with General Statutes § 29-37i and shall not be stored negligently in violation of General Statutes § 53a-217a.
- b. Firearms and vehicles.
 - i. State marshals shall not leave firearms unattended in unlocked vehicles.
 - ii. Whenever a vehicle is parked or left unattended and the firearm is left in the vehicle, the state marshal must unload the firearm, place the firearm in the vehicle's trunk in a locked box, and lock the vehicle.
 - iii. State marshals must keep their firearms out of the reach of a vehicle's passengers at all times.

H. CAPIAS UNIT

1. Requirements for assignment to the Capias Unit. State marshals who wish to be assigned to the Capias Unit shall fulfill the following requirements:
 - a. The state marshal has successfully completed the following Police Officer Standards and Training Council (POSTC) approved basic recruit or refresher training/certification requirements, as appropriate, at the POSTC Connecticut Police Academy, subject to any prerequisites that may be required by POSTC:
 - Use of Force training course within the preceding three years;
 - Civil Liability training course within the preceding three years;
 - Defensive Tactics training course within the preceding three years;

- Handcuffing Techniques training course within the preceding three years;
 - Less Than Lethal Force (Baton) Techniques training course within the preceding three years;
 - Less Than Lethal Force (OC) training course within the preceding three years;
 - Officer Safety/Mechanics of Arrest, Restraint, and Control training course within the preceding three years; and
 - Emergency Medical Aid training course, as specified by POSTC, within the preceding three years.
- b. The state marshal shall provide the State Marshal Commission with proof of an insurance policy consistent with Connecticut General Statutes § 6-30a (a) in an amount of not less than one million dollars (\$1,000,000.00) which names the state of Connecticut, the Department of Administrative Services, the State Marshal Commission and their officers, agents and employees as additional insureds. Such insurance policy shall protect and indemnify the insureds from liability, to the limits of the policy, for all claims related to the use of force by a state marshal alleged to have been performed in the course of his official duties, including, but not limited to, claims of supervisory liability and wrongful death under Connecticut common law, and violations of a claimant's civil rights under federal law.
- c. While engaged in the service of capias warrants, a state marshal cannot use or carry use of force equipment (firearms, batons, pepper spray or handcuffs) unless he or she is on the Capias Unit and has complied with the applicable firearm and capias protocols and training as set forth in this Use of Force Policy. State marshals who are not on the Capias Unit can still execute a capias without use of force equipment (firearms, batons, pepper spray, handcuffs) when the subject of the capias warrant voluntarily cooperates in the execution of the capias and no actions are needed beyond the service of the warrant and the consensual actions of the subject as a result of the execution.

I. PEPPER SPRAY

1. Authorization for carrying pepper spray is required. Only state marshals who have completed a POSTC-approved Less than Lethal (OC) training course under the supervision of a Connecticut POST certified law enforcement instructor within the preceding three years and have a certificate on file with the State Marshal Commission are authorized to carry pepper spray during their official duties as a state marshal.
2. Purpose of pepper spray. Pepper spray is intended to restrain and control a hostile subject with minimum physical contact between the state marshal and the subject. The speed and effectiveness of the pepper spray reduces the need for an escalation to the use of traumatic weapons.

3. State marshals may only use authorized pepper spray. State marshals may utilize Oleoresin Capsicum Aerosol Spray (OC or pepper spray) consistent with that utilized by the POST certified law enforcement instructor at the required training course.
4. When to use pepper spray.
 - a. Pepper spray may be used whenever a subject is combative, assumes a fight stance, or indicates aggressive intent by other means.
 - b. Other factors to be considered when using pepper spray are:
 - i. The potential injury to state marshal and/or subject;
 - ii. The area where the pepper spray shall be employed;
 - iii. The potential exposure or impact on uninvolved persons; and
 - iv. The presence of a physical condition, medical condition or apparent psychiatric condition known to the state marshal utilizing the pepper spray which may contraindicate its use (e.g., heart or respiratory condition, cationic state, panic disorder, or irregular breathing).
5. After using pepper spray.
 - a. The state marshal should alleviate any anxiety the subject may have by assuring him or her that the effects of the spray are temporary and symptoms should disappear within 15-45 minutes. If significant symptoms last longer than 45 minutes, especially in the eyes or respiratory system, the state marshal must seek prompt medical attention for the subject.
 - b. The state marshal should, whenever possible, remove the subject promptly from the contaminated area
 - c. The state marshal must monitor the subject's physical condition by asking the subject whether he or she has a respiratory condition such as asthma, bronchitis or emphysema.
 - d. The state marshal must summon emergency medical assistance immediately if a person appears to have significant difficulty breathing, appears unconscious, or requests medical attention following the administration of pepper spray.
 - e. If the person will be detained by an authorized Capias Unit state marshal under a civil capias warrant, the marshal should do the following after using pepper spray:
 - i. Immobilize the subject by handcuffing;
 - ii. If the subject is wet from spraying, allow a few minutes for the spray to dry before transporting, whenever possible;
 - iii. If possible, allow the subject to wash with soap and water as soon as is practical; and
 - iv. Inform any monitoring personnel, if applicable, that the subject has been sprayed.

J. BATONS

1. Authorization for carrying a baton is required. Only state marshals who have completed a POSTC-approved Less Than Lethal Force (Baton) training course under the supervision of a Connecticut POST certified law enforcement instructor within the preceding three years and have a certificate on file with the State Marshal Commission are authorized to carry and utilize batons during their official duties as a state marshal.

K. HANDCUFFS

1. Authorization for carrying handcuffs is required. Only state marshals who are on the Capias Unit are authorized to carry and utilize handcuffs during their official duties as a state marshal. Such marshals are only permitted to utilize handcuffs while making an arrest under a civil capias warrant.
2. Use of handcuffs.
 - a. State marshals shall handcuff all suspects behind their backs, if possible.
 - b. Persons with known medical conditions, or whose physical stature prevents them from being handcuffed behind their backs without unreasonably inflicting severe pain or injury may, at the discretion of the state marshal, be handcuffed in front.

State Marshal Commission Use of Force Report

Date of Report:		Date of Incident:		Time of Incident:	
Reporting State Marshal:			Badge Number:		
Control Methods Utilized:					
*Choose one or more that applies from the box below and fill the corresponding number in the column above. If more than one applies, place the numbers in the order in which each control method occurred.					
1. Verbal Commands		2. Pressure Points/Control Hold		3. Takedown	
4. OC Spray		5. Hand or Fist Strike		6. Elbow, Knee, Foot Strike	
7. Impact Weapon/Baton		8. Firearm		9. Handcuffs	
10. Other (please list) _____					
Carrying Firearm? <input type="checkbox"/> Yes <input type="checkbox"/> No		Carrying OC? <input type="checkbox"/> Yes <input type="checkbox"/> No		Carrying Baton? <input type="checkbox"/> Yes <input type="checkbox"/> No	
Name of Subject			Subject's Address		
Name(s) and Address(es) of Witness(es) (if more than three witnesses, please check this box <input type="checkbox"/> and attach addendum):					
Name		Address			
1.					
2.					
3.					
Activity Preceding Incident			<input type="checkbox"/> Service of Process		<input type="checkbox"/> Eviction
<input type="checkbox"/> Executing Civil Capias			<input type="checkbox"/> Other _____		
Detailed Description of Incident (should be chronological and include subject's action which led to use of force) (If more space required, please check this box <input type="checkbox"/> and attach addendum):					
Detailed Description of Injury to Subject (if applicable) (If more space required, please check this box <input type="checkbox"/> and attach addendum):					
Warning Provided to Subject? <input type="checkbox"/> Yes <input type="checkbox"/> No		If yes, please describe:			
Medical Treatment Provided? <input type="checkbox"/> Yes <input type="checkbox"/> No		If yes, please describe:			
Medical Transport Secured? <input type="checkbox"/> Yes <input type="checkbox"/> No		If yes, list Hospital or Facility:			
Law Enforcement Contacted? <input type="checkbox"/> Yes <input type="checkbox"/> No		If yes, list Law Enforcement Agency:			
List Responding Officer Name(s):					
Signature*				Date	

*This form is signed under penalty of false statement. Intentionally making a false written statement on a form bearing notice which is intended to mislead a public servant in the performance of his or her official function is a class A misdemeanor and violators are subject to criminal penalties including imprisonment for up to one year and/or a fine of up to \$2,000. General Statutes § 53a-157b (a).

Please sign and submit this Use of Force Report to the State Marshal Commission as soon as possible but no later than 72 hours after a reportable use of force or provision of medical aid to: Marshal.Commission@ct.gov (email) or 860-622-2938 (fax).

If there are relevant attachments (i.e. police reports), please check this box and submit with this form.

XV. WAGE EXECUTIONS

Summary

Definition

A **wage execution** is a court order that allows a judgment creditor, through a levying officer (a state marshal or constable), to collect on a money judgment directly from the debtor's wages. Generally, when a judgment debtor fails to pay off a judgment, a judgment creditor can apply to the clerk of the court to issue a wage execution. Under this type of execution, the state marshal serves the debtor's employer who then must deduct a set amount from the debtor's non-exempt wages to pay off the judgment.

Service

The **service** of a wage execution is done as in a civil action. The state marshal may make service by certified mail, return receipt requested, to an address within the state marshal's county. If an employer has requested service by facsimile, the marshal should also serve the execution by certified mail, return receipt requested, in compliance with the statute. In addition, where an employer has specially designated an out-of-county or out-of-state office (e.g. a payroll office/or executive headquarters) to receive service of wage executions, the state marshal can make service by certified mail, return receipt requested, on the designated out-of-county or out-of-state office. *See* General Statutes § 52-361a (d) (as amended by Public Act 16-64). Finally, where the state marshal commenced the underlying civil action in his or her county, he or she may serve a post-judgment wage execution out of his or her county. *See* the Out-of-County State Marshal Work subsection of the Civil Process section of this manual.

A state marshal must serve a wage execution within **one year** from its issuance and the execution must be returned within **thirty days** from the satisfaction of the judgment. The marshal must serve a properly endorsed copy of the wage execution and supply the employer with a modification and exemption claim form. Note that the marshal is required to fill in the date of service on the modification and exemption claim form (JD-CV-3a). The marshal must provide the employer with a cover sheet containing basic information including the judgment amount, post-judgment interest (if ordered and noted on the execution), and the state marshal statutory fee – currently 15% of the total amount of the execution – on a cover sheet. The marshal should also provide the employer with written instructions that payments are to be made directly to the state marshal and not to the creditor or his or her attorney. In general, the marshal may serve any duly authorized person at the employer. The marshal **may not** add post-judgment interest to the execution amount unless it was **specifically ordered by the court** and the **box on the court form is checked**. Neither the marshal nor the creditor may check the box for interest. It is good professional practice for the marshal to check with the payroll division in large employers to determine who is authorized to process wage executions, so that the marshal may direct the service most effectively.

It is important that the marshal serve the wage execution as soon as possible after receipt, as wage deductions are made based on priority. While **priority** is generally set by the order in which the wage executions are served on the employer, family support wage executions and internal revenue service tax executions get first priority under statute. Deductions are based on the debtor's disposable income. Generally, an employer may only deduct funds from the debtor's wages under one wage execution at a time. Any other executions served on the employer will be satisfied in turn. It is good professional practice for the serving marshal to check with an employer periodically to verify the priority status of a served execution if he or she is waiting for an execution to reach the top of the priority list.

General Statutes § 6-32 requires the marshal to provide timely service and returns thereof. The marshal must prepare a **return** and send the **return** and the **signed original** back to the judgment creditor when appropriate. Usually, this is when the judgment is satisfied in full. However, if an employee leaves his or her job, or the employer stops forwarding funds, and the judgment is wholly unsatisfied, or partially satisfied, the marshal must send the appropriate return so the judgment creditor can pursue remedies. Note that the failure to serve and/or to provide a timely return subjects the marshal to **double damages liability**. General Statutes § 6-32.

Manner

A judgment creditor must obtain a money judgment and an order of weekly payments against a debtor. Before a creditor may obtain an execution, the debtor must fail to abide by this order. The judgment creditor or his or her lawyer will calculate the **total amount of the judgment**, which will include costs and post-judgment interest (if ordered). Interest is set by statute. For many civil matters the current interest rate is 10% annually. However, as noted above, a marshal may **not** collect post-judgment interest unless ordered by the court and the correct box is checked by the court on the execution form.

Note that the judgment creditor may seek information about the debtor's assets by following various procedures, including serving the debtor or a third party with post-judgment interrogatories (written questions). If the debtor fails to properly respond to the **interrogatories**, or has an execution against him or her **returned** as unsatisfied in whole or in part, the judgment creditor can file an application with the court for an examination of the judgment debtor, under oath, at a time and place set by the clerk. Also note that the **method of and timeframe for service** of the petition for the examination of judgment debtor and hearing notice is as in civil process. Often a subpoena is also issued to summon the judgment debtor to the hearing.

If a judgment debtor defaults on the court-ordered payments, the court clerk, upon application by the judgment creditor, will issue a **wage execution** directed to a levying officer (state marshal or constable) to serve on the debtor's employer. The employer calculates the amount of money to be deducted weekly from the debtor employee's

disposable income based on statutory criteria. The **total sum** to be paid by the debtor employee over the course of the wage execution is provided by the state marshal to the employer through a **cover/direction** sheet which reflects the judgment sum, post-judgment interest ordered by the court, and the state marshal fee.

In addition to the cover sheet and the wage execution application form, the marshal must serve the employer with an exemption and modification claim form. Note that the state marshal must fill in the date of service on the exemption and modification claim form and provide it to the employer. As noted above, the marshal should inform the employer on the cover sheet to **make payments directly to the state marshal**, and not to the judgment creditor or his or her attorney. The employer will then fill in some information and send the wage execution and exemption and modification form to the debtor employee.

Stays and Exemptions

The wage execution is not effective until after **20 days** from the date the employer is served (**the 21st day**). The wage execution is not immediately enforceable so that the debtor employee has the opportunity to make claims in court, including a claim regarding exempt property. Wages cannot be withheld or sent to a state marshal during this time, or during subsequent court proceedings, until any claims are resolved by the court. If no claim is filed, the employer is required to make deductions and forward the sums to the state marshal. Note that subsequent motions on exempt property and modification requests will act to stay a wage execution even after deductions have started.

Certain property of a judgment debtor is **exempt from execution**. The most common exemptions for debtors who are natural persons are set forth in General Statutes § 52-352b. It is important for state marshals to be aware of the **exempt property rules**. Under the law, state marshals may face **liability** if they collect exempt property under an execution. If a state marshal has doubts about whether certain property is exempt, the state marshal can **certify the question of the exemption to the court** who will then hold a hearing and issue a determination on the matter.

Fees

The state marshal is entitled to **15% of the total execution amount** as a fee. Note that a marshal may not collect administrative fees in addition to the 15% statutory fee. If the marshal collects money under an execution, but it is so nominal that it will not provide for a \$30 fee, the marshal may seek a one-time \$30 minimum fee under statute.

The **execution amount** is calculated by adding the judgment amount (less any amount paid by the debtor prior to the execution), the application fee or fees, post-judgment costs and fees associated with the wage execution, and post-judgment interest

(if ordered by the court). The state marshal's fee is **15% of that sum**. The total demand on the employer will include the execution amount plus the marshal fee.

The employer will deduct weekly sums from the debtor's wages until the total demand amount has been paid to the marshal. As noted above, the marshal fee is calculated by taking 15% of the total execution amount. Note that the marshal is not entitled to 15% of the amount forwarded by the employer each week, as that amount already includes the marshal's fee and the marshal may not earn a 15% fee on his 15% fee. Accordingly, the marshal should calculate his or her total fee owed on the execution, and divide by the number of weekly payments to arrive at his or her appropriate weekly fee. For example, if the total execution amount is \$1,000, then the total marshal fee under the execution will be \$150 and the total demand on the employer will be \$1,150. If the weekly deductions from the employer to the marshal total \$115, then the employer must deduct this amount for 10 weeks to fully satisfy the execution amount. The appropriate state marshal fee would be \$150 divided by 10 weeks or \$15 per paycheck.

Note that the state marshal fee may not be collected in a lump sum. **The fee is payable only on a proportional basis as the money is actually collected and distributed.** Since the fee is taken periodically over the course of the wage execution, if another state marshal completes collection under a wage execution, that marshal is entitled to the proportionate fees derived from the funds he or she collected. A state marshal cannot knowingly bill, or receive fees, for work the marshal did not actually perform. Once a state marshal collects funds from the employer, the marshal is **required** to distribute funds to the judgment creditor no later than **30 calendar days** from the date of the collection, or upon the collection of **\$1,000**, whichever is earlier. The statute does permit the state marshal and the judgment creditor to enter an agreement for a different distribution schedule. The best professional practice in these circumstances is for the creditor and marshal to enter a **written** agreement to protect the marshal from claims of withholding funds.

Accounting Procedures and Recordkeeping

A state marshal is required to abide by specific professional standards when collecting, safe-guarding, and distributing client funds. Money collected under wage executions must be kept in a **Trustee/Client Fund Account** and handled in accordance with State Marshal Commission Regulations § 6-38b-6 and the Commission Audit Policy. *See* the Recordkeeping/Audit Policy section of this manual. Under General Statutes § 6-38e, the State Marshal Commission is authorized to periodically **review and audit** the records and accounts of state marshals. Marshals must also submit account reconciliations to the Commission pursuant to the Audit Policy.

Former State Marshals

Once a state marshal is removed from his or her appointment (due to revocation or retirement), he or she is no longer considered a proper levying officer. Accordingly, if a marshal is collecting under a wage execution and is later removed from his or her appointment, he or she may not continue to collect under that execution and must turn the collection over to another state marshal. *See* Opinion of the Attorney General, December 6, 2001.

Major Statutes

There are many statutes/regulations that touch on wage executions. The state marshal should always check with his or her client, attorney (if applicable), and the statutes if he or she has any questions about a particular execution. The following reference list is not exhaustive and sets forth only the most important and commonly used statutes covering wage bank executions:

- 52-361a Primary statute for wage executions.
- 52-361b Claims for exemption or modification.
- 52-261 (a) (6) State marshal fees under an execution (15% on the amount of the execution; \$30 minimum fee).
- 52-356d Installment payment orders.
- 6-35 Distribution of collected sums.
- 6-32 State marshal duty to serve and make prompt and true return; liability.
- 52-352a & 52-352b Exempt property list.
- 52-351b Discovery by judgment creditor (interrogatories).
- 52-397 Examination of judgment debtor. *See* General Statutes §§ 52-46 and 52-46a for service.
- 52-350e Service of process in post-judgment matters.
- 52-362 Support Enforcement collection matters.
- 37-3a & 37-3b Post-judgment interest rate for certain civil matters.

- 6-38e Audit authority of the State Marshal Commission
- 6-38 (d) State marshal must perform work in order to collect a fee.
- 52-55 Completion of service by another state marshal.

Forms

The following is a list of the common forms utilized for wage executions. Note that these forms are updated frequently by the Judicial Branch. Accordingly, it is important to verify that the most recent form has been utilized. These forms are available at the Forms section of the Judicial Branch website located at: <http://www.jud.ct.gov/>

- JD-CV-50 Notice of Judgment and Order For Weekly Payments
- JD-CV-3 Wage Execution Proceedings - Application, Order, Execution
- JD-CV-3a Exemption and Modification Claim Form, Wage Execution
- JD-CV-23 Post Judgment Remedies, Interrogatories
- JD-CV-54 Application for Examination of Judgment Debtor and Notice of Hearing

XVI. REFERENCES

Sample Returns/Forms

These sample returns and forms are provided as a guide only. As with all other contents of this Manual, these samples are not mandatory. They also do not constitute legal advice or Commission policy. The state marshal should create his or her returns and/or forms according to the specific circumstances involved in a particular service. This list is not exclusive. There are several types of process for which a marshal may be required to create a return or other document for which there is no sample provided in this Manual.

1. Basic Return – In Hand
2. Basic Return – Abode
3. Basic Return – Multiple Defendants
4. Divorce Publication Return
5. Divorce Publication Supplemental Return
6. Divorce Publication – Typeset for Newspapers
7. Divorce with Mailing to AGs Office
8. DMV – Affidavit of Diligent Search for Resident
9. DMV – Non-Resident Defendant Affidavit
10. DMV – Non-Resident Return
11. DMV – Resident Defendant Return
12. Inmate Serving State Employee Return
13. Non-Resident Defendant on SOTS Return
14. Non-Resident Defendant on SOTS Affidavit
15. Supplemental Return – Service by Certified Mail
16. Writ with Order to Mail Return
17. Bank Execution – Demand/Return
18. Bank Garnishment – Defendant’s Return (notice)
19. Bank Garnishment – Directions to the Bank
20. Bank Garnishment – Return of Service
21. Lis Pendens
22. LLC Return CGS 34-243r – Service upon Registered Agent for Service
23. LLC Return CGS 34-243r – SOTS as Agent
24. LLC Return CGS 34-243r – Mailing to Principal Office
25. Certificate of Attachment Real Estate Return – Defendant’s Return
26. Military Affidavit
27. Property Attachment Return
28. Property Execution Cover Letter
29. Statute of Limitations Affidavit
30. Affidavit of Loss
31. Affidavit with Notary Paragraph
32. Return – Service on Insurance Commissioner
33. Alias Tax Warrant Demand
34. Auction Notice
35. Notice of Auction Terms

36. Notice to Quit Possession – Residential
37. Notice to Quit Possession – Commercial
38. Subpoena – In-Hand
39. Subpoena – Abode
40. Replevin Return
41. Return – Service on U.S. Attorney for Federal Agency

BASIC SAMPLE RETURN
MULTIPLE DEFENDANTS
(abode service)

State of Connecticut)
) SS (Town served) (Date Served)
County of (name of county))

Then and there and by virtue hereof and by direction of the plaintiff (plaintiff's attorney), I made due and legal service upon the within named defendant, (defendant's name) , by leaving a verified, true and attested copy of the original (name of documents), at the usual place of abode, (street address), in said Town of (Town).

And afterwards on the ____ day of (month), (year), I made due and legal service upon the within named defendant, (defendant's name) , by leaving a verified, true and attested copy of the original (name of documents), at the usual place of abode, (street address), in said Town of (Town).

And again on the ____ day of (month) year I made due and legal service upon the within named defendant, (defendant's name) , by leaving a verified, true and attested copy of the original (name of documents), at the usual place of abode, (street address), in said Town of (Town).

The within is the original (name of documents), with my doings hereon endorsed.

Attest:

(State Marshal's name)
Connecticut State Marshal
(name of county) County

Service
Verified Pages
Endorsements
Travel
TOTAL

SAMPLE RETURN
DIVORCE PUBLICATION

State of Connecticut)
) SS (Town served) (Date served)
County of (name of county))

Then and by virtue hereof and by direction of the plaintiff and order of the court, I made due and legal service upon the within named defendant, (defendant's name), by notifying (name of newspaper), a newspaper that circulates in (city / town), (state), of the ORDER OF NOTICE IN FAMILY CASES for Dissolution of Marriage by legal publication to run once a week for two consecutive weeks commencing on or before (month) (day), (year).

Supplemental Return to Follow with a notarized Affidavit of Publication and clippings or tearsheets.

The within is the original WRIT SUMMONS, DIVORCE COMPLAINT, MOTION FOR ORDER IN FAMILY CASES, ORDER FOR NOTICE IN FAMILY CASES, NOTICE OF AUTOMATIC COURT ORDERS, SUMMARY OF AUTOMATIC COURT ORDERS, with my doings hereon endorsed.

Attest:

(State Marshal's name)
Connecticut State Marshal
(name of county) County

Service
Travel
Endorsements
Verified Pages
Newspaper Fee
TOTAL

SAMPLE SUPPLEMENTAL RETURN

Divorce Publication

(Case Name)

State of Connecticut)
) SS (Town) (Date recvd)
County of (name of county))

And afterwards on the ____ day of (month), (year), I received the notarized AFFIDAVIT OF PUBLICATION AND CLIPPING(s), for the court ordered legal publication that ran in the (name of newspaper) once on (month), (day), (year) and again on (month), (day), (year), for the above named case, that is attached hereto.

SAMPLE
Attest.

(State Marshal's name)
Connecticut State Marshal
(name of county) County

ATTACH NEWSPAPER CLIPPINGS OR TEAR SHEETS AND NOTARIZED AFFIDAVIT OF PUBLICATION TO THE BACK OF THIS SUPPLEMENTAL RETURN AND SEND TO COURT AS FINAL PROOF OF PUBLICATION

SAMPLE TYPESET FOR DIVORCE PUBLICATION

State of Connecticut
Superior Court of (town)
(current date)
(case name)
Return Date (month) (day), (year)

Notice to (name of defendant)

DISSOLUTION OF MARRIAGE

THE COURT HAS REVIEWED the Motion for Order of Notice and the Complaint which asks for a Dissolution of Marriage.

THE COURT FINDS that the defendant's current address is unknown and that all reasonable efforts to find the defendant have failed. The Court also finds that the defendant's last known address to be notified was (street address), in said Town of (town).

THE COURT ORDERS that notice be given to the defendant by having a State Marshal place a legal notice in the name of newspaper, a newspaper circulating in (town), containing a true and attested copy of this Order of Notice, and, if accompanying a Complaint for Dissolution of Marriage, a statement of Automatic Court Orders have been issued in this case as required by Section 25-5 of the Connecticut Practice Book and are a part of the Complaint on file with the Court.

This notice shall appear once a week for two consecutive weeks commencing on or before (month) (day), (year), and proof of service shall be filed with this Court.

ATTEST: A TRUE COPY
(State Marshal's name), Connecticut State Marshal
County of (name of county)
State of Connecticut

EMAIL OR FAX THIS TYPESET TO THE NEWSPAPER TO OBTAIN A WRITTEN QUOTE
FOR THE PUBLICATION

SAMPLE RETURN
(Divorce with mailing to Attorney General's office)

State of Connecticut)
) SS (Town served) (Date served)
County of (name of county))

Then and by virtue hereof and by direction of the plaintiff (plaintiff's attorney), I made due and legal service upon the within named defendant, (defendant's name), by leaving a verified, true and attested copy of the WRIT SUMMONS, DIVORCE COMPLAINT, NOTICE OF AUTOMATIC COURT ORDERS, SUMMARY OF AUTOMATIC COURT ORDERS, with and in the hands of (defendant's name) at (street address), in said Town of (Town).

And again on the ____ day of (month), (year), I made due and legal service upon the State of Connecticut Attorney General's office, by mailing at the U.S. Post office a verified, true and attested copy of the original WRIT SUMMONS, DIVORCE COMPLAINT, NOTICE OF AUTOMATIC COURT ORDERS, SUMMARY OF AUTOMATIC COURT ORDERS, at 55 Main Street, Hartford, CT 06103. ()-FM-17!

The within is the original WRIT SUMMONS, DIVORCE COMPLAINT, NOTICE OF AUTOMATIC COURT ORDERS, SUMMARY OF AUTOMATIC COURT ORDERS, with my doings hereon endorsed.

Attest:

(State Marshal's name)
Connecticut State Marshal
(name of county)County

Service
Travel
Endorsements
Verified Pages
TOTAL

SAMPLE FORM

(Affidavit- DMV service upon Commissioner of DMV for non-resident defefendant)

State of Connecticut)
) SS (Town) (Date served)
County of (name of county))

Then and there and by virtue hereof and by direction of the plaintiff's attorney, I made due and legal service upon the within named non-resident defendant, (defendant's name), by leaving a verified, true and attested copy of the original (name of documents), at the office of the Commissioner of Motor Vehicles, State of Connecticut, 60 State Street, in said Town of Wethersfield, at least twelve days prior to the return date. The Commissioner is the appointed attorney for the within named non-resident defendant, (defendant's full name & address). Per CGS 52-62(c)

The within is a verified, true and attested copy of the original (name of documents), with my doings hereon endorsed.

SAMPLE

Attest:

(State Marshal's name)
Connecticut State Marshal
(name of county) County

(must accompany Writ, Summons and Complaint to Commissioner in addition to the non-resident defendant by certified, return-receipt-requested mail)

SAMPLE RETURN
(DMV service upon Commission of DMV for non-resident defendant)

State of Connecticut)
) SS (Town) (Date served)
County of (name of county))

Then and there and by virtue hereof and by direction of the plaintiff's attorney, I made due and legal service upon the within named non-resident defendant, (defendant's name), by leaving a verified, true and attested copy of the original (name of document(s)), at the office of the Commissioner of Motor Vehicles, State of Connecticut, 60 State Street, in said Town of Wethersfield. The Commissioner is the appointed attorney for the within named non-resident defendant, (defendant's full name & address). Per CGS 52-62 (c)

And again on the ____ day of (month), (year), I made due and legal service upon the within named non-resident defendant, (defendant's name), by mailing a certified, postage paid, return-receipt-requested, verified, true and attested copy of the original (name of documents), with an endorsement thereon of the service upon the commissioner, to: (defendant's name & full address). Per CGS 52-62 (c)

The within is the original (name of documents), with my doings hereon endorsed.

Attest:

(State Marshal's name)
Connecticut State Marshal
(name of county) County

Service	
Verified Pages	
Endorsements	
Travel	
Postage	
DMV Fee	20.00
TOTAL	

SAMPLE RETURN
(Service upon Commissioner of DMV –Diligent Search)

State of Connecticut)
) SS (Town) (Date served)
County of (name of county))

Then and there and by virtue hereof and by direction of the plaintiff (plaintiff's attorney), I made a diligent search throughout my precincts to locate (defendant's name), but was unable to locate said defendant at the address on file with the Commissioner of Department of Motor Vehicles.

And again on the ____ day of (month), (year), I made due and legal service upon the within named defendant, (defendant's name), by leaving a verified, true and attested copy of the original (name of documents), at the office of the Commissioner of Department of Motor Vehicles, 60 State Street, in said Town of Wethersfield. The Commissioner is the appointed attorney for the within named defendant, (defendant's name), (full address). Per CGS 52-63

And again on the ____ day of (month), (year), I made due and legal service upon the within named defendant, (defendant's name), by mailing a certified, postage paid, return-receipt-requested, a verified, true and attested copy of the original (name of documents), with an endorsement thereon of the service upon the commissioner, addressed to the within named defendant, (defendant's name), (full address). Per CGS 52-63

Supplemental Return to Follow Track # (enter tracking no. here)

The within is the original (name of documents), with my doings hereon endorsed.

Attest:

(State Marshal's name)
Connecticut State Marshal
(name of county) County

Service	
Verified Pages	
Endorsements	
Travel	
Postage	
DMV Fee	50.00
TOTAL	

SAMPLE RETURN

(Service upon the Attorney General for an inmate suit against state entities in their official capacities)

State of Connecticut)
) SS (Town) (Date served)
County of (name of county))

Then and by virtue hereof and by direction of the plaintiff, I made due and legal service upon the within named defendant(s), (list all defendant's names & titles) by leaving one verified, true and attested copy of the original, (name of documents), with and in the hands of (name of person & title), Authorized Recipient of Service for the Attorney General, 55 Elm Street, in said Town of Hartford. The Attorney General is the said Authorized Recipient of Service for services originating with an incarcerated person who is commencing a civil action against the state and various state entities for official capacity actions. Under Public Act 12-33, Code 52-1(b)

The within is the original (name of documents), with my commissions hereon endorsed.

Attest:

(State Marshal's name)
Connecticut State Marshal
(name of county) County

Service
Verified Pages
Endorsements
Travel
TOTAL

SAMPLE FORM
(Affidavit -Service upon Secretary of State of CT for non-resident defendant)

State of Connecticut)
) SS (Town served) (Date served)
County of (name of county))

Then and by virtue hereof and by direction of the plaintiff's attorney, I made due and legal service upon the within named non-resident defendant, (defendant's name), by leaving a verified, true and attested copy of the original (name of documents), at the office of the Secretary of the State of Connecticut, 30 Trinity Street, in said Town of Hartford. The said Secretary of the State of Connecticut is the appointed Attorney for the within named non-resident defendant, (defendant's name and full address).
(Per CGS 52-59b)

Attest:
SAMPLE

(State Marshal's name)
Connecticut State Marshal
(name of county) County

(must accompany writ, summons & complaint to S.O.S. in addition to the non-resident defendant by certified, return-receipt-request mail)

SAMPLE RETURN
(Supplemental Return)

(case name)

State of Connecticut)
) SS (Town Recvd) (Date Recvd)
County of (name of county))

At said Town of (Town of Post Office), I deposited with the USPS a letter certified, postage paid, return-receipt-requested, a verified, true and attested copy of the original civil process in the above named case.

As of the above date, the RECEIPT was returned to me (the LETTER was returned to me undelivered; unclaimed; return to sender).

Attest:
SAMPLE

(State Marshal's name)
Connecticut State Marshal
(name of county) County

Mailed to:

(Name)
(street address)
(City, State & Zip)

USPS Track # (enter tracking no. here)

Attach green card or letter to this return and send to the court or attorney's office

SAMPLE RETURN

(Service of process by order of the court to mail ie: divorce, modification or contempt)

State of Connecticut)
) SS (Town mailed) (Date mailed)
County of (name of county))

Then and by virtue hereof and by direction of the plaintiff (plaintiff's attorney) and order of the court, I made due and legal service upon the within named defendant, (defendant's name), by mailing at the U.S. Post Office a certified, postage paid, return-receipt-requested a verified, true and attested copy of the original (name of documents) to (defendant's name), (street address), (city, state, zip).

Supplemental Return to Follow: Track # (enter tracking no. here)

The within is the original (name of documents), with my doings hereon endorsed.

Attest:

SAMPLE

State Marshal's name)
Connecticut State Marshal
(name of county) County

Service
Travel
Endorsements
Verified Pages
Postage
TOTAL

Retain receipt until either the green card or the letter is returned. Follow with a supplemental affidavit and attach the green card or letter and return to court or attorney's office.

SAMPLE FORM

STATE OF CONNECTICUT
COUNTY OF (list County)

The within is a true copy of the original
execution now in my hands for collection:

Execution Balance _____

Interest _____

Judgment Lien/Costs _____

Marshal's Fee _____

Bank Fee (Currently \$8.00)

TOTAL _____

A TRUE COPY ATTEST:

_____ (marshal signs here)

[Marshal's Name]

X County

PLEASE MAKE ALL CHECKS PAYABLE TO
AND MAIL ALL PAYMENTS OR COMMUNICATIONS
TO: (Marshal's Name, Address, and Telephone Number)

Insert allowable identifying information about the matter, e.g. name of debtor, name of the creditor,
and other information such as a date of birth of the debtor, if known.

RETURN OF SERVICE

Then and by virtue hereof, I made demand on the above banks for the amount of the execution and my
fees thereon. (When appropriate, add additional information about the service here)

I therefore return this execution

Partially Satisfied - Wholly Satisfied - Unsatisfied (note marshal has to circle one)

_____ - _____ - \$8.00 = _____
Collected Amount Marshal Fee Bank Fee

Attest:

[Marshal's Name]
Connecticut State Marshal
[County]

SAMPLE RETURN
(Lis Pendens)

State of Connecticut)
) SS (Town served) (Date served)
County of (name of county))

Then and by virtue hereof, I caused the NOTICE OF LIS PENDENS, SCHEDULE A, to be recorded on the (Town) land records by leaving the original NOTICE OF LIS PENDENS, SCHEDULE A, with and in the hands of the (Town) Town Clerk.

The within is a certified copy of the original recorded NOTICE OF LIS PENDENS, SCHEDULE A, with my doings hereon endorsed.

SAMPLE

(State Marshal's name)
Connecticut State Marshal
(name of county) County

Service	20.00
Endorsements	.00
Verified Pages	.00
Travel	
Town Clerk Recording Fee	
TOTAL	

SAMPLE RETURN

(LLC or Registered foreign LLC service by mailing to address of principal office)

State of Connecticut)
) SS (Town served) (Date served)
County of (name of county))

I made a due and diligent search for the registered Agent for Service, (name of agent), on file with the Secretary of the State and the said agent could not be found with reasonable diligence.

Then and by virtue hereof and by direction of the plaintiff's attorney, I made due and legal service upon the within named limited liability company defendant, (company's name), by mailing a certified, postage paid, return-receipt-requested, a verified, true and attested copy of the original (name of documents) to: (company's name & principal office address registered with the S.O.S.)
Per CGS 34-243r(c)

Supplemental Return to follow: Tracking # (enter USPS or commercial delivery service track no.)

The within is the original (name of documents), with my doings hereon endorsed.

ATTEST

(State Marshal's name)
Connecticut State Marshal
(name of county) County

Service
Verified Pages
Endorsements
Travel
Postage
TOTAL

SAMPLE FORM
(Defendant's Return)
(Serve upon Town Clerk and Defendant)

(Attorney's name)
(Street address)
(City, State Zip)

CERTIFICATE OF ATTACHMENT- REAL ESTATE

State of Connecticut)
) SS (Town served) (Date served)
County of (name of county))

THIS MAY CERTIFY that I have this date, by virtue of a COURT ORDER issued by Commissioner (attorney's name) and to me directed and delivered, returnable to the Superior Court for the County of (name of county).

(DOCKET NUMBER _____)

IN FAVOR OF: (plaintiff's name) PLAINTIFF

AND AGAINST: (defendant's name) DEFENDANT

AND IN WHICH WRIT \$ 220,000.00 – Two Hundred Twenty Thousand and 00/100 DOLLARS

Damages and costs of suit are claimed, made an attachment of the right, title and interest of said defendant, (defendant's name).

In and to a certain tract or parcel of land, with all the buildings thereon, lying in said Town of (Town), and bounded and describes as follows, to wit:

Schedule A
(Property's full address)

(Attach copy of property description here)

ATTEST: _____
(State Marshal's name)
Connecticut State Marshal
(name of county) County

SAMPLE FORM
(Military Affidavit)

State of Connecticut)
) SS (Town) (Date Signed)
County of (name of county))

I, (State Marshal's name), Connecticut State Marshal of (name of county) County, being duly sworn, depose and say that I am over the age of eighteen, believe in the obligation of an oath and am not a party to this action.

I have personal knowledge that the defendant in this action, (defendant's name), is not now, nor has been within the past thirty (30) days, a member of the military service of the United States. I base this opinion on the following facts:

On (date) I spoke personally with (defendant's name) who stated that the above facts are true and correct.

SAMPLE

Atte

(State Marshal's name),
Connecticut State Marshal
(name of county) County

Subscribed and sworn to before me this ____ day of ____, 2017.

(notary's name)
Notary Public
My Commission Expires:

SAMPLE FORM
(Property Execution Cover Letter)

(State Marshal's Name)
Connecticut State Marshal
(Address)
(Phone #)

Principal	
Post Judgment Interest	
Collector's Statute Fee	
Marshal's Statute Fee	
Balance Due	

(Date)

To Whom It May Concern:

I am a State Marshal of (county name) County, and, as such, hereby make formal demand for payment of the amounts now due on an Execution of Judgment rendered in the above case and directed to me by Attorney _____, Commissioner of the Superior Court.

Kindly forward a check or money order in the above amount, including marshal's fee, made payable to (State Marshal's name), State Marshal at the above address. Return this letter with your payment. Do not attempt to pay Attorney _____ or the above plaintiff directly since the court has issued the Execution which I now hold.

If I do not receive the total payment in accordance with Connecticut General Statutes, I will have no other alternative then to levy (seize) your property and hold it for sale at a public auction, the proceeds of which will be used to satisfy (pay) the above judgment. Additionally, fees will be increased for storage, advertising, auctioneer, etc., which will be at your expense.

Respectfully,

(State Marshal's name), State Marshal
(name of county) County

SAMPLE FORM
(Affidavit of Loss)

PLAINTIFF(S)) SUPERIOR COURT
VS.) JUDICIAL DISTRICT OF (TOWN)
DEFENDANT(S)) (DATE SIGNED)

LOSS AFFIDAVIT

The undersigned, being duly sworn, depose and say that the (name of documents) for the above named case as received by me on or about (date) and it was subsequently misplaced or lost in the mail.

Date at (Town), Connecticut, this ____ day of (month), (year).

ATTEST _____
(State Marshal's name)
Connecticut State Marshal
(name of county) County

SAMPLE

Subscribed and sworn to before
Me, a Notary Public this (date).

(Notary's name), Notary Public
My Commission Expires: (date)

SAMPLE FORM
(Alias Tax Warrant)

(State Marshal's Name)
Connecticut State Marshal
(Address)
(Phone #)

Principal	\$1,688.28
Interest calculated through 7/12/17	\$2,050.39
Collector's statute fee	\$6.00
Marshal's statute fee	\$561.70
BALANCE DUE	\$4,306.37

(Case Name)

Date:

To Whom It May Concern:

SAMPLE

I am a State Marshal of (county name) County, and, as such, hereby make formal demand for payment of the amounts now due on an Alias Tax Warrant rendered in the above case and directed to me by the Tax Collector of _____.

Kindly forward a check or money order in the above amount, including marshal's fee, made payable to (State Marshal's name), State Marshal at the above address. Return this letter with your payment. Do not attempt to pay the Tax Collector of _____ directly since the town has issued the warrant which I now hold.

If I do not receive the total payment in accordance with Connecticut General Statutes, I will have no other alternative then to proceed with one of the four steps I have highlighted on the front of the Tax Warrant.

Respectfully,

(State Marshal's name), State Marshal
(name of county) County

SAMPLE FORM

(Auction Notice)

AUCTION

Date and Time of Auction: (month, day, year, hour)

Place of Auction: Industrial Park Road
1230 Industrial Blvd.
New Haven, CT

Inspection: (time) day of sale

Items to be Auctioned: 1 Yale 6000 Fork Lift
Sr. #28 28 2828V28

Terms: 10 cash or certified che
To register prior to
Items to be sold as is
Where is with no warranty
Balance in 10 days and removed from property

(State Marshal's name)

Connecticut State Marshal

Hartford County

Telephone #

SAMPLE FORM
(Notice of Auction Terms)

Date and Time of Auction: (month, day, year)

Place of Auction: Dick's Auto Body, Inc.
450 Main Street
Vernon, CT

Deposit: Each person wishing to bid must present cash, a cashier's check, certified check or money order for \$100.00 to register to bid. Deposits from unsuccessful bidders will be returned at the conclusion of the auction. Plaintiff does not need to pay a deposit to register to bid.

Settlement: The successful bid must be paid for in cash, certified check or cashier's check after the bidding is concluded and the purchased property must be removed no later than the date of the auction. Plaintiff may bid up to the amount of its judgment, interest and costs without paying any cash in exchange for a reduction of the judgment. Time is of the essence.

Method of Bidding: Only registered bidders may place a bid. The bidding will continue until closed. The auction shall be conducted by the levying officer identified below.

The deposits shall be liquidated damages for failure to pay the bid. If the successful bidder fails to honor its bid by the conclusion of the auction, the property shall be immediately re-auctioned. The bid will be forfeited if the successful bidder does not remove the purchased property by the close of business on the date of the auction.

Property being auctioned:

One (1) White 1994 GMC Van
Model No. TG 21305
VIN No. 2ABC456DEF789GH

The sale of the property shall be subject to and shall not affect, any security interest, including liens that are senior in right to the execution, pursuant to C.G.S. 52-207. Upon information and belief, GMAC claims a lien on the vehicle. If you want further information on this lien, please contact GMAC directly at 1-800-23-4567.

This auction is being conducted to satisfy a judgment in the principal amount of (amount) plus costs of \$250.00 issued on (date) in the case known as AAA Concrete, Inc. vs. John Doe pending in the Tolland County Superior Court bearing Docket No. CV99-1234567. Interest continues to accrue on this judgment from (date) at the rate of ten percent.

For further information please contact:

Judith Sanders, Esquire
Smith, Smith and Sanders
14 Main Street
Wethersfield, CT 06109
860-674-9999

Levying officer designated by AAA Concrete, Inc.

John Smith, State Marshal
Tolland County
P.O. Box 495
Vernon, CT 06066
860-871-0000

BASIC SAMPLE RETURN
(Notice to Quit Possession - Residential)

State of Connecticut)
) SS (Town served) (Date Served)
County of (name of county))

Then and there and by virtue hereof and by direction of the plaintiff (plaintiff's attorney), I made due and legal service of the foregoing Notice to Quit Possession by leaving a verified, true and attested copy of the original Notice to Quit Possession, with/at the usual place of abode of, the within names tenant or occupant: (name) at (street address), in said Town of (Town).

The within is the original Notice to Quit Possession with my doings hereon endorsed.

SAMPLE

Attest:

(State Marshal's name)
Connecticut State Marshal
(name of county) County

Service
Verified Pages
Endorsements
Travel
TOTAL

BASIC SAMPLE RETURN
(Notice to Quit Possession - Commercial)

State of Connecticut)
) SS (Town served) (Date Served)
County of (name of county))

Then and there and by virtue hereof and by direction of the plaintiff (plaintiff's attorney), I made due and legal service of the foregoing Notice to Quit Possession by leaving a verified, true and attested copy of the original Notice to Quit Possession, at the commercial establishment of ABC, Inc. 55 Main Street, Town, CT.

The within is the original Notice to Quit Possession with my doings hereon endorsed.

Atte: **SAMPLE**

(State Marshal's name)
Connecticut State Marshal
(name of county) County

Service
Verified Pages
Endorsements
Travel
TOTAL

SAMPLE RETURN
(Subpoena –in hand service)

State of Connecticut }
 }SS (Town served) (Date served)
County of (name of county) }

(case name)

(docket no.)

Then and by virtue hereof, I made due and legal service of the within SUBPOENA, not less than eighteen hours prior to the time designated for the person summoned to appear, by reading the same in the presence and hearing of and leaving a verified, true and attested copy thereof with the following person at the address indicated, with and in the hands of:

(person served (summon no. d), (street address) in said Town of (town)).

SAMPLE

The within and foregoing is the original SUBPOENA, with my doings hereon endorsed.

Attest:

(State Marshal's name)
Connecticut State Marshal
(name of county) County

Service
Verified Pages
Endorsements
Travel
TOTAL

SAMPLE RETURN
(Subpoena – abode service)

State of Connecticut }
 }SS (Town name) (Date served)
County of (name of county) }

(case name)

(docket no.)

Then and by virtue hereof, I made due and legal service of the within SUBPOENA, not less than eighteen hours prior to the time designated for the person summoned to appear, by leaving a verified, true and attested copy thereof at the usual place of abode for the following person at the address indicated,

(person summoned), (street address), in said Town of "town".

The within and foregoing is the original SUBPOENA, with recordings thereon endorsed.

Attest:

(State Marshal's name)
Connecticut State Marshal
(name of county) County

Service
Verified Pages
Endorsements
Travel
TOTAL

SAMPLE RETURN

(Replevin)

State of Connecticut)
) SS (Town served) (Date Served)
County of (name of county))

Then and there and by virtue hereof and by direction of the plaintiff (plaintiff's attorney), and by an order of a judge of the Superior Court, I replevied the following property of the within named defendant, (defendant's name), located at (Street address), in said Town of (Town). Said property further described as follows:

One used 1996 Toyota Camry XL, Vehicle Identification Number (give number) and took the same safely and peaceably into my legal possession.

And afterwards on the _____ day of (month), (year), I made due and legal service upon the within named defendant, (defendant's name), leaving certified, true and attested copy of the original (name of documents), with and in the hands of (defendant's name) at (Street address), in said town of (town).

The within is the original (name of documents), with my doings hereon endorsed.

Attest:

(State Marshal's name)
Connecticut State Marshal
(name of county) County

Service
Verified Pages
Endorsements
Travel
TOTAL

State Marshal Calendar of Obligations

State marshals have certain statutory and regulatory mandates. The failure to comply with the required actions may subject a state marshal to disciplinary action.

May 1st or as ordered by OSE **OSE Statement of Financial Interest:** Pursuant to General Statutes § 1-83, state marshals are **required** to file a Statement of Financial Interest (amounts and sources of income) with the Office of State Ethics (OSE). State marshals must obtain the form from the OSE website www.ct.gov/ethics and must return the completed form to the OSE. State marshals should **not** return the form to the State Marshal Commission and any questions about the filing must be directed to the OSE. Non-compliance may lead to a disciplinary action by either the OSE or the State Marshal Commission.

May-June **Health Insurance Open Enrollment (Not Mandatory):** State marshals are given the option of obtaining **health insurance** from the same insurance companies that provide health insurance to state employees, at the state rates. State marshals, however, must pay the full cost of the premiums for such policies. Open enrollment for these policies occurs annually beginning in May.

July 1st **Personal Liability Insurance:** Pursuant to General Statutes § 6-30a, state marshals are required to carry personal liability insurance to cover damages caused by tortuous acts, and any actual or alleged act, error, omission, neglect or breach of their duties while conducting state marshal activities. The insurance must be not less than the following amounts: For damages caused to any one person or property of any one person or to the property of more than one person, three hundred thousand dollars. Each state marshal must renew their insurance **annually** and a copy of the insurance certificate must be on file with the State Marshal Commission.

Pursuant to the State Marshal Commission Use of Force Policy, state marshals who are on the Capias Unit or who are authorized to carry firearms during the course of their state marshal work must obtain additional insurance to maintain such status.

October 1st **Annual Fee:** General Statutes § 6-38m **requires** state marshals to pay a **\$750.00 annual fee for deposit into the General Fund**. This fee must be sent to the State Marshal Commission by the October 1st deadline and checks must be made payable to the Treasurer of the State of Connecticut.

Year Round as Assigned **Restraining Order Duty: State marshals must serve restraining order duty at the family courthouses** as assigned by the State Marshal Commission. See General Statutes § 6-38 (f). This duty is rotated on a weekly or daily basis depending on the courthouse. If unavailable, state marshals are **responsible for finding coverage** for their assigned duty shifts.

Opinions of the Attorney General

Formal Opinions/Informal Advice Index

	<u>Topic</u>	<u>Date</u>	<u>Opinion No.</u>
1.	Capias warrants are civil process; Officers who have authority to serve	3-07-2000	2000-010
2.	State marshal oath; Scope of powers; Peace officer status	7-05-2001	2001-017
3.	Deceased marshal protocol	10-10-2001	Informal
4.	State marshal execution power ends with resignation of appointment	12-06-2001	2001-025
5.	SMC authority re: restraining order assignment	12-20-2001	2001-028
6.	State marshals cannot be state employees	1-08-2002	Informal
7.	Sanctions for failure to obtain liability insurance	1-08-2002	Informal
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9.	Bar to marshal billing for work not done; Fee sharing permissible; Sequential service of bank executions	1-16-2002	Informal
10.	SMC authority re: marshal misconduct prior to 2000	5-31-2002	2002-017
11.	Statute sets maximum not minimum number of state marshals	10-22-2002	2002-035
12.	Sanctions for liability insurance lapsing	8-29-2003	Informal
13.	No indemnification for injury during capias; No indemnification for marshal mentor/trainers [abrogated by CGS 6-30a with respect to certain capias executions]	5-10-2004	2004-005

14.	Permissible tax warrant fees	10-12-2004	2004-017
15.	Deceased marshals a) Pending executions must be completed by a levying officer; b) SMC authority to seek records	1-03-2005	2005-001
16.	Ex-officios may attend executive sessions; may not vote	7-01-2005	2005-016
17.	Capias Warrants a) Capias warrants are civil process; b) SMC cannot mandate that all marshals execute capias warrants; c) Liability for injury; and d) Sovereign immunity	2-02-2007	2007-02
18.	Process must be directed to a marshal not business entity; state marshal may not be charged fee to obtain work	9-21-2007	2007-019
19.	Calculation of mileage fees	6-16-2008	2008-011
20.	Permissibility of joining labor union; OPM No collective bargaining	5-29-2009	Opinion from Office of Labor Relations
21.	State Marshal Business Organization a) Fees for lis pendens; [fee bar for recording lis pendens abrogated by P.A. 16-64; \$20 reasonable fee for recording set by Executive Order No. 54] b) Marshals may not form LLC or corporate business entities; c) Marshals may not employ each other or be controlled by any private entity; d) Indifferent person work; and e) Sharing administrative costs.	9-21-2009	2009-009
22.	Fee negotiation between statutory maximum and minimum fees permitted	10-12-2009	2009-010
23.	Capias Protocol	3-22-2012	2012-003

24.	Firearm/Qualified Retired Law Enforcement Officer	4-24-2012	2012-004
25.	Fees for service; E-filing; Bar on charging fee for recording lis pendens [fee bar for recording lis pendens abrogated by P.A. 16-64; \$20 reasonable fee for recording set by Executive Order No. 54]	3-30-2015	2015-02

Please Note: All formal opinions of the Attorney General are available on the website for the Office of the Attorney General. Copies of informal advice are available at the Commission office.



GEORGE JEPSEN
OFFICE OF THE ATTORNEY GENERAL

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FORMAL OPINIONS

Attorney General's Opinion

Attorney General, Richard Blumenthal

June 16, 2008

Martin R. Libbin
State of Connecticut Judicial Branch
Court Operations Division
100 Washington Street
Hartford, CT 06115-0474

Dear Mr. Libbin:

You have requested a formal legal opinion concerning the calculation of mileage fees owed to state marshals and indifferent persons who serve process. Specifically, you have asked:

- (1) whether mileage fees are owed for unsuccessful attempts at service of process, in addition to when service is successful;¹
- (2) whether the computation of mileage is "limited to 'direct' mileage to the place of service (i.e., the shortest possible driving distance from place of receipt to place of service) or, instead, allows for mileage resulting from a more circuitous route if it was incurred in connection with a bona fide effort to effectuate service or otherwise added value to the service (such as travel for legitimate investigative purposes relative to service);" and
- (3) what mileage fees are owed when travel to serve process is started at a location other than where the process was sent. "For example, if a summons and complaint are sent to a state marshal at his or her office in Waterbury for service on a defendant that resides two miles from the marshal's office, is the marshal entitled to be paid for mileage for service from New Haven to Waterbury if in fact after being in New Haven the marshal goes directly to the defendant's home in Waterbury?"

The provisions of Conn. Gen. Stat. § 52-261(a) and 52-261a compel the following conclusions: mileage fees are not owed for unsuccessful attempts to serve process, mileage should be calculated using the most direct route from the place of receiving the process to the place of service, and mileage fees should not be paid for travel that begins at a location further from the destination point than the place where process was received.

Section 52-261(a) of the Connecticut General Statutes sets forth the fees to be paid to individuals who serve process, summons or attachments, including mileage fees for the travel incurred in effecting such service. In pertinent part, section 52-261(a) states:

[E]ach officer or person who serves process, summons or attachments shall receive a fee of not more than thirty dollars for each process served and an additional fee of thirty dollars for the second and each subsequent service of such process, . . . **Each such officer or person shall also receive the fee set by the Department of Administrative Services for state employees for each mile of travel, to be computed from the place where such officer or person received the process to the place of service, and thence in the case of civil process to the place of return.**

Conn. Gen. Stat. § 52-261(a)(emphasis added). Conn. Gen. Stat. § 52-261a, which pertains to individuals serving process for the Judicial Department or Division of Criminal Justice, contains similar language.²

In construing a statute, the "fundamental objective is to ascertain and give effect to the apparent intent of the legislature." *American Promotional Events, Inc. v. Blumenthal*, 285 Conn. 192, 202 (2008). In searching for the legislative intent, a court looks "first to the text of the statute itself and its relationship to other statutes." *Id.*, citing Conn. Gen. Stat. § 1-2z. If the text of the statute is not clear and unambiguous, it is appropriate to look to the statute's "legislative history and circumstances surrounding its enactment, to the legislative policy it was designed to implement, and to its relationship to existing legislation and common law principles governing the same general subject matter." *Jagger v. Mohawk Mountain Ski Area, Inc.*, 269 Conn. 672, 679 (2004).

Looking at the language of § 52-261(a), there is no express mention of whether the mileage fees apply to unsuccessful, as well as successful, attempts to serve process. The language implies, however, that mileage fees are payable only for successful service. This implication arises because the first sentence of § 52-261(a) states that "each officer or person **who serves process**, summons or attachments shall receive a fee of not more than thirty dollars **for each process served.**" Conn. Gen. Stat. § 52-261(a)(emphasis added). The phrase "each process served" describes a completed action. Thus, the service fee is payable to those officers and persons who successfully serve process. The second sentence of § 52-261(a), which pertains to mileage fees, begins with the words "[e]ach such officer or employee," thereby referring back to the officers and persons in the first sentence who have successfully served process and implying that fees for mileage are payable specifically to those individuals who have completed the act of serving process.

The conclusion that mileage fees are payable when process is successfully served is supported by the second half of the sentence, which states that the mileage fee is computed "from the place where such officer or person received the process to the place of service." Conn. Gen. Stat. § 52-261(a). The use of the past tense, coupled with the reference to "the place of service" implies that the mileage fee is payable for service that has been successfully effected.³

Although no Connecticut case law or legislative history was found that considered whether § 52-261(a) permits the payment of mileage fees for unsuccessful attempts at service, the court in *Rioux v. State Ethics Commission*, 45 Conn. Supp. 242 (1997), *aff'd*, 48 Conn. App. 214 (1998), interpreted the statute to permit only those fees explicitly enumerated. Specifically, the court found a sheriff's \$15 "service fee" for advice and review of documents to be improper because § 52-261(a) makes no mention of such a fee. According to the court, "[u]nless there is evidence to the contrary, statutory itemization indicates that the legislature intended the list to be exclusive." *Rioux*, 45 Conn. Supp. at 247. This conclusion is consistent with the view expressed in *Corpus Juris Secundum* that "[t]he right to

mileage . . . is purely statutory; for services in connection with which no mileage is allowed by statute a sheriff or constable is entitled to none." 80 Corpus Juris Secundum, Sheriffs and Constables § 498 (2000).

Courts and Attorneys General in other jurisdictions have similarly concluded that mileage fees are purely statutory and, "[i]n the absence of a statute, a sheriff is not entitled to mileage for service of process." Sears, Roebuck and Co. v. Braney, 627 A.2d 698, 699 (N.J. Superior Ct., 1992), aff'd in part, rev'd in part, 627 A.2d 662 (N.J. Superior Ct., Appellate Div. 1993). Although out-of-state decisions have reached varying conclusions as to whether mileage fees must be paid for unsuccessful service, in each case the determination has turned on the legislative intent as evidenced, primarily, by the language of the relevant statutes.⁴ Based on the language of Conn. Gen. Stat. §§ 52-261(a) and 52-261a discussed above, I conclude that the Connecticut General Assembly intended mileage fees to be paid only for those trips that result in successful service.

Your second question asks whether the computation of mileage is "limited to 'direct' mileage to the place of service (i.e., the shortest possible driving distance from place of receipt to place of service) or, instead, allows for mileage resulting from a more circuitous route if it was incurred in connection with a bona fide effort to effectuate service or otherwise added value to the service (such as travel for legitimate investigative purposes relative to service)." Although neither Conn. Gen. Stat. § 52-261(a) nor § 52-261a addresses this issue explicitly, both statutes provide that mileage shall be "computed from the place where such officer or person received the process to the place of service, and thence in the case of civil process to the place of return," thereby implying that payment applies to direct travel along this specific route and not to other destinations that could be reached along the way if the route were circuitous. Indeed, construing the statute to permit payment for a circuitous route would open the door to potential abuse of the statute by those seeking to augment their fees. Because courts may not "supply statutory language that the legislature may have chosen to omit," Connecticut Light & Power Co. v. Dept. of Public Utility Control, 206 Conn. 108, 119 (2003), I conclude that Conn. Gen. Stat. §§ 52-261(a) and 52-261a should be construed to permit mileage payments only for the most direct route between the place of receiving process and the place of service.

The answer to your third question follows from the answer to your second question. Your third question asks what mileage fees are owed when travel to serve process begins at a location other than where the process was received. This is a problem, as you point out, when travel begins at a location that is further from the sheriff's destination than the place where he received the process to be served. As noted above, Conn. Gen. Stat. §§ 52-261(a) and 52-261a state that mileage shall be "computed from the place where such officer or person received the process to the place of service, and thence in the case of civil process to the place of return." There is no provision in either statute for payment for travel that begins at a location other than "the place where such officer or person received the process." Because courts "are not permitted to supply statutory language that the legislature may have chosen to omit," Connecticut Light & Power Co., 206 Conn. at 119, I conclude that mileage fees are not payable for travel from a location further from the destination point than the place where the process was received.

I trust that this opinion answers your questions.

Very truly yours,

RICHARD BLUMENTHAL
ATTORNEY GENERAL

¹ You note that the current practice of the State Marshal Commission is to encourage the allowance of mileage fees when a marshal has made a bona fide, but unsuccessful, effort to effectuate service. Recently, you have received several invoices for service of process that included claims for mileage for unsuccessful attempts at service.

² Conn. Gen. Stat. § 52-261a(2) states, in pertinent part, that "each officer or person who serves process shall receive, for each mile of travel, the same amount per mile as provided for state employees pursuant to section 5-141c, to be computed from the place where such officer or person received the process to the place of service, and thence in the case of civil process to the place of return."

³ A similar analysis applies to Conn. Gen. Stat. § 52-261a(2), which states that "each officer or person who serves process shall receive, for each mile of travel, the same amount per mile as provided for state employees pursuant to section 5-141c, to be computed from the place where such officer or person received the process to the place of service, and thence in the case of civil process to the place of return." As in section 52-261(a), the underlined language suggests that mileage fees apply when service has been successfully effected.

⁴ None of the decisions found analyzed statutory language identical to Connecticut's. The following decisions disallowed mileage fees for unsuccessful service: Commonwealth v. Brown, 4 Pa. D. & C. 2d 42 (1955)(constable not entitled to mileage for eleven unsuccessful attempts to serve a warrant); Schneider v. Waukesha County, 79 N.W. 228 (Wis. 1899)(sheriff not entitled to mileage fees for travel in an honest but unsuccessful attempt to execute a criminal warrant); 1987 La. AG Lexis 257, La. Atty. Gen. Op. No. 1987-462 (Sept. 17, 1987)(state statute did not provide fees for unsuccessful service); 1984 Wisc. AG Lexis 10, 73 Op. Atty. Gen. Wisc. 106 (Oct. 11, 1984)(state allowing mileage fee for "each mile actually and necessarily traveled" in serving any summons, writ or other process did not entitle sheriff to payment for unsuccessful service); 1952 N.Y. AG Lexis 279, 1952 N.Y. Op (Inf.) Atty. Gen. 76 (Aug. 15, 1952)(state providing payment for "miles necessarily traveled going and returning" only applied to the one round trip in which service was effected).

The following decisions allowed mileage fees for unsuccessful service: Sears, Roebuck and Co. v. Braney, 627 A.2d 698 (N.J. Superior Ct., 1992), aff'd in part, rev'd in part, 627 A.2d 662 (N.J. Superior Ct., Appellate Div. 1993)(statutory fee for "mileage actually traveled" "[f]or serving or executing process" applied to unsuccessful attempts); Carleton v. Elford, 454 N.E. 2d 719 (App. Ct. Ill. 1983)(state allowing fee for each "mile each way necessarily traveled in making . . . service" permitted sheriff to retain mileage fee for unsuccessful service); 1978 Ky. AG Lexis 972 (Jan. 24, 1978)(mileage for unsuccessful service allowed where sheriff's affidavit supported conclusion that specific trips were actually made and necessary); 1941 Ore. AG Lexis 269, 20 Op. Atty. Gen. Ore. 381 (Aug. 27, 1941).

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2009 Formal Opinions

Attorney General's Opinion

Attorney General, Richard Blumenthal

September 21, 2009

Herbert J. Shepardson, Esq., Chairperson
State Marshal Commission
765 Asylum Avenue
Hartford, CT 06105

Dear Attorney Shepardson:

You have asked our opinion on several questions concerning State Marshals. In particular your questions are as follows:

1. Under Conn. Gen. Stat. § 52-261 and § 52-325(c), if the service of the lis pendens occurs at the same time as the underlying civil action, can the simultaneous service of a lis pendens and the underlying civil action result in multiple service fees, or is there authority for denying the State Marshal multiple fees for such simultaneous service?
2. If an indifferent person and a State Marshal can both work on a lis pendens, please consider the situation where the indifferent person records the original lis pendens on the land records at the town hall and the State Marshal serves the certified copy of the lis pendens on the property owner. Under those circumstances may the State Marshal state the following: "I caused to be filed on the land records" language, or something similar, in the return, or, in the alternative, are separate returns required by the indifferent person and the State Marshal on each of their actions?
3. Can a State Marshal create a single member LLC and conduct State Marshal work regarding service of process and executions under the LLC?
4. Can a group of State Marshals create a multi-member LLC and conduct their State Marshal work regarding service of process and executions under the LLC??
5. Can State Marshals, as appointed public officials, as well as independent contractors, employ other state marshals?
6. A January 16, 2002 informal advice issued by the Attorney General's office discussed whether Conn. Gen. Stat. §6-38d authorized State Marshals to divide fees for actual work shared between State Marshals. Although the mere referral of a service for process is legally insufficient to allow fee sharing, the Commission seeks clarification on what general elements constitute work actually performed that can be put into the monetary calculation of actual work?
7. Can State Marshals, as appointed officials, as well as independent contractors, employ indifferent persons to assist them in civil process work, such as subpoenas, lis pendens, notices to quit and other areas in which indifferent persons are empowered by statute? If so, are their fees to be set by the value of the actual work performed by each individual, as would occur between State Marshals?

In evaluating these questions we have taken into consideration applicable statutes, judicial decisions and prior Opinions of the Attorney General. For the reasons summarized below we conclude as follows:

1. The provisions of Conn. Gen. Stat. § 52-261 do not allow multiple fees for simultaneous service of a lis pendens and the underlying civil action. Multiple fees for a single service of a notice of lis pendens and the underlying lawsuit are not authorized by law and are therefore improper. Further, Conn. Gen. Stat. § 52-325(c) does not authorize service of the notice of lis pendens on the property owner in a foreclosure proceeding.

2. Under no circumstances should a State Marshal include language to the effect of "I caused to be filed on the land records" or "I caused to be served" on a return where the State Marshal did not personally record and/or serve the papers involved. The State Marshal (or indifferent person where specifically authorized by law) who actually performed the service must sign the return attesting to the personal actions performed by that individual to effectuate service. If different documents are served or recorded by different people, separate returns are required, each personally signed by the persons performing each service or recording.

3. The laws governing State Marshals are inconsistent with the LLC form of business organization because the statutory authority and responsibilities of State Marshals are personal to each State Marshal as "public officers." A business organization such as an LLC is not authorized to be a "public officer" for the purpose of receiving process to be served, receiving fees for service of such process or performing any of the other statutory duties of a State Marshal. If the Commission believes that a State Marshal LLC should be permitted, legislation would be necessary.

4. Concerns regarding a State Marshal LLC would be severely heightened by an LLC formed by several State Marshals because such an LLC would also raise questions about inappropriate fee sharing.

5. State Marshals may not employ other State Marshals. Neither may State Marshals be employed by an LLC owned by one or more State Marshals. State Marshals receive statutory fees, not salaries, and their statutory duties and responsibilities may not be performed, directed or controlled by any private entity or other State Marshal. No State Marshal may receive any direct or indirect payment from service of process work performed by another State Marshal.

6. While there are some circumstances where several State Marshals, working collaboratively, could each receive legitimate fees for serving process, current law does not authorize fee sharing or referral fees. State Marshals may share administrative costs, such as the maintenance of an office, as long as each Marshal's share of such costs is clearly apportioned according to work actually performed.

7. State Marshals may not generally use indifferent persons for the service of process. Indifferent persons may only serve process in the few discrete areas where the law *expressly* allows indifferent person service. The same fee schedule applies to service by a State Marshal and service by an indifferent person.

I. A STATE MARSHAL MAY NOT CHARGE TWICE FOR THE SIMULTANEOUS SERVICE OF A NOTICE OF LIS PENDENS AND THE UNDERLYING CIVIL ACTION.

You have asked what fees are appropriate for serving a notice of lis pendens. Specifically, you ask whether multiple fees can be charged for the simultaneous service of a notice of lis pendens and the underlying civil action. The potential fees in this situation could be: (1) charging two \$30 service fees -- \$30 for service of the lawsuit and \$30 for serving a notice of lis pendens; and (2) charging twice for mileage and copies by treating service of the notice of lis pendens and service of the underlying action as separate service of process. We conclude that multiple fees for the simultaneous service of a lis pendens and underlying civil action are not authorized by law and are therefore improper.

The starting point for our analysis is the statutory framework governing the position of State Marshal and the service of process. The position of State Marshal is governed generally by Conn. Gen.

Stat. §§ 6-29 et. seq. A notice of lis pendens is governed generally by Conn. Gen. Stat. § 52-325. Fees authorized for serving process are governed by Conn. Gen. Stat. § 52-261.

A. STATUTES GOVERNING STATE MARSHALS AND NOTICE OF LIS PENDENS

For many years, the service of legal process in Connecticut was performed by deputy sheriffs acting under a constitutional officer, the Sheriff for each county in Connecticut. The sheriff system in Connecticut was abolished by constitutional amendment effective November 30, 2000, along with sheriff reform legislation enacted by the General Assembly. Conn. Const. Amend. Art. XXX; 2000 Conn Public Acts 00-99. The process-serving functions formerly performed by sheriffs and their deputies are now performed by State Marshals. State Marshals have no inherent authority or powers, but are empowered by Connecticut statute to "provide legal execution and service of process." See Conn. Gen. Stat. § 6-38a. It is well settled that "an enumeration of powers in a statute is uniformly held to forbid things not enumerated."¹ *State v. White*, 204 Conn. 410, 424 (1987); *Rioux v. State Ethics Commission*, 45 Conn. Supp. 242, 247 (Conn. Super. 1997) (holding that "statutory itemization indicates that the legislature intended the list to be exclusive") *affirmed* 48 Conn App. 214 (1998) (per curiam).

Lis pendens is Latin for litigation pending. The only purpose of a notice of lis pendens is to provide public notice that litigation is pending relating to real property. In Connecticut, "[f]rom the face of the statute [Conn. Gen. Stat. § 52-325(a)] it is clear that a notice of lis pendens is appropriate only where the pending action will in some way, either directly or indirectly, affect the title to or an interest in the real property itself. [Citation omitted]." *Garcia v. Brooks Street Associates*, 209 Conn. 15, 22 (1988).

A lis pendens is a creature of statute and a person invoking its provisions must comply with the statutory requirements. [Citation omitted]. "Nevertheless, the provisions of the statute should be liberally construed to implement reasonably and fairly its remedial intent of giving notice of claims pertaining to the real property which is the subject of the litigation." [Citation omitted].... Thus, if a person has actual notice of the lien and a suit commenced thereon, that actual notice may take the place of constructive notice imparted by the filing of a lis pendens....

First Constitution Bank v. Harbor Village Ltd. Partnership, 37 Conn. App. 698, 703 – 704 (1995).

A notice of lis pendens is recorded on the land records of the town where the property is situated. The notice is required to contain "the names of the parties, the nature and object of the action, the court to which it is returnable and the term, session or return day thereof, the date of the process and the description of the property." Conn. Gen. Stat. § 52-325(a). Under previous law, service of a notice of lis pendens on a property owner was authorized in a foreclosure matter. See Conn. Gen. Stat. § 52-325(c) (2003). In 2005, however, the legislature eliminated any authorization to serve a notice of lis pendens on the property owner in a foreclosure proceeding. See Conn. Public Acts 05-247, § 2. "[I]n any action *except a suit to foreclose a mortgage or other lien*, no recorded notice of lis pendens shall be valid ... unless the party recording such notice [serves the property owner]." (emphasis added). The purpose of this statutory change was explained by its proponent:

The second portion, the second section of the Bill is designed to remove the requirement of serving a notice of lease pendings [sic] which is a notice of a lawsuit on the defendant property owner in a foreclosure matter.

And the reason this is done is to clarify title searching and make it more efficient and properly to determine the status of the title, and there is no danger to the due-process rights of the defendant in the foreclosure action because they would be [sic] received the writ summons and complaint and would be aware of the foreclosure action.

2005 Conn. House Proceedings (June 6, 2005)

Thus, current Connecticut law does not authorize service of a notice of lis pendens on a property owner in a foreclosure proceeding. Connecticut law authorizes only that the notice of lis pendens be served on the property owner in non-foreclosure proceedings and that the notice of lis pendens be

recorded² on the land records. Recording a notice of lis pendens can be effectuated without a State Marshal by any person or by mail.

B. STATUTES GOVERNING FEES FOR SERVICE OF PROCESS

Fees for service of process are governed by Conn. Gen. Stat. § 52-261 and Conn. Gen. Stat. § 52-261a.³ These provisions set caps on fees and are exclusive, meaning that no fees for serving papers may be charged that are not authorized in these statutes.

The statutes indicate that the server of process may charge "not more than" the specified fee plus mileage, copies and endorsements. "Unless there is evidence to the contrary, statutory itemization indicates that the legislature intended the list to be exclusive." (Internal quotation marks omitted.) *Zachs v. Groppo*, 207 Conn. 683, 693, 542 A.2d 1145 (1988).

Rioux v. State Ethics Commission, 45 Conn. Supp. 242, 247 (Conn. Super. 1997) affirmed 48 Conn App. 214 (1998) (per curiam).

A lengthy schedule of fees for serving process is set forth at Conn. Gen. Stat. § 52-261. These include the following:

1. A fee of not more than \$30 for each process served and an additional fee of \$30 for each subsequent service of process, except that each subsequent service at the same address is \$10;
2. Mileage at the same rate set for state employees from the place of receipt of the process to the place of service and place of return, except that if more than one process is served on one person at any one time the total cost should not exceed the cost of serving one process;
3. Copies at the rate of \$1 per page, not to exceed a total of \$900;⁴
4. Endorsements at the rate of 40¢ per page; and,
5. Actual fees paid to the town clerk.

State Marshal fees for service of process in foreclosure proceedings are limited to the fees authorized by this statute. The statute clearly contains several provisions designed to reduce fees where multiple services are made on one person or at one address.

C. THE SIMULTANEOUS SERVICE OF A NOTICE OF LIS PENDENS WITH THE UNDERLYING CAUSE OF ACTION CONSTITUTES ONLY ONE SERVICE OF PROCESS

A notice of lis pendens is a *notice* that litigation has been commenced. By recording a notice of lis pendens on the land records notice is provided to all who check the land records that litigation is pending which could affect ownership of that real estate.

Varying types of notices and documents accompany different types of lawsuits, but those documents are all part of the same service of process. A simple lawsuit involves a summons and complaint. Process in other lawsuits may involve multiple documents. For example, a lawsuit seeking an injunction may also have an application for a preliminary injunction, a proposed preliminary injunction, an application for an order to show cause, an order of notice setting a hearing date (possibly before the return date) for judicial proceedings, and either additional language in the summons or an entirely separate summons or citation commanding appearance at the court hearing. If an ex parte injunction was signed by a judge, that would also be included. In all instances the entire package of papers accompanying the lawsuit constitutes the process that is being served and fees may be charged only for serving one set of papers under Conn. Gen. Stat. §52-261. There is no precedent and no authority for treating each separate document as a separate process and charging a fee for service of each.

Similarly, in a foreclosure action, if a State Marshal serves a homeowner with a summons, complaint, numerous court notices specific to foreclosures, and a notice of lis pendens, the State Marshal may only charge for one service - - in other words, \$30. The State Marshal may not charge more than one fee for the simultaneous service of the summons and complaint and the lis pendens because the lis pendens is not a process separate from the underlying lawsuit. Charging multiple fees for simultaneous service would also contradict the intent of provisions in the fee statute clearly designed

to reduce fees where multiple services are made on one person or at one address. See Conn. Gen. Stat. § 52-261 (reducing a second service fee at the same address to \$10 and prohibiting double billing of travel expenses for multiple services at one address). Finally, as stated previously, there is no present statutory authority or need to serve a notice of lis pendens on the property owner at all in a foreclosure proceeding. There is simply no justification for charging a separate service fee for an unauthorized service.

Accordingly, if the State Marshal concludes that a State Marshal is charging multiple service fees for the simultaneous service of a summons and complaint and a lis pendens, the Commission should take action to bar or reimburse such excessive and unauthorized fees and take disciplinary action if appropriate. Conn. Gen. Stat. §6-38b. See also Conn. Gen. Stat. §52-70.⁵

II. A STATE MARSHAL IS A PUBLIC OFFICER WHOSE AUTHORITY IS DERIVED FROM THE STATE OF CONNECTICUT AND WHOSE DUTIES AND RESPONSIBILITIES ARE THE PERSONAL DUTIES AND RESPONSIBILITIES OF THE STATE MARSHAL.

You ask us several questions concerning the ability of a State Marshal or State Marshals to form a Limited Liability Company ("LLC") for conducting business as a State Marshal. You also ask whether a State Marshal can employ or be employed by another State Marshal.

A. A STATE MARSHAL IS A PUBLIC OFFICER WHOSE POWERS AND DUTIES MUST BE FULFILLED PERSONALLY BY THE STATE MARSHAL.

The provisions of Conn. Gen. Stat. §6-38a clearly authorize each State Marshal "to provide legal execution and service of process..." Service of process in Connecticut has always been considered a sovereign function of government entrusted to public officials empowered by law.⁶ "It is the wise policy of the law that its process shall be directed to known public officers, and the law sanctions a departure from this policy only in cases of supposed necessity. Statutes authorizing such departure should receive a strict construction. *Eno v. Frisbie*, 5 Day 122, 127 [(Conn. 1811)]." *Kelley v. Kelley*, 83 Conn. 274, 276 (1910).

State Marshals have the statutory duty to "receive each process directed to such marshal when tendered, execute it promptly and make true return thereof." Conn. Gen. Stat. § 6-32. In Connecticut, an officer's return is prima facie evidence of the facts stated therein. *Jenkins v. Bishop Apartments, Inc.* 144 Conn. 389, 390 (1957); *Buckingham v. Osborne*, 44 Conn. 133, 141 (1876). There are substantial consequences to filing a false return. In fact, intentionally falsely attesting to having personally served process is a crime. Conn. Gen. Stat. §53a-132(a)(2). False returns also subject State Marshals to monetary liability and discipline by the State Marshal Commission. Conn. Gen. Stat. 6-32, 6-38b.

If any state marshal does not duly and properly execute and return such process or makes a false or illegal return thereof, such marshal shall be liable to pay double the amount of all damages to the party aggrieved.

Conn. Gen. Stat. §6-32 (emphasis added).

[I]t has so long been the practice in this state, to give the whole sum in damages, for an officer's neglect of duty, in not levying or returning an execution, or for making a false return, that it may now be considered as settled law.

... The sheriff and other officers know what their duty is on this subject, and what will be the consequences of their negligence. The rule, thus settled, is not too rigorous upon them, and is very beneficial to the public.

Ackley v. Chester, 5 Day 221, 222 – 223 (Conn. 1811) (emphasis added).

Several other statutes directly relate to service of process.

All process shall be directed to a state marshal, a constable or other proper officer authorized by statute, or, subject to the provisions of subsection (b) of this section, to an indifferent person.^[2] A direction on the process "to any proper officer." shall be sufficient to direct the process to a state marshal, constable or other proper officer.

Conn. Gen. Stat. § 52-50(a).

The form of summons used in Connecticut specifies that it is directed to a "proper officer," not to an indifferent person or to some type of artificial entity: Conn. Gen. Stat. §52-45b. The form requires action by the officer personally: "By authority of the state of Connecticut *you* are hereby commanded to summon..." Conn. Gen. Stat. §52-45b (emphasis added). Statutory provisions specifically govern the manner of service of process in numerous situations. *E.g.*, Conn. Gen. Stat. §§ 52-54 to 52-69.

Thus, State Marshals clearly are required to make due service of process tendered to them and file an accurate return. This obligation of service and return is personal to each State Marshal.

Very limited situations exist where the law allows someone other than the State Marshal who received process to complete service. If "an officer to whom any process is directed dies or is removed from office, or becomes physically incapacitated, or because of other good and sufficient reason is unable to complete service of the process, after he has commenced to serve it but before completing service, *any other proper officer* may complete service." Conn. Gen. Stat. §52-55(a) (emphasis added). Also a State Marshal who commences service of process in the State Marshal's precinct that requires going into other precincts may either complete the service anywhere else in Connecticut or deliver it to "an officer" in the other precinct. Conn. Gen. Stat. § 52-56. The applicable statutes clearly allow service by State Marshals to be completed by other State Marshals only in precisely defined situations.⁸ The statutes do not provide for indifferent persons or artificial entities to have a role in the service of process.

Consequently, a State Marshal cannot lawfully provide a return to the effect that "I caused to be filed on the land records" when in fact the State Marshal did not personally perform such task, utilizing an indifferent person instead.⁹ Such a return is patently inappropriate and clearly misleading. The person who effectuated service, whether a State Marshal or indifferent person, must sign the return and attest to what that person actually did. If multiple people performed different portions of service on the same papers, then multiple returns are necessary.

B. A STATE MARSHAL'S FORMATION OF A LIMITED LIABILITY COMPANY CONFLICTS WITH THE STATUTORY AUTHORITY AND RESPONSIBILITY OF STATE MARSHALS.

Under Connecticut law an LLC can be formed "for the transaction of any business or the promotion of any purpose which may be lawfully carried on by a limited liability company..." Conn. Gen. Stat. §34-119(a). An LLC can be formed to render professional services, but only for professional services enumerated in Conn. Gen. Stat. §34-101(23). Conn. Gen. Stat. §34-119(b). State Marshal services are not enumerated as professional services in Section 34-101(23). Nor can an LLC be appointed as a State Marshal.

Generally the personal liability of members and managers of an LLC to third parties is limited. Conn. Gen. Stat. §34-133. A State Marshal, however, is personally liable to pay double damages for failing to properly execute and return process or making a false or illegal return. (Conn. Gen. Stat. §6-32) and the LLC form cannot shield a State Marshal from such liability. Further, the statutes impose legal obligations that are personal to State Marshals. These include: (1) filing annual statements of financial interests with the Office of State Ethics, pursuant to Conn. Gen. Stat. §1-83; (2) maintaining liability insurance, pursuant to Conn. Gen. Stat. § 6-30a; (3) being subject to periodic review and audit by the State Marshal Commission, pursuant to Conn. Gen. Stat. §6-38e; (4) being bonded, pursuant to Conn. Gen. Stat. §6-39; and (5) training and client fund requirements set by the State Marshal Commission pursuant its statutory authority. These obligations are all personal to State Marshals and cannot be avoided by the creation of an LLC.

A State Marshal is a public officer and must be a person, not an artificial entity, responsible for the personal obligations and duties imposed upon him or her by statute. Service of process may not be directed to or effectuated by an LLC and statutory fees for the services of process are payable only to a State Marshal, not to an LLC. Therefore, an LLC form of business organization is inconsistent with State Marshal work.

Concerns regarding a State Marshal LLC are heightened for any LLC formed by several State Marshals because such an LLC would also raise questions concerning inappropriate fee sharing in violation of Conn. Gen. Stat. §§6-38d & 6-39a, as explained below.

C. STATE MARSHALS MAY NOT BE EMPLOYEES OF OTHER STATE MARSHALS OR EMPLOY OTHER STATE MARSHALS.

State Marshals may not perform State Marshal services for other State Marshals where service has commenced except in extremely limited circumstances set forth in Conn. Gen. Stat. §§52-55(a) & 52-56. State Marshals may not receive salaries from other State Marshals, but may only receive fees for work they actually perform and only as established by statute. A State Marshal is "an independent contractor compensated on a fee for service basis." Conn. Gen. Stat. §6-38a. No State Marshal may receive a monetary benefit from service of process performed by other State Marshals. "No state marshal shall knowingly bill for, or receive fees for, work that such state marshal did not actually perform." Conn. Gen. Stat. §6-38d. Nor may a State Marshal who performs process serving work pay, directly or indirectly, another State Marshal for such work. "A state marshal shall not be charged any fee by a private entity for performing such state marshal's statutory duties." Conn. Gen. Stat. §6-39a.

Under the statute there are a limited number of State Marshals appointed by the State Marshal Commission for each county who have been vested with the authority to serve legal process under the authority of the State of Connecticut. Conn. Gen. Stat. §§6-38, 6-38a. All State Marshals are classified by law as independent contractors, and all have the same statutory authority and fee schedule. The duties and responsibilities of each State Marshal are personal to each State Marshal and, therefore, cannot be changed, directed or controlled by another State Marshal.

An employer-employee relationship between and among State Marshals, whether directly or through an artificial entity such as an LLC, is incompatible with State Marshals' status as public officers, with their statutory duties and responsibilities, and with the statutory fee schedule. As we stated in a previous opinion: "Nor is there any statutory authority for [a private-business entity] to collect legal process from officers of the court, to assign or otherwise direct in any manner service of process to or by state marshals, to establish a network of state marshals, or to collect any fees from state marshals related to the legal execution and service of process." Conn. Attorney General Opinions 2007-019 (September 21, 2007). This lack of legal authority to interfere with or direct the personal authority and responsibility of State Marshals or to collect any fees for service of process is equally applicable to situations where one State Marshal may seek to employ other State Marshals to perform State Marshal work in an employer-employee relationship.¹⁰

On the other hand, there is nothing in the existing statutory scheme that prohibits multiple State Marshals from sharing office space and administrative expenses in order to improve efficiency and reduce overhead. The provisions of Conn. Gen. Stat. §6-38d would bar the sharing of fees and a clearly defined mechanism would be needed to properly allocate administrative expenses among the State Marshals.¹¹

The State Marshal Commission has clear authority to review and audit the records and accounts of State Marshals. Conn. Gen. Stat. §6-38e. We strongly advise the State Marshal Commission to use this authority to obtain detailed information about the types of business organizations used by State Marshals and/or any employer-employee relationships currently in place among State Marshals to assist the Commission in determining whether appropriate action should be taken to ensure compliance with the law.

III. INDIFFERENT PERSONS MAY NOT GENERALLY BE USED FOR SERVICE OF PROCESS.

You have asked us whether State Marshals may use indifferent persons in connection with the service of process. Except in the limited circumstances expressly authorized by statute, indifferent persons may not serve legal process in Connecticut.

A. INDIFFERENT PERSONS MAY ONLY SERVE PROCESS WHERE EXPRESSLY AUTHORIZED BY STATUTE.

There are a few statutory provisions permitting indifferent persons to serve specific types of legal papers. For example, an indifferent person may serve a subpoena (Conn. Gen. Stat. §52-143(a)), a notice to quit for a summary process action (Conn. Gen. Stat. §47a-23(c)), and a notice of lis pendens on a property owner, where service on the property owner is needed¹² (Conn. Gen. Stat. §52-325(c)). Such service is permissible only because it is expressly authorized by statute. None of these statutes provides authority for an indifferent person to serve any other process.

B. THE AUTHORITY OF A STATE MARSHAL TO MAKE A SPECIAL DEPUTATION IS EXTREMELY LIMITED

Conn. Gen. Stat. § 52-53 authorizes State Marshals to make special deputations in some limited circumstances.

A state marshal may, on any special occasion, depute, in writing on the back of the process, any proper person to serve it. After serving the process, such person shall make oath before a justice of the peace that he or she faithfully served the process according to such person's endorsement thereon and did not fill out the process or direct any person to fill it out; and, if such justice of the peace certifies on the process that such justice of the peace administered such oath, the service shall be valid.

Conn. Gen. Stat. § 52-53.

This statute is a relic of the former sheriff system. The provisions of 2000 Conn. Public Acts 00-99, § 109 substitute the words "state marshal" for "sheriff" in the statutory text. Further, the use of justices of the peace for judicial functions in Connecticut ended in 1959. Our comments about this statute in Conn. Attorney General Opinions 2000-010 (March 7, 2000) are just as applicable today, and are repeated below.

The power to command assistance is ancient in origin, "derived from a time in which the public peace depended upon the ability of the populace to summon their neighbors, through the raising of the 'hue and cry,' to come to their assistance when a crime had occurred. [Citations omitted]." *State v. Floyd*, 217 Conn. 73, 90 - 91 (1991).

[The sheriff] may command all proper persons within his county, to aid and assist him in the execution of his office. This is the same power that they have in England, and is called raising the posse commitatus, or power of the county.

Swift, Zephaniah, *A System of the Laws of the State of Connecticut*, Vol. I, p. 91 (1795).

The sheriff has the liberty of deputing some meet person on special occasions, to serve and execute any particular process, which deputation, must be on the back of the writ... *The only instances where it is usual for sheriffs to make such special deputies are where no legal officer can conveniently be had, or the person against whom the writ is, secretes himself, and keeps himself out of the way of known officers.* In such cases, he deposes some person for that special purpose, so that there be no failure of justice...

Swift, Zephaniah, *A System of the Laws of the State of Connecticut*, Vol. I, p. 92 (1795) (emphasis added).

Judge Swift's understanding of the ability of the Sheriff to command assistance or specially authorize someone to serve particular process was limited. The limited nature of this authority is also reflected in the sparse caselaw concerning this practice. "It is the wise policy of the law that its process shall be directed to known public officers, and the law sanctions a departure from this policy only in cases of supposed necessity. Statutes authorizing such departure should receive a strict construction. *Eno v. Frisbie*, 5 Day 122, 127 [(Conn. 1811)]." *Kelley v. Kelley*, 83 Conn. 274, 276 (1910) (emphasis added).

Similarly, the modern understanding of the authority to command assistance is consistent with Judge Swift's views. Statutes authorizing an officer to command assistance "have not been construed to confer unbounded discretion upon the peace officer." *State v. Floyd*, 217 Conn. 73, 92 (1991). These statutes authorize "a peace officer to command the assistance of a civilian only when such assistance is both demonstrably necessary and reasonable under all of the circumstances." *State v. Floyd*, 217 Conn. at 92 - 93. Determining the reasonableness of a command to assist an officer looks at the following factors, at a minimum:

the urgency of the situation giving rise to a command for assistance; the availability of other trained law enforcement officers, rather than untrained civilians, to come to an officer's aid; the nature of the assistance sought; the appropriateness of commandeering the assistance of these individuals; the provocativeness of the situation in

which aid is sought; the presence or threat of the use of weapons; and the risk of injury or death to the officer, to the individual being ordered to assist, and to any other parties present...

State v. Floyd, 217 Conn. 73, 92 (1991) (footnotes omitted).

Hence, the authority of State Marshals to command assistance or to specially deputize any person to serve any particular process is extremely limited. Such authority certainly does not allow deputation for the service of process in the ordinary course of business.¹³

C. STATUTORY PROVISIONS FOR DIRECTING A SUMMONS TO AN INDIFFERENT PERSON IN LIMITED CIRCUMSTANCES CONFER NO AUTHORITY ON STATE MARSHALS.

The provisions of Conn. Gen. Stat. §52-50(b) permit process to be directed to indifferent persons in only certain very limited circumstances. Generally process is issued "by a commissioner of the Superior Court¹⁴ or a judge or clerk of the court to which it is returnable."¹⁵ Conn. Gen. Stat. §52-45a. A State Marshal has no role in the issuance of the process. The duty of the State Marshal is to serve process delivered to the State Marshal in accordance with law. As noted above, under Conn. Gen. Stat. §52-50(a), process directed "to any proper officer" is only directed to such a proper officer and not to an indifferent person. There is nothing in this statutory provision that permits a State Marshal to redirect process issued "to any proper officer" to an indifferent person for service.

Under Conn. Gen. Stat. §52-50(b) "[p]rocess shall not be directed to an indifferent person" except under very limited circumstances. These include situations where there are multiple defendants in different counties and the plaintiff (or its agent or attorney) makes oath to the authority signing the process of a true belief that the plaintiff is in danger of losing his demand unless an indifferent person is deputed for the immediate service of process.

The authority signing the writ shall certify on the writ that he administered the oath and insert in the writ the name of the person to whom it is directed, but he need not insert the reason for such direction. *Any process directed to an indifferent person by reason of such an affidavit shall be abatable on proof that the party making the affidavit did not have reasonable grounds, at the time of making it, for believing the statements in the affidavit to be true.*

Conn. Gen. Stat. §52-50(b) (emphasis added).

This statutory command operates to limit the authority of the person issuing the process. The general rule of not directing process to an indifferent person is stated above. Further, utilization of this provision creates a significant risk that the court will abate the process, effectively dismissing the case, if there were not proper grounds for believing that the plaintiff's demand would be lost if an indifferent person was not deputed for the immediate service of process.

In discussing a very early case under the statute from which Conn. Gen. Stat. § 52-50(b) is derived, the Connecticut Supreme Court of Errors observed:

The service of writs, in general, is required to be made by a known public officer; and it is no unwarrantable inference, that the protection and security of the citizen are interested in the prevention of any unnecessary departure from this principle. The plaintiff's declaration, if the facts are stated truly is an illustration and proof of this position. The direction of a writ to an indifferent person, is an exception from the general rule; and all exceptions from the common principle are to receive a strict construction.

* * *

The direction of the writ not being legal, the indifferent person was, in no sense, an officer, nor invested with authority to make service. There being no service, nor even possibility of it, under the illegal direction, the judgment of the court was extra-judicial and void.

Case v. Humphrey, 6 Conn. 130, 139 (1826).

The legal authority to use this provision is clearly very limited. In the very narrow category of cases where Conn. Gen. Stat. §52-50(b) could be legitimately utilized, the process would be directed to a

specifically named person rather than "to any proper officer." That indifferent person would serve it and sign the return of service, with all appropriate endorsements on the process itself, and subject to the risk of the process abating.

Such process need not ever be given to a State Marshal. Further, nothing in Conn. Gen. Stat. §52-50(b) permits a State Marshal to utilize an indifferent person to serve process directed "to any proper officer."

D. STATE MARSHALS MAY NOT GENERALLY USE INDIFFERENT PERSONS FOR SERVICE OF PROCESS.

Several principles flow from the above analysis. As a general rule, legal process must be served by a proper officer, of which a State Marshal is one type. Where there is express statutory authority (such as for service of a subpoena, service of a notice to quit, or service of a notice of lis pendens on a property owner) for use of an indifferent person to make service, the use of an indifferent person is permissible. It is not permissible under any other circumstances.

State statutes direct that State Marshals serve legal process without the use of indifferent persons except in narrowly defined circumstances. The sole exceptions to this general rule are for matters where there is *express* statutory authority for an indifferent person to make service, such as subpoenas, service of notices of lis pendens on a property owner, and service of notices to quit.

Authority to specially deputize under Conn. Gen. Stat. §52-53 is extremely narrow. Further, for the reasons explained, an attorney directing service to an indifferent person under Conn. Gen. Stat. §52-50(b) need not give such process to a State Marshal and §52-50(b) provides no authority to a State Marshal to use an indifferent person for serving papers directed "to any proper officer" and in the possession of the State Marshal for service. Both of these statutes include specific detailed requirements for endorsement on the served papers which should aid the State Marshal Commission in gathering relevant facts should it ever be necessary to scrutinize attempted use of such statutes.

IV. CONCLUSION.

In evaluating these questions we have taken into consideration applicable statutes, judicial decisions and prior Opinions of the Attorney General. For the reasons summarized below we conclude as follows:

1. The provisions of Conn. Gen. Stat. § 52-261 do not allow multiple fees for simultaneous service of a lis pendens and the underlying civil action. Multiple fees for a single service of a notice of lis pendens and the underlying lawsuit are not authorized by law and are therefore improper. Further, Conn. Gen. § 52-325(c) does not authorize service of the notice of lis pendens on the property owner in a foreclosure proceeding.
2. Under no circumstances should a State Marshal include language to the effect of "I caused to be filed on the land records" or "I caused to be served" on a return where the State Marshal did not personally record and/or serve the papers involved. The State Marshal (or indifferent person where specifically authorized by law) who actually performed the service must sign the return attesting to the personal actions performed by that individual to effectuate service. If different documents are served or recorded by different people, separate returns are required, each personally signed by the persons performing each service or recording.
3. The laws governing State Marshals are inconsistent with the LLC form of business organization because the statutory authority and responsibilities of State Marshals are personal to each State Marshal as "public officers." A business organization such as an LLC is not authorized to be a "public officer" for the purpose of receiving process to be served, receiving fees for service of such process or performing any of the other statutory duties of a State Marshal. If the Commission believes that a State Marshal LLC should be permitted, legislation would be necessary.
4. Concerns regarding a State Marshal LLC would be severely heightened by an LLC formed by several State Marshals because such an LLC would also raise questions about inappropriate fee sharing.

5. State Marshals may not employ other State Marshals. Neither may State Marshals be employed by an LLC owned by one or more State Marshals. State Marshals receive statutory fees, not salaries, and their statutory duties and responsibilities may not be performed, directed or controlled by any private entity or other State Marshal. No State Marshal may receive any direct or indirect payment from service of process work performed by another State Marshal.

6. While there are some circumstances where several State Marshals, working collaboratively, could each receive legitimate fees for serving process, current law does not authorize fee sharing or referral fees. State Marshals may share administrative costs, such as the maintenance of an office, as long as each Marshal's share of such costs is clearly apportioned according to work actually performed.

7. State Marshals may not generally use indifferent persons for the service of process. Indifferent persons may only serve process in the few discrete areas where the law expressly allows indifferent person service. The same fee schedule applies to service by a State Marshal and service by an indifferent person

Steps should be taken promptly to inform marshals of these legal requirements and rules, and to enforce them when necessary. If individuals have been overcharged, appropriate remedies should be provided.

Very truly yours,

RICHARD BLUMENTHAL

¹ One practical consequence is that other tasks a State Marshal may be asked to perform on behalf of an attorney or client that are not "legal execution" or "service of process" (such as performing "bring down" searches) are not services performed as a State Marshal and may not be billed as State Marshal fees.

² The *lis pendens* statute authorizes recording of the notice of *lis pendens* on the land records, but it does not authorize service of the *lis pendens* on the on the town clerk. Conn. Gen. Stat. § 52-261 does authorize a State Marshal to make service of process generally, but case law also holds that the terms of a statute covering the specific matter at issue typically prevail over the terms of a general statute that might otherwise apply. *Griswold Airport, Inc. v. Town of Madison*, 289 Conn. 723, 728 (2008). Another question is whether a State Marshal can charge a fee for recording a notice of *lis pendens* as Conn. Gen. Stat. § 52-261 does not contain an express provision for charging a fee for recording a notice of *lis pendens* on the land records, meaning presumably that none is authorized. These areas may be appropriate for legislative clarification.

³ The provisions of Conn. Gen. Stat. § 52-261a only apply to papers served for the Judicial Department or Division of Criminal Justice. Since they have no applicability to this opinion they are not addressed any further here.

⁴ In mentioning the authorized fee for copies we assume that the copies being charged for were actually made by the State Marshal. We are aware of one Superior Court decision holding: "It is surely unreasonably to claim fees of one dollar per page for copies that the marshal did not make. Implicit in the statutory language related to the copies is that a marshal would need to do something, i.e., make copies, to receive the fees." *Francis v. Fonfara*, 2009 Conn. Super. Lexis 1407 (Conn. Super. May 21, 2009). Nevertheless we are also aware of an unpublished decision holding that State Marshal charges for copies are akin to a "handling" fee and may be charged regardless of whether the Marshal actually made the copies in question. See *Weinberg v. Dupont, Tobin et. al.*, No. 50-49-65, J.D. of New London, (Conn. Super. Ct., Feb. 10, 1989).

⁵ "If any officer demands and receives on any civil process more than his legal fees, he shall pay threefold the amount of all of the fees demanded to the defendant in the action in which the alleged illegal fees were exacted, if such fees have been paid by the defendant, otherwise to the plaintiff in such action...." Conn. Gen. Stat. §52-70 (emphasis added).

⁶ In contrast, the federal court system allows a summons initiating a civil action to be served "by any person who is not a party and who is at least 18 years of age." Fed. R. Civ. P. 4(e)(1).

⁷ For reasons explained below, the provisions of Conn. Gen. Stat. §52-50(b) have no applicability to process directed to a State Marshal, are extremely limited in their use, and create significant risk of the process being defective.

⁸ Prior to commencing service, a State Marshal may give process to be served to another State Marshal when the first Marshal is unable to serve the papers. The first State Marshal cannot, however, in any way, share in the service fees for service of process by the other State Marshal.

⁹ The parameters for the very limited circumstances where indifferent persons may serve certain types of legal papers are discussed below.

¹⁰ This prohibition does not prevent a State Marshal from passing on papers to another State Marshal that the first State Marshal is unable to serve where the State Marshal who actually performs the service bills for and receives all statutory fees associated with the service.

¹¹ Fees are only authorized for actual service and not for overhead. Any mechanism for allocating administrative expenses would need to allocate such expenses based on some bona fide relation to services actually completed. Fee splitting, referral fees and/or expense sharing arrangements among groups of State Marshals could well

raise issues within the jurisdiction of the Office of State Ethics. For example, there is a significant risk that the annual statements of financial interests, pursuant to Conn. Gen. Stat. § 1-83, filed by State Marshals who participate in any such arrangements could be false and/or misleading in many respects, including misreporting or undisclosed overlapping reporting of moneys received for service of process, misreporting of other income for marshal services and misreporting or undisclosed overlapping reporting of expenses. Accordingly, the State Marshal Commission should report any such fee splitting, referral fee and/or expense sharing arrangements to the Office of State Ethics in order for the Office of State Ethics to take whatever action it deems appropriate.

¹² The provisions of Conn. Gen. Stat. § 52-325(c) also make clear, as noted herein, that it is not necessary to serve the notice of lis pendens on the property owner in a foreclosure proceeding.

¹³ If this statutory provision were utilized by a State Marshal it would be necessary (1) for the State Marshal to endorse the deputation on the process being served, (2) for the person serving the process to take a specific oath before a justice of the peace, and (3) for the justice of the peace to endorse on the process itself that the prescribed oath was administered. Thus, if the State Marshal Commission became aware of any situation where this statute was utilized, the actual endorsements on the process itself would aid the Commission in ascertaining relevant facts to scrutinize in light of the applicable legal standard.

¹⁴ All attorneys at law in the State of Connecticut in good standing are Commissioners of the Superior Court. Conn. Gen. Stat. § 51-85.

¹⁵ There are also a variety of statutory provisions authorizing governmental agencies to issue process.

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Office of The Attorney General
State of Connecticut

March 22, 2012

Peter J. Martin, Esq.,
Chairperson
State Marshal Commission
165 Capitol Avenue, Room 483
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Dear Atty. Martin:

You have asked for this Office's opinion regarding the application of the Fourth Amendment to the United States Constitution¹ to the work of State Marshals serving civil capias warrants. Specifically, your letter to this office, as amplified by discussions between your office and mine, essentially poses three questions:

1. Whether a state marshal serving a civil capias warrant may enter the home of the subject of the warrant without consent or exigent circumstances to serve the process on that person;
2. Whether and to what extent individuals' Fourth Amendment rights are implicated when a State Marshal wishes to question or seek information from those individuals who are not themselves the subject of a civil capias warrant and who are, presumably, not encountered within the home of the subject of a capias warrant;
3. Whether and under what circumstances a State Marshal is lawfully permitted to detain other individuals on the premises for the purposes

¹ The Fourth Amendment to the United States Constitution provides: "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." (Emphasis added).

of further investigation, or to await the arrival of the police, while in the process of serving a civil capias warrant.

Your questions are by their nature extremely broad and constitutional law does not often lend itself to bright lines. Rather, most constitutional jurisprudence represents a balance between the government's interests and an individual's rights.

Compounding the difficulty we face in answering such broad questions is the civil nature of both of our agencies. Your questions involve the service of civil capias warrants, which as we have previously concluded are a strictly civil process. Op.Atty.Gen. No. 07-002 (Feb. 2, 2007); Op.Atty.Gen. No. 00-010 (Mar. 7, 2000). Likewise, I am the state's chief civil legal officer; Conn. Gen. Stat. § 3-125; with very limited criminal jurisdiction. To a certain extent, however, your questions could very well cross over the line and involve issues of criminal law, and in those circumstances criminal prosecutorial officers might not agree with advice this office might impart. The reasonableness of any particular search or seizure depends substantially on the facts of a given case as viewed in the light of the constantly evolving law of criminal procedure. Thus, our advice to you on issues concerning search and seizure law as they relate to situations in which a marshal departs from merely serving civil process is that your office should consult criminal authorities in the same way as other police and peace officers might.

Bearing these important caveats in mind, we will try to offer you guidance on the questions you pose, which we address individually below after a general review of a State Marshal's authority to serve capias warrants.

MARSHAL'S AUTHORITY TO SERVE CIVIL CAPIAS WARRANTS

The general statutory authority to serve a civil capias warrant² is found in Conn. Gen. Stat. § 52-143 (e) which provides, in relevant part, as follows:

² Conn. Gen. Stat. §§ 54-1h, 54-2a, 54-2e, 54-65a and 54-66 also provide for the issuance of capias warrants under certain circumstances in criminal cases. This opinion does not address the circumstances under which a State Marshal may exercise authority to execute such capias warrants, as your inquiry focuses solely on civil capias warrants.

If any person summoned by the State, or by the Attorney General or an assistant Attorney General, or by any public defender or assistant public defender acting in his official capacity, by a subpoena containing the statement as provided in subsection (d), or if any other person upon whom a subpoena is served to appear and testify in a cause pending before any court and to whom one day's attendance and fees for traveling to court have been tendered, fails to appear and testify, without reasonable excuse, he shall be fined not more than twenty-five dollars and pay all damages to the party aggrieved; and the court or judge . . . may issue a *capias* directed to some proper officer to arrest the witness and bring him before the court to testify.

Additionally, Conn. Gen. Stat § 46b-231(m)(1) authorizes the issuance and service of a civil *capias* warrant in family support matters under the circumstances set forth in the statute, the relevant portion of which follows:

A family support magistrate in IV-D support cases may compel the attendance of witnesses or the obligor under a summons issued pursuant to sections 17b-745 [enforcement of parental support orders], 46b-172 [enforceability of parental support agreements] and 46b-215 [enforcement of relatives' support obligations], a subpoena issued pursuant to section 52-143, or a citation for failure to obey an order of a family support magistrate or a judge of the Superior Court. If a person is served with any such summons, subpoena or citation issued by a family support magistrate or the assistant clerk of the Family Support Magistrate Division and fails to appear, a family support magistrate may issue a *capias mittimus* directed to a proper officer to arrest the obligor or the witness and bring him before a family support magistrate.

See also, Op.Atty.Gen. No. 07-002 (Feb. 2, 2007), 2007 WL 852970 (State marshals are authorized to serve capias warrants).

Further, Conn. Gen. Stat. § 54-148e(e) authorizes the issuance and service of a civil capias warrant to enforce deposition subpoenas during the discovery phase of civil actions under the following circumstances:

If any person to whom a lawful subpoena is issued under any provision of this section fails without just excuse to comply with any of its terms, the court before which the cause is pending, or any judge thereof, may issue a capias and cause him to be brought before such court or judge, as the case may be, and, if the person subpoenaed refuses to comply with said subpoena, such court or judge may commit him to jail until he signifies his willingness to comply with it.

Finally, several other less commonly used statutes empower courts and administrative tribunals to issue capias warrants for specific purposes apart from those set forth in detail above. *See* Conn. Gen. Stat. § 2-46 (authorizing issuance of a capias to compel testimony of witnesses in certain legislative proceedings); Conn. Gen. Stat. § 46b-133 (authorizing issuance of capias warrant to ensure appearance in court of delinquent child or custodial parent); Conn. Gen. Stat. § 51-81 (authorizing State Bar Examining Committee to secure attendance and testimony of witnesses by capias in proceedings examining fitness of applicants for admission to the bar); Conn. Gen. Stat. § 52-155 (authorizing issuance of capias warrants for enforcement of subpoenas requiring witnesses to testify in foreign proceedings in this state); Conn. Gen. Stat. § 54a-129 (authorizing courts of probate to secure attendance and testimony of witnesses by capias).

Conn. Gen. Stat. § 6-32 empowers State Marshals to “receive each process directed to such marshal when tendered, execute it promptly and make true return thereof.” Accordingly, State Marshals have the authority to accept and serve civil capias warrants when lawfully directed to do so. Regardless of the source of their authority to serve a civil capias warrant, however, a State Marshal must do so in a

manner that comports with constitutional requirements.³ *Milner v. Duncklee*, 460 F.Supp.2d 360, 366 (D.Conn. 2006). We now turn to your specific questions.

1. May a State Marshal charged with executing a civil capias warrant enter the home of a subject, absent consent or exigent circumstances, to serve such process on the named individual?

Our answer is that absent clear consent to enter a home, marshals should be directed not to do so.

The “arrest” of an individual by a State Marshal upon the authority of a civil capias warrant will clearly be considered a “seizure” within the meaning of the Fourth Amendment to the U.S. Constitution. See *Milner v. Dunklee*, *supra*, at 366-67 (citing *Terry v. Ohio*, 392 U.S. 1, 16, 88 S.Ct. 1868, 20 L. Ed. 2d 889 (1968)); *United States v. Mendenhall*, 446 U.S. 544, 554, 100 S.Ct. 1870, 64 L. Ed. 2d 497 (1980) *Michigan v. Summers*, 452 U.S. 692, 696-97, 101 S.Ct. 2587, 69 L.Ed.2d 340 (1981). Interpreting the Fourth Amendment prohibition on unreasonable searches and seizures, the United States Supreme Court has drawn a firm line at the entrance to the house. Absent exigent circumstances, that threshold may not reasonably be crossed without a warrant or consent. *Payton v. New York*, 445 U.S. 573, 586, 100 S. Ct. 1371, 63 L. Ed. 2d 639 (1980) (“It is a ‘basic principle of Fourth Amendment law’ that searches and seizures inside a home without a warrant are presumptively unreasonable.”).

Subsequent holdings have reiterated this principle and “made clear that any physical invasion of the structure of the home, by even a fraction of an inch, is too much to be tolerated.” *Loria v. Gorman*, 306 F.3d 1271, 1284 (2d Cir. 2002) (quoting *Kyllo v. United States*, 533 U.S. 27, 37, 121 S.Ct. 2038, 150 L. Ed. 2d 94 (2001)). A pre-seizure judicial determination of probable cause is required for an arrest in the home because of the heightened privacy interests in the home. See *Payton*, *supra*, at 584-856. Thus, courts have developed a relatively bright-line rule requiring a facially valid warrant to justify the seizure of a person in the home. *Welsh v. Wisconsin*, 466 U.S. 740, 749, 104 S.Ct. 2091, 80 L. Ed. 2d 732 (1984). Accordingly, it is well-settled that “an arrest of an individual in his own

³ Courts have held that the Fourth Amendment applies to seizures made in the civil context as well as in the criminal context. *Glass v. Mayas*, 984 F.2d 55, 58 (2d Cir. 1993) (citing *Soldal v. Cook County, Illinois*, 506 U.S. 56, 67 n.11, 113 S. Ct. 538, 121 L. Ed. 2d 450 (1992)).

home is reasonable only if it is supported by a valid arrest warrant, exigent circumstances, or consent.” *Milner v. Dunklee*, *supra*, at 367; *see also Payton*, *supra*, at 586-87, 590; *Welsh*, *supra*, at 749-55.

A good deal of authority supports the proposition that an intrusion into a home to seize an individual to effect civil process has less justification than an intrusion into a home to effect criminal process. In fact, the court in *Milner v. Dunklee*, *supra*, at 368, discussed whether the Fourth Amendment imposed a wholesale bar on warrantless home arrests for minor offenses (which would include civil offenses), but ultimately declined to decide the case on this point. Rather, the court in *Milner* focused on whether the *capias* warrant that supported the in-home seizure in that case met well-established Fourth Amendment requirements. After an exhaustive review of the applicable requirements, it determined that it did not.

Thus, we cannot counsel you that any sort of “exigency” might exist that would permit a marshal to enter a home arrest an individual pursuant to a civil *capias*.⁴ *See Welsh*, *supra*, at 750 n.1, 751 (suggesting, without deciding, an absolute ban on warrantless home arrests for certain minor offenses). Rather, absent consent, the question of a marshal’s authority to enter a subject’s home to affect an arrest comes down to whether the civil *capias* warrant is the functional equivalent of a Fourth Amendment “warrant.” Thus, we turn to whether a civil *capias* warrant is in fact the functional equivalent of a criminal arrest warrant.

The court in *Milner* reasoned that a document purporting to be a warrant – whatever its title – must comply with the strictures of the Fourth Amendment to

⁴ I can say it no more eloquently than Justice Jackson who, in writing about whether exigency could justify a warrantless search of a tenement house where an officer suspected illegal gambling, observed: “Whether there is reasonable necessity for a search without waiting to obtain a warrant certainly depends somewhat upon the gravity of the offense thought to be in progress as well as the hazards of the method of attempting to reach it. . . . It is to me a shocking proposition that private homes, even quarters in a tenement, may be indiscriminately invaded at the discretion of any suspicious police officer engaged in following up offenses that involve no violence or threats of it While the enterprise of parting fools from their money by the ‘numbers’ lottery is one that ought to be suppressed, I do not think its suppression is more important to society than the security of the people against unreasonable searches and seizures. When an officer undertakes to act as his own magistrate, he ought to be in a position to justify it by pointing to some real immediate and serious consequences if he postponed action to get a warrant.” *McDonald v. United States*, 335 U.S. 451, 459-60 (1948) (*Jackson, J., concurring*).

support an in-home seizure.⁵ A warrant that complies with the Fourth Amendment has four essential attributes. It must: (1) be supported by probable cause; (2) be issued upon a probable cause determination based on oath, affirmation, or sworn testimony setting forth the underlying facts and circumstances giving rise to probable cause; (3) describe the persons or things to be seized with particularity; and (4) be issued by a neutral and detached magistrate. *Milner, supra*, at 369. Only a warrant that meets each of the Fourth Amendment requirements will suffice to authorize the seizure of an individual in his home.

The very purpose of the warrant requirement -- especially as it relates to entering a home -- is to take the probable cause decision away from law enforcement officials and put that decision in the hands of a neutral and detached magistrate. *Welsh, supra*, at 749 n.10. Although it is sufficient for a law enforcement official to make a probable cause determination when a person is arrested in public, the Supreme Court has determined that the sanctity of the home

⁵ See also *United States v. Kone*, 591 F. Supp. 2d 593, 609 (S.D.N.Y. 2008)(explaining that, as in *Milner*, nomenclature is not dispositive and an Order obtained from a federal district judge authorizing the search of the home of an individual on supervised release was insufficient to satisfy the requirements of the Fourth Amendment because it lacked a probable cause determination); *Larrew v. Barnes*, 2006 WL 2354954, *3 (N.D. Tex. 2006) (a civil capias warrant must meet the requirements of Fourth Amendment, which the particular capias did because it stated "name of the state . . . , order[ed] any Texas peace officer to arrest Larrew for failure to appear at a hearing, display[ed] a clerk's certificate, identifie[d] two signatories (including the clerk of court), state[d] that it is certified upon a showing of personal knowledge that the defendant had failed to appear at a hearing, and properly describe[d] the court of issuance and place of return"); *State v. Ruden*, 245 Kan. 95, 774 P.2d 972 (Kan. 1989)(bench warrant issued for failure to appear in a civil case does not allow law enforcement officers, absent consent or exigent circumstances, to enter and search the named individual's home when they believe that the individual is present because the civil warrant did not meet the requirements of the Fourth Amendment); *State v. Vaught*, 256 P.3d 897 (Kan. App. 2011)(same); *Jordan v. State*, 1998 WL 70455 *5 (Tex. App. 1998) ("[A] capias did not have to be signed by a magistrate but may be signed by a clerk at the direction of the court after a determination of probable cause by a detached, neutral magistrate); *State v. Thompson*, 151 Wash. 2d 793, 801-02, 92 P.3d 228 (Wash. 2004) ("In the present case, there was a bench warrant for Thompson's arrest for failure to appear at a show cause hearing regarding his failure to pay child support. This warrant was issued under RCW 26.18.050, which provides that a civil bench warrant may be issued in such circumstances. . . . In light of our holding today, the deputies erred in forcibly opening the trailer door when executing the civil warrant. The 'knock and wait' statute does not encompass the execution of civil arrest warrants.").

necessitates heightened protections, and specifically requires that a neutral and detached magistrate make the probable cause determination to justify such an intrusion. Thus, when a person is arrested in his home, it is not enough that there is probable cause to arrest -- even undisputed probable cause to arrest. Rather, a neutral and detached magistrate must actually make a finding that probable cause exists. *Milner, supra*, at 371.

The Court in *Milner* explained that for a civil capias warrant to meet Fourth Amendment requirements, the face of the warrant itself must manifest an explicit finding of probable cause establishing that the issuing judicial authority either (a) personally witnessed the events recited in the warrant or (b) personally reviewed the official records of the court, thus ensuring that the validity of the data in the court records was adequately scrutinized. *Milner, supra*, at 373-74. The rationale and holding of *Milner* make clear that this is a high threshold. Although we do not have a particular capias warrant to review, the court in *Milner* looked for evidence on the face of the warrant that the issuing judge or magistrate had personal knowledge of the individual's "failure to appear and the events leading up to it," either by personally witnessing the events or by personally reviewing the court records, and thereby personally made an "independent finding of probable cause." *Id.*, at 373-74.

In our experience -- as in *Milner* -- capias warrants are not often that explicit on their face. Nor do we believe it is prudent to expect a marshal to perform the sort of analysis the federal judge undertook in *Milner* to determine the Fourth Amendment sufficiency of the capias warrant. Therefore, bearing in mind the caution necessitated by a review of the authorities discussed above, we believe the better practice is for State Marshals not to undertake to determine the Fourth Amendment sufficiency of the warrant and not to consider entry into a home without consent.⁶

This is not to say that a civil capias that does not, on its face, meet Fourth Amendment requirements is invalid. The court in *Milner* made clear that, armed

⁶ Nor should the marshal under any circumstances -- even with a valid warrant that meets Fourth Amendment standards -- seek to enter a third party's home to serve the warrant. *Steagald v. United States*, 451 U.S. 204, 101 S.Ct., 68 L. Ed. 2d 38 (1981). See also *United States v. Hill*, 2005 WL 354002, *8 (N.D.W. Va. 2005) ("permitting 'the police, acting alone and in the absence of exigent circumstances' to decide when there is sufficient justification for search the home of a third party for the subject of an arrest warrant -- would create a significant potential for abuse.").

with a civil capias issued by a court of competent jurisdiction, but that fell short of the aforementioned Fourth Amendment requirements, a State Marshal could lawfully seize the subject of the capias in a public place. The *Milner* court further clarified that, armed with such a capias warrant, a State Marshal could knock on a subject's door and obtain the subject's valid consent to execute the capias. However, the *Milner* court cautioned that, what a State Marshal could not do, even with a capias in hand, is enter a subject's home without consent to seize him unless the capias satisfies Fourth Amendment requirements as articulated above. *Id.*, at 375.

It warrants emphasis that State Marshals serving capias warrants under any circumstances may encounter difficult circumstances, including hostile and recalcitrant subjects. Entering a subject's home, even with consent, is obviously one such circumstance, and one in which the conditions a marshal will face are often unknown. I am certain that the Commission appreciates these safety concerns better than I. I therefore urge the Commission to continue providing State Marshals with training for these contingencies and to give close consideration to enlisting the assistance of local law enforcement in situations in which entry into a home could present safety risks.

2. May State Marshals question or seek information from individuals who are not themselves the subject of a civil capias warrant and who are encountered outside the home of the subject of a capias warrant?

To the extent your question concerns whether State Marshals may detain, for investigative purposes short of an arrest, individuals who are not subject to the capias warrant but who are encountered on the premises of the subject named in a capias warrant, you present a somewhat difficult question. We assume for purposes of addressing this question that the "investigative purposes" the marshal would be engaged in would involve determining the whereabouts of the subject of the capias warrant.⁷

"There is nothing in the Constitution which prevents a policeman from addressing questions to anyone on the streets." *Terry v. Ohio*, 392 U.S. 1, 34, 88

⁷ To the extent that the "investigative purposes" you refer to concern other "law enforcement" duties, see the answer to question number 3 below.

S.Ct. 1868, 20 L. Ed. 2d 889 (1968) (White J., concurring). For example, in *Florida v. Royer*, 460 U.S. 491, 103 S.Ct. 1319, 75 L. Ed. 2d 229 (1983), the Supreme Court, referring to a long line of previous opinions, clarified that police officers do not violate the Fourth Amendment “by merely approaching an individual on the street or in another public place, by asking him if he is willing to answer some questions, by putting questions to him if the person is willing to listen, or by offering in evidence in a criminal prosecution his voluntary answers to such questions.” *Id.* at 497 (plurality) (citations omitted). “Nor would the fact that the officer identifies himself as a police officer, without more, convert an otherwise consensual encounter into a seizure requiring some level of objective justification.” *Id.*; see also *State v. Burroughs*, 288 Conn. 836, 853-54 (2008).

“The person approached, however, need not answer any question put to him; indeed, he may decline to listen to the questions at all and may go on his way. He may not be detained even momentarily without reasonable, objective grounds for doing so; and his refusal to listen or answer does not, without more, furnish those grounds.” *Royer, supra*, at 497 (citations omitted). Thus, what may begin as a consensual encounter becomes a Fourth Amendment “seizure” if, on a basis of a show of authority by the officer, a reasonable person in the individual’s position would have believed that he was not free to leave. See, e.g., *State v. Ostroski*, 186 Conn. 287, 291-92, 440 A.2d 984, cert. denied, 459 U.S. 878, 103 S.Ct. 173, 74 L. Ed. 2d 142 (1982). Moreover, even a limited detention must be based on a reasonable suspicion that a crime has occurred, is occurring or is about to occur. *Terry, supra*, at 21-22. Obviously in the situation of attempting to serve a civil capias and seeking the whereabouts of the subject of that capias, such a suspicion would be lacking.

Accordingly, it is our opinion that a State Marshal may freely encounter citizens in public places outside the home of the subject of a capias warrant, and seek information from such individuals on a voluntary basis about the whereabouts of the subject of the capias. In very limited circumstances, a State Marshal engaged in the service of a capias warrant may also, while properly in the home of the subject of the capias, question other persons present in the home on a consensual basis. “If there is no detention -- no seizure within the meaning of the Fourth Amendment -- then no constitutional rights have been infringed.” *Royer, supra*, at 498. However, the marshal may not detain individuals if they refuse to answer questions; nor may the marshal indicate in any way that the individuals are not free to leave.

3. May a State Marshal lawfully detain other individuals on the premises for the purposes of further investigation, or to await the arrival of the police, while in the process of serving a civil capias warrant?

Your final question appears to contemplate situations in which State Marshals, in the course of their duties, encounter what they believe to be criminal activity. State Marshals are defined as “peace officers” “while exercising authority granted under any provision of the general statutes.” Conn. Gen. Stat. § 53a-3(9). Thus, they are imbued with apparent authority to “arrest, without previous complaint and warrant, any person for any offense in their jurisdiction, when the person is taken or apprehended in the act or on the speedy information of others.” Conn. Gen. Stat. § 54-1f.

It is beyond the scope of the purposes of this opinion for us to advise you whether it ought to be the policy of the State Marshal Commission to authorize State Marshals, in light of their training and experience, to make arrests when they believe they have witnessed criminal activity. In this regard, I encourage you to seek and to heed closely the counsel of criminal, prosecutorial authorities as well as other law enforcement officials.

Neither are we well-situated to advise you with any particularity whether the actions of State Marshals in this context will result in valid arrests or investigatory stops. As I mentioned at the beginning of this opinion, my role as the chief civil legal officer of the State does not afford me or my office with this expertise, nor would my advice be controlling. I can offer only the following observations.

First, *Florida v. Royer* clarified that, in certain limited circumstances, a temporary detention based upon reasonable and articulable suspicion that an individual has committed or is about to commit a crime may be constitutionally justified. *Id.* at 498. While the Supreme Court in *Florida v. Royer* readily acknowledged the constitutional validity of certain investigative detentions based upon mere reasonable articulable suspicion, it nonetheless recognized that “[d]etentions may be ‘investigative’ yet violative of the Fourth Amendment absent probable cause.” *Id.* at 499. Of course, the standard of probable cause is stricter than mere reasonable suspicion and, as a result, more difficult to achieve.

However, such constitutional questions are heavily dependent upon the individual facts and circumstances of each incident, including the underlying law

enforcement justification for the questioning or the detention, the location of the incident, the length of the encounter, the degree of coercion involved (whether actual or perceived), and numerous other factors that cannot be adequately addressed within the scope of this opinion. Thus, regardless of whether an investigative detention is justified on the basis of a reasonable and articulable suspicion, or upon the basis of probable cause, the decision regarding whether a detention has in fact occurred, and if so whether such detention is constitutionally justified, will be based upon the totality of the circumstances known to the State Marshal at the inception of the detention, or developed during the course of the detention. *See, e.g., Ohio v. Robinette*, 519 U.S. 33, 39, 117 S.Ct. 417, 136 L.Ed. 2d 347 (1996) (“[T]he touchstone of the Fourth Amendment is reasonableness. Reasonableness, in turn, is measured in objective terms by examining the totality of the circumstances.”).

Finally, it is also important to note that Article First, sections 7 and 9 of the Connecticut Constitution⁸ comprise the state constitutional analogs to the Fourth Amendment. The Connecticut Supreme Court has on several occasions determined that, in certain instances, these state constitutional provisions provide the citizens of Connecticut with more protection than does the Fourth Amendment. *See, e.g., State v. Jenkins*, 298 Conn. 209, 261 (2010). Accordingly, the constitutional reasonableness of a particular set of facts and circumstances must be considered from this standpoint as well and further warrants consultation with prosecutors and other law enforcement agencies.

Clearly, the law surrounding the temporary detention or arrest of citizens in a criminal context is complex, rapidly evolving, and of the utmost constitutional importance. As a result, we urge the State Marshal Commission to carefully consider whether and, if so, under what circumstances, it should authorize State Marshals to become engaged in such actions. Where such activities are to be authorized, it is likewise of critical constitutional importance that the State Marshals so authorized receive adequate initial training and regular,

⁸ Article First, § 7, of the Connecticut Constitution provides that “[t]he people shall be secure in their persons, houses, papers and possessions from unreasonable searches or seizures; and no warrant to search any place, or to seize any person or things, shall issue without describing them as nearly as may be, nor without probable cause supported by oath or affirmation.”

Article First, § 9, of the Connecticut Constitution provides that “[n]o person shall be arrested, detained or punished, except in cases clearly warranted by law.”

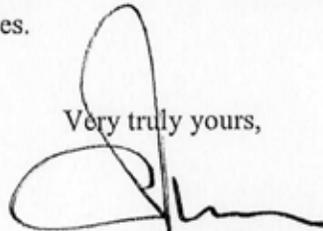
Peter J. Martin, Esq. Chairperson
State Marshals Commission
Page 13

periodic updated training regarding the laws of arrest, search and seizure so as to ensure that they are equipped to act within the bounds of the law. It should also be noted that a failure to adequately train State Marshals in the laws of arrest, search and seizure related to their duties in serving capias warrants, or to develop and enforce appropriate policies and procedures regarding the execution of such duties, or to otherwise conscientiously execute their supervisory responsibilities with regard to such matters, may expose the State Marshal Commission, and/or its individual members, to substantial civil liability.

I encourage you to seek out the advice and the training resources of prosecutorial and other law enforcement authorities if you are at all considering policies regarding the enforcement of criminal laws by State Marshals.

I trust that this answers your inquiries.

Very truly yours,

A handwritten signature in black ink, appearing to read "George Jepsen", with a large, stylized loop at the top and a horizontal line at the bottom.

GEORGE JEPSEN
ATTORNEY GENERAL

GJ/srs

GEORGE JEPSEN
ATTORNEY GENERAL



55 Elm Street
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Hartford, CT 06141-0120

Office of the Attorney General
State of Connecticut

March 27, 2015

W. Martyn Philpot, Jr.,
Chairperson
State Marshal Commission
165 Capitol Avenue, Room 279
Hartford, CT 06106

Dear Attorney Philpot:

You have requested an opinion on several questions concerning state marshals that apparently were prompted by an e-mail from State Marshal Barbara Coffey that was attached to your request. Specifically, you divide your questions into three categories, Fees/Service, E-Filing and Lis Pendens. In the category of Fees/Service, you ask:

1. How should a return be worded if a state marshal makes service at the usual place of abode, if that can be defined, but also leaves copies at multiple addresses?
2. Are extra copies at multiple addresses to be treated as service and each paid for under a service of process fee in Conn. Gen. Stat. § 52-261?
3. If the extra copies at multiple addresses occurs or if extra time and effort is made by a state marshal at the request of a client, can the state marshal, by agreement with a client under Conn. Gen. Stat. § 6-38a(a), charge a fee for reasonable time and/or travel for service of process related efforts beyond the statutory service of process fee?

In the category of E-Filing, you ask:

4. The State Marshal Commission has concluded that a state marshal cannot use the e-filing codes of an attorney to file a writ into the court. However, does a state marshal's public officer position allow for a state marshal to become a designated filer for an attorney, or are there conflicts of interests? If it is allowed, can any fees be paid to a state marshal for such court filings?

In the category of Lis Pendens, you ask:

5. Is there any particular valuation structure for an individual seeking to be paid for recording a lis pendens, including a state marshal who is filing them? How is a state marshal to bill for such work?
6. Is it appropriate for anyone to charge a civil service fee for the recording of a notice of lis pendens?
7. For a state marshal who records a notice of lis pendens for a client can that state marshal create a corporation to record notices of lis pendens, with staffed employees?
8. If a state marshal is allowed to create a corporation, is there any particular volume of lis pendens recording work before a state marshal is obtaining personal gain off his or her appointment based on his or her foreclosure, or family, work, by taking on such recordings?
9. If a state marshal is allowed to create a corporation, can one or more other state marshals work as an employee of the corporation to record notices of lis pendens?

As will be discussed in more detail below and as discussed in prior opinions of the Attorney General, the applicable laws and regulations compel the conclusions that state marshals: must truthfully word their returns under the circumstances presented, may charge statutory fees for extra copies served pursuant to a valid court order, may not enter into agreements with their clients to override the statutory limits on fees, may not become designated filers for attorneys based on the State Marshal Commission's conclusion that its regulations prevent similar activity on conflict of interests grounds, and may not charge fees for the recording of notices of lis pendens.

I. State Marshals Must Truthfully Word Their Returns Under The Circumstances Presented

Your first question relates to the wording of a return of service. A state marshal directed to serve process is under an obligation to "make true return thereof." Conn. Gen. Stat. § 6-32. Unlike some documents, such as a summons, *see* Conn. Gen. Stat. § 52-45b, there is no statutorily prescribed language for a return of service. Therefore, a state marshal is required to make a judgment as to how to truthfully word a return under the circumstances presented.

It appears that your first question was prompted by State Marshal Coffey's concern about being able to truthfully attest "that proper service was made at THE 'usual place of abode'" where service is made at multiple addresses at a client's request. (capitalization in State Marshal Coffey's e-mail). Although returns commonly refer to "*the* usual place of abode," there is no talismanic effect to that phrase. The Connecticut Supreme Court has long recognized that "[o]ne may have two or more places of residence within a State, or in two or more States, and each may be a 'usual place of abode.' . . . Service of process will be valid if made in either of the usual places of abode." *Clegg v. Bishop*, 105 Conn. 564, 570 (1927); *see also Knutson Mortg. Corp. v. Bernier*, 67 Conn. App. 768, 772 (2002) (same).

II. State Marshals May Charge Statutory Fees For Extra Copies Served Pursuant To A Valid Court Order

The answer to your second question is that a state marshal directed to serve multiple copies of process in a given case pursuant to a valid court order may generally charge a fee for each such copy that the state marshal successfully serves. *See* Conn. Atty. Gen. Op. No. 2008-011, 2008 WL 2466716, at *2 (concluding that fees may only be charged for successful service). Section 52-261(a) provides, in pertinent part, that "each officer . . . who serves process, summons or attachments . . . shall receive a fee . . . for each process served *and an additional fee . . . for the second and each subsequent service of such process*" with exceptions not applicable here. (emphasis added).

III. The Fee Statutes Are Exclusive And State Marshals May Not Use Agreements With Their Clients to Override Them

Nearly two centuries ago, the Connecticut Supreme Court recognized that "[b]y the English common law, the sheriff," the predecessor to the state marshal, was "not entitled to fees for his official services" and that to prevent abuse the General Assembly has long "made laws to reduce the allowance for [sheriffs'] services to a known and absolute certainty." *Preston v. Bacon*, 4 Conn. 471, 477 (1823) (emphasis omitted).

Consistent with that authority and more recent court decisions, this Office has already concluded that the state marshal fee statutes "set caps on fees and are exclusive, meaning that no fees for serving papers may be charged that are not authorized in these statutes." Conn. Atty. Gen. Op. No. 2009-009, 2009 WL 3059049, at *4; *see also Rioux v. State Ethics Comm'n*, 45 Conn. Supp. 242, 247 (1997), *aff'd*, 48 Conn. App. 214 (1998) (holding that the statutory fees are

exclusive). Thus, any fees to compensate "for additional time and/or travel" beyond those the statutes expressly authorize are impermissible. *See, e.g., Rioux*, 45 Conn. Supp. at 247 (holding that the statutes do not permit "an additional service fee or fee for advice, review, advancement of funds or short-term responsiveness").

Your third question raises the issue of whether an agreement under § 6-38a(a) may override the limits the statutes place on state marshal fees. Citing to the provisions of Conn. Gen. Stat. § 52-261, this Office has previously opined that § 6-38a(a) permits state marshals and their clients to enter into fee agreements as long as the fees established by those agreements "are at or below the statutory maximum and at or above the State Marshal Commission minimum." Conn. Atty. Gen. Op. No. 2009-010, 2009 WL 3330561, at *2; *see also Preston*, 4 Conn. at 480 (holding that "a contract to pay more than is due, is unquestionably void"). Given that there has been no further legislative guidance on the issue since our opinion, we see no reason to depart from that advice.

IV. There is no Apparent Basis to Conclude that a State Marshal Using an Attorney's E-Filing Codes Presents a Conflict of Interests that a State Marshal Becoming an Attorney's Designated Filer Does Not

You indicate that "[t]he State Marshal Commission has concluded that a state marshal cannot use the e-filing codes of an attorney to file a writ into the court" but ask whether "a state marshal's public officer position allow[s] for a state marshal to become a designated filer for an attorney, or are there conflicts of interest?" In addition, you ask whether—if such filings are allowed—a state marshal may charge fees for them.

You have advised my staff that the State Marshal Commission does not have a specific conflict of interests policy but that, in advising those who approach the Commission, it has interpreted its regulations to preclude conflicts of interests, apparently including a perceived conflict if state marshals were to use the e-filing code of an attorney to file a writ into the court.

"Conflict of interests is a term that is often used and seldom defined" and whether a conflict of interests exists is highly fact-dependent. *Phillips v. Warden, State Prison*, 220 Conn. 112, 137 (1991) (quotation marks omitted). You advise that the State Marshal Commission has interpreted its regulations to bar state marshals from using the e-filing codes of an attorney. The Commission's

interpretation of its regulations to prohibit state marshals from e-filing on behalf of an attorney does not appear deficient on its face.

There does not appear to be a difference between "us[ing] the e-filing codes of an attorney" and "becom[ing] a designated filer for an attorney" that would meaningfully impact the conflict of interests analysis. According to the Judicial Branch's Designated Filer Quick Reference Guide, "[d]esignated filers are individuals authorized by attorneys and law firms to file case initiation documents on their behalf." Since both the use of an attorney's e-filing codes and becoming a designated filer require the attorney's authorization, there is no apparent reason to conclude that use of e-filing codes would pose a conflict under the regulations but being a designated filer would not.

Again, whether a conflict of interests exists is a fact-intensive inquiry that will vary depending on the laws or regulations being applied. Should the State Marshal Commission be presented with facts that it believes warrant reconsideration of its conclusion that its regulations prohibit state marshals from using the electronic filing system with an attorney's sponsorship and has concerns that there may be other legal impediments to such conduct, it is free to seek this Office's guidance as to how the law applies to the facts as they may then be presented.

V. The Statutes Do Not Permit Fees To Be Charged For Recording Notices of Lis Pendens

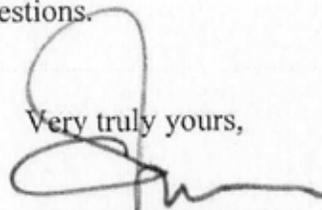
Your last set of questions revisit the issue of whether fees may be charged for the recording of a notice of lis pendens. "Recording a notice of lis pendens can be effectuated without a State Marshal by any person or by mail." Conn. Atty. Gen. Op. No. 2009-009, 2009 WL 3059049, at *4. This Office has previously recognized that this raises the question of "whether a State Marshal can charge a fee for recording a notice of lis pendens as Conn. Gen. Stat. § 52-261 does not contain an express provision for charging a fee for recording a notice of lis pendens on the land records." Conn. Atty. Gen. Op. No. 2009-009, 2009 WL 3059049, at *4 n.2. We concluded that the absence of any statutory authority for such a fee "mean[s] presumably that none is authorized" and suggested that legislation would be necessary for state marshals to charge fees for such recordings. *Id.* Although Public Act No. 14-87 recently increased state marshal fees in some instances, no legislation authorizing state marshals to charge fees for recording a notice of lis pendens has been enacted. Consequently, state marshals may not bill for such recordings.

You ask whether it is "appropriate for anyone [other than a state marshal] to charge a civil service fee for the recording of a notice of *lis pendens*?" You also pose several other questions about fees for the recording of notices of *lis pendens* undertaken by those not acting as a state marshal, but rather as a separate corporation. We do not believe these are questions this Office can appropriately answer. Specifically, if a state marshal were to create a corporation for the purpose of accepting and charging for work recording notices of *lis pendens*, any legal or ethical questions that might arise would require reliance on private counsel or the Office of State Ethics, as they would not be legal questions that arise from the work of a state official. Providing advice on such questions, in our view, would not fall within our statutory mandate to provide advice to state officials related to their official duties. *See Conn. Gen. Stat. § 3-125.*

VI. CONCLUSION

I trust this opinion answers your questions.

Very truly yours,



GEORGE JEPSEN
ATTORNEY GENERAL

Administrative Bulletins

The State Marshal Commission periodically issues Administrative Bulletins on statutory mandates and changes, Commission policies, state marshal obligations, and other issues. These bulletins are circulated to the state marshals via the email on file with the Commission office for each state marshal. The Commission presumes that state marshals have read and familiarized themselves with the bulletins when they are distributed. The bulletins are available at the Administrative Office of the State Marshal Commission.

Connecticut General Statutes

Title 6

Chapter 78

Sec. 6-29. Ineligibility for office. No judge, except a judge of probate, and no justice of the peace shall be a state marshal.

(1949 Rev., S. 450; 1953, S. 190d; P.A. 00-99, S. 126, 154.)

Sec. 6-30a. Personal liability insurance. Indemnification of state marshal for injury occurring while transporting person in custody in a private motor vehicle. (a) On and after December 1, 2000, each state marshal shall carry personal liability insurance for damages caused by reason of such state marshal's tortious acts in not less than the following amounts: (1) For damages caused to any one person or to the property of any one person, one hundred thousand dollars; and (2) for damages caused to more than one person or to the property of more than one person, three hundred thousand dollars. For the purpose of this subsection, "tortious act" means negligent acts, errors or omissions for which a state marshal may become legally obligated to any damages for false arrest, erroneous service of civil papers, false imprisonment, malicious prosecution, libel, slander, defamation of character, violation of property rights or assault and battery if committed while making or attempting to make an arrest or against a person under arrest, but does not include any such act unless committed in the performance of the official duties of such state marshal.

(b) The state shall protect and save harmless any state marshal from financial loss and expense, including court costs and reasonable attorney's fees, arising out of any claim, demand or suit instituted against the state marshal for personal injury or injury to property by, or as a result of the actions of, any person who is lawfully taken into custody by the state marshal, pursuant to a capias issued by Support Enforcement Services of the Superior Court and directed to the state marshal, if such injury occurs when such person, while in such custody, is transported in a private motor vehicle operated by the state marshal. In the event a judgment is entered against the state marshal for a malicious, wanton or wilful act, the state marshal shall reimburse the state for any expenses incurred by the state in defending the state marshal and the state shall not be held liable to the state marshal for any financial loss or expense resulting from such act.

(P.A. 76-15; P.A. 00-99, S. 128, 154; P.A. 01-195, S. 7, 181; P.A. 07-69, S. 1.)

Sec. 6-32. Duties. Cost of serving a civil protection order. (a) Each state marshal shall receive each process directed to such marshal when tendered, execute it promptly and make true return thereof; and shall, without any fee, give receipts when demanded for all civil process delivered to such marshal to be served, specifying the names of the parties, the date of the writ, the time of delivery and the sum or thing in demand. If any state marshal does not duly and promptly execute and return any such process or makes a false or illegal return thereof, such marshal shall be liable to pay double the amount of all damages to the party aggrieved.

(b) A civil protection order constitutes civil process for purposes of the powers and duties of a state marshal. The cost of serving a civil protection order issued pursuant to section 46b-16a shall be paid by the Judicial Branch in the same manner as the cost of serving a restraining order issued pursuant to section 46b-15, and fees and expenses associated with the serving of a civil protection order shall be calculated in accordance with subsection (a) of section 52-261.

(1949 Rev., S. 453; P.A. 79-497, S. 1, 6; P.A. 80-394, S. 9, 13; P.A. 84-108, S. 1; P.A. 00-99, S. 129, 154; P.A. 01-195, S. 8, 181; P.A. 14-217, S. 190; P.A. 15-14, S. 2; P.A. 16-34, S. 1.)

Sec. 6-35. Failure to pay money collected within required time. A state marshal shall pay over, to the person authorized to receive it, any money collected by such state marshal on behalf of or on account of such person not later than thirty calendar days from the date of collection of the money or upon the collection of one thousand dollars or more on behalf of or on account of such person, whichever first occurs, except that the state marshal and such person may agree to a different time for paying over such money. A state marshal who fails to comply with the requirements of this section or any such agreement, as applicable, shall be liable to such person for the payment of interest on the money at the rate of five per cent per month from the date on which such state marshal received the money.

(1949 Rev., S. 454; P.A. 84-108, S. 2; P.A. 94-177, S. 3; May 25 Sp. Sess. P.A. 94-1, S. 67, 130; P.A. 00-99, S. 12, 154; P.A. 03-224, S. 1.)

Sec. 6-36. Removal from office by General Assembly. If any sheriff (1) knowingly demands or receives illegal fees for serving process, (2) illegally detains any money collected by him or (3) refuses to satisfy any execution issued against him, the General Assembly shall remove him from office. The terms “knowingly demands” and “receives”, as used in this section, include billing for and the receipt of fees for work by a sheriff who did not actually perform the work for which billing is made or for which payment has been received.

(1949 Rev., S. 455; P.A. 84-108, S. 3.)

Sec. 6-38. Number of state marshals. The number of state marshals to be appointed for Hartford County shall not exceed seventy-two; for New Haven County, sixty-two; for New London County, thirty-eight; for Fairfield County, fifty-five; for Windham County, eighteen; for Litchfield County, thirty; for Middlesex County, twenty-one; for Tolland County, twenty-two.

(1949 Rev., S. 457; 1951, 1955, S. 193d; 1959, P.A. 339; 656, S. 1; P.A. 75-535; P.A. 83-548, S. 2, 3; P.A. 87-552; P.A. 94-177, S. 4; May 25 Sp. Sess. P.A. 94-1, S. 67, 130; P.A. 00-99, S. 9, 154.)

Sec. 6-38a. State marshal. Authority to provide legal execution and service of process. (a) For the purposes of the general statutes, “state marshal” means a qualified deputy sheriff incumbent on June 30, 2000, under section 6-38 or appointed pursuant to

section 6-38b who shall have authority to provide legal execution and service of process in the counties in this state pursuant to section 6-38 as an independent contractor compensated on a fee for service basis, determined, subject to any minimum rate promulgated by the state, by agreement with an attorney, court or public agency requiring execution or service of process.

(b) Any state marshal, shall, in the performance of execution or service of process functions, have the right of entry on private property and no such person shall be personally liable for damage or injury, not wanton, reckless or malicious, caused by the discharge of such functions.

(P.A. 00-99, S. 7, 154; P.A. 03-224, S. 2.)

Sec. 6-38b. State Marshal Commission. Members. Regulations. Duties. Appointment of state marshal to fill vacancy. Rules.

(a) There is established a State Marshal Commission which shall consist of eight members appointed as follows: (1) The Chief Justice shall appoint one member who shall be a judge of the Superior Court; (2) the speaker of the House of Representatives, the president pro tempore of the Senate, the majority and minority leaders of the House of Representatives and the majority and minority leaders of the Senate shall each appoint one member; and (3) the Governor shall appoint one member who shall serve as chairperson. Of the seven members appointed pursuant to subdivisions (2) and (3) of this subsection, no more than four of such members may be members of any state bar. No member of the commission shall be a state marshal, except that two state marshals appointed by the State Marshals Advisory Board in accordance with section 6-38c shall serve as ex-officio, nonvoting members of the commission.

(b) The chairperson shall serve for a three-year term and all appointments of members to replace those whose terms expire shall be for terms of three years.

(c) If any vacancy occurs on the commission, the appointing authority having the power to make the initial appointment under the provisions of this section shall appoint a person for the unexpired term in accordance with the provisions of this section.

(d) Members shall serve without compensation but shall be reimbursed for actual expenses incurred while engaged in the duties of the commission.

(e) The commission, in consultation with the State Marshals Advisory Board, shall adopt regulations in accordance with the provisions of chapter 54 to establish professional standards, including training requirements and minimum fees for execution and service of process.

(f) The commission shall be responsible for the equitable assignment of service of restraining orders to the state marshals in each county and ensure that such restraining orders are served expeditiously. Failure of any state marshal to accept for service any restraining order assigned by the commission or to serve such restraining order expeditiously without good cause shall be sufficient for the convening of a hearing for removal under subsection (i) of this section.

(g) Any vacancy in the position of state marshal in any county as provided in section 6-38 shall be filled by the commission with an applicant who shall be an elector in the county where such vacancy occurs. Any applicant for such vacancy shall be subject to the application and investigation requirements of the commission.

(h) Except as provided in section 6-38f, no person may be a state marshal and a state employee at the same time. This subsection does not apply to any person who was both a state employee and a deputy sheriff or special deputy sheriff on April 27, 2000.

(i) No state marshal may be removed except by order of the commission for cause after due notice and hearing.

(j) The commission shall adopt rules as it deems necessary for conduct of its internal affairs, including, but not limited to, rules that provide for: (1) The provision of timely, consistent and reliable access to a state marshal for persons applying for a restraining order under section 46b-15; (2) the provision of services to persons with limited English proficiency; (3) the provision of services to persons who are deaf or hearing impaired; and (4) service of process that is a photographic copy, micrographic copy or other electronic image of an original document that clearly and accurately copies such original document. The commission shall adopt regulations in accordance with the provisions of chapter 54 for the application and investigation requirements for filling vacancies in the position of state marshal.

(k) The commission shall be within the Department of Administrative Services, provided the commission shall have independent decision-making authority.

(P.A. 00-99, S. 8, 154; June Sp. Sess. P.A. 01-9, S. 8, 131; P.A. 03-224, S. 3; Sept. Sp. Sess. P.A. 09-7, S. 31; P.A. 14-207, S. 2; P.A. 16-34, S. 2.)

Sec. 6-38c. State Marshals Advisory Board. Members. Election. (a) There is established a State Marshals Advisory Board which shall consist of twenty-four state marshals. Between November 9, 2000, and November 14, 2000, and annually thereafter, the state marshals in each county shall elect from among the state marshals in their county the following number of state marshals to serve on the board: Hartford, New Haven and Fairfield counties, four state marshals; New London and Litchfield counties, three state marshals; and Tolland, Middlesex and Windham counties, two state marshals. State marshals elected to serve on the board shall serve for a term of one year and may be reelected.

(b) On or after April 27, 2000, the Chief Court Administrator shall designate a date and time for the state marshals in each county to come together for the purpose of electing state marshals from each county to serve on the State Marshals Advisory Board pursuant to subsection (a) of this section. A majority of the filled state marshal positions in each county shall constitute a quorum for that county. The election of state marshals to serve on the board shall be by majority vote. The names of the state marshals elected in each county shall be forwarded to the Chief Court Administrator. The Chief Court Administrator, upon receipt of the election results from all counties, shall designate a date

and time for the first meeting of the board to take place as soon as practicable after November 14, 2000.

(P.A. 00-99, S. 146, 154.)

Sec. 6-38d. Illegal billing by state marshal. No state marshal shall knowingly bill for, or receive fees for, work that such state marshal did not actually perform.

(P.A. 00-99, S. 150, 154.)

Sec. 6-38e. Review and audit of records and accounts of state marshals by State Marshal Commission. The State Marshal Commission shall periodically review and audit the records and accounts of the state marshals. Upon the death or disability of a state marshal, the commission shall appoint a qualified individual to oversee and audit the records and accounts of such state marshal and render an accounting to the commission. All information obtained by the commission from any audit conducted pursuant to this section shall be confidential and shall not be subject to disclosure under the Freedom of Information Act, as defined in section 1-200.

(P.A. 00-99, S. 152, 154; P.A. 03-224, S. 4.)

Sec. 6-38f. State Marshal Commission to appoint state marshals. Evidence of service as a deputy sheriff. Appeal. Notification by deputy sheriffs re desire to be appointed state marshal. Notification of decisions to State Marshal Commission. (a)(1)

Notwithstanding the provisions of section 6-38, the State Marshal Commission shall appoint as a state marshal any eligible individual who applies for such a position. For the purposes of this section, “eligible individual” means an individual who was a deputy sheriff or special deputy sheriff of a corporation on or after May 31, 1995, who had served as a deputy sheriff or special deputy sheriff of a corporation for a period of not less than four years and who has submitted an application to the State Marshal Commission on or before July 31, 2001, provided any such eligible individual submitted an initial application dated on or before June 30, 2000.

(2) For the purpose of showing proof that an individual has served as a deputy sheriff as required by this subsection, information contained in the Connecticut State Register and Manual shall be accepted as evidence.

(3) Any person authorized to apply for appointment as a state marshal pursuant to this section who is determined not to be eligible for such appointment by the State Marshal Commission may appeal such determination to the Superior Court for the judicial district of New Britain in accordance with the procedures and time periods set forth in chapter 54.

(b) Except as provided in subsection (a) of this section:

(1) Any deputy sheriff serving as a deputy sheriff on April 27, 2000, shall notify the Chief Court Administrator on or before June 30, 2000, of the desire of such deputy sheriff to be appointed as a state marshal;

(2) Any deputy sheriff performing court security, prisoner custody or transportation services on April 27, 2000, who desires to perform such functions as a judicial marshal, or desires to be appointed as a state marshal, shall so notify the Chief Court Administrator on or before June 30, 2000; and

(3) The Chief Court Administrator shall notify, in writing, the State Marshal Commission of the decisions of the deputy sheriffs pursuant to subdivisions (1) and (2) of this subsection.

(c) Except as provided in subsection (a) of this section, for purposes of the State Marshal Commission filling any vacancy in the position of state marshal in any county in accordance with subsection (g) of section 6-38b, the State Marshal Commission shall not fill a vacancy in any county if the total number of state marshals in such county is equal to or exceeds the number allowed under section 6-38.

(P.A. 00-99, S. 142, 154; 00-210, S. 2, 5; June Sp. Sess. P.A. 01-9, S. 9, 131; P.A. 02-132, S. 61; P.A. 14-207, S. 11.)

Sec. 6-38g. Notification of Chief Court Administrator by high sheriff of desire to be appointed as state marshal. Notwithstanding the provisions of sections 6-38a and 6-38f, no high sheriff who appointed himself or herself a deputy sheriff or has been appointed a deputy sheriff by another high sheriff pursuant to section 6-38 shall become a state marshal on or after December 1, 2000, by virtue of being a deputy sheriff, except that a high sheriff may notify the Chief Court Administrator on or before June 30, 2000, of the desire of such high sheriff to be appointed as a state marshal, and such high sheriff may be appointed as a state marshal after December 1, 2000, provided such high sheriff resigns his or her position as high sheriff effective December 1, 2000.

(P.A. 00-210, S. 3, 5.)

Sec. 6-38h. Political contribution to appointing authority for State Marshal Commission affects eligibility for appointment as state marshal. Any person who pays, lends or contributes anything of value to a person who is an appointing authority for the State Marshal Commission under section 6-38b for political purposes shall not be eligible for appointment as a state marshal for a period of two years.

(P.A. 00-99, S. 151, 154.)

Sec. 6-38i. Special deputy sheriffs and deputy sheriffs serving on December 1, 2000, to continue as judicial marshals and employees of Judicial Department. Collective bargaining unit. All special deputy sheriffs serving on December 1, 2000, as prisoner custody and transportation personnel and as court security personnel and all deputy sheriffs serving on December 1, 2000, as prisoner custody or transportation personnel and as court security personnel who elect to continue to perform such functions under section 6-38f shall continue to provide such prisoner custody, transportation or court security services after December 1, 2000, as judicial marshals and shall be employees of the Judicial Department. The Judicial Department shall recognize the bargaining unit of special deputy sheriffs for the purpose of collective bargaining with judicial marshals.

(P.A. 00-99, S. 130, 154.)

Sec. 6-38j. Appointment or removal of deputy sheriff or special deputy sheriff on or after December 1, 2000. On or after December 1, 2000, no sheriff may appoint or remove any deputy sheriff or special deputy sheriff.

(P.A. 00-99, S. 143, 154.)

Sec. 6-38m. Annual fee to State Marshal Commission. Commencing October 1, 2001, and not later than October 1, 2008, each state marshal shall pay an annual fee of two hundred fifty dollars to the State Marshal Commission, which fee shall be deposited in the General Fund. Commencing October 1, 2009, and not later than October first each year thereafter, each state marshal shall pay an annual fee of seven hundred fifty dollars to the State Marshal Commission, which fee shall be deposited in the General Fund.

(June Sp. Sess. P.A. 01-9, S. 11, 131; P.A. 02-4, S. 17; P.A. 03-19, S. 15; 03-224, S. 5; May Sp. Sess. P.A. 04-2, S. 8; June Sp. Sess. P.A. 09-3, S. 92.)

Sec. 6-38n. Application by high sheriff for appointment as state marshal.

Notwithstanding the provisions of sections 6-38, 6-38f and 6-38g, any high sheriff may apply not later than October 1, 2001, to the State Marshal Commission for appointment as a state marshal and may be appointed as a state marshal, provided he or she complies with the provisions of subsection (g) of section 6-38b and resigns the position of high sheriff on or before appointment as a state marshal.

(June Sp. Sess. P.A. 01-9, S. 16, 131; P.A. 14-207, S. 12.)

Sec. 6-39. Bond of state marshal. Each state marshal, before entering upon the duties of a state marshal, shall give to the State Marshal Commission a bond in the sum of ten thousand dollars conditioned that such state marshal will faithfully discharge the duties of state marshal and answer all damages which any person sustains by reason of such state marshal's unfaithfulness or neglect. The premium for said bonds shall be paid by the state. No state marshal shall collect tax warrants for the state or any municipality until such state marshal executes a bond in the sum of one hundred thousand dollars.

(1949 Rev., S. 458; 1961, P.A. 526; P.A. 73-237, S. 2, 3; P.A. 94-177, S. 10; May 25 Sp. Sess. P.A. 94-1, S. 67, 130; P.A. 00-99, S. 127, 154.)

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TITLE 6. Counties and County Officers. Judicial and State Marshals

Agency

Department of Administrative Services—Personnel Division

Subject

Court Security Officers

Inclusive Sections

§§ 6-32c-1—6-32c-3

CONTENTS

- Sec. 6-32c-1. Advertising of available positions (Repealed)
- Sec. 6-32c-2. Method to determine candidates' qualifications (Repealed)
- Sec. 6-32c-3. Grievance procedure (Repealed)

Court Security Officers

Sec. 6-32c-1. Advertising of available positions (Repealed)

Repealed June 11, 2014.

(Effective June 3, 1982; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 6-32c-2. Method to determine candidates' qualifications (Repealed)

Repealed June 11, 2014.

(Effective June 3, 1982; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

Sec. 6-32c-3. Grievance procedure (Repealed)

Repealed June 11, 2014.

(Effective June 3, 1982; Repealed June 11, 2014)

Notes: For 2014 repeal, see Sec. 54 of Public Act 14-187. (June 11, 2014)

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Agency

State Marshal Commission

Subject

Professional Standards (Including Disciplinary Process), Training and Minimum Fees

Inclusive Sections

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Sec. 6-38b-28. Uses to be made of the personal data

Professional Standards (Including Disciplinary Process), Training and Minimum Fees

Sec. 6-38b-1. Qualifications

To qualify as a state marshal pursuant to section 6-38b of the Connecticut General Statutes, a person shall:

- (1) Be an elector in the county in which a vacancy for the position of state marshal exists;
- (2) Speak, write and read the English language;
- (3) Be at least 21 years of age;
- (4) Have been awarded a high school diploma or general equivalency diploma (GED);
- (5) Be free from any physical, mental or emotional disorder that would prevent the person from performing the duties of a state marshal;
- (6) Be of good moral character;
- (7) Have a valid Connecticut driver's license; and
- (8) Have passed the examination required under section 6-38b-3 of the Regulations of Connecticut State Agencies and have completed all required training. The State Marshal Commission may waive the examination requirement for persons who previously served as deputy sheriffs in the state of Connecticut.

(Adopted effective October 3, 2002)

Sec. 6-38b-2. Application

(a) The State Marshal Commission shall provide an application form for appointment as a state marshal.

(b) All applications for appointment as a state marshal shall be typewritten or hand-printed and submitted to the commission in the form referred to in subsection (a) of this section.

(c) All applications shall be submitted under oath, sworn before and acknowledged by a notary public, that the information given is true. All applications shall include the following information:

- (1) All names by which the applicant has been known;
- (2) The applicant's residence mailing address;
- (3) The applicant's residence telephone number;
- (4) The applicant's business mailing address;
- (5) The applicant's business telephone number;
- (6) Whether the applicant is over the age of 21;
- (7) The applicant's Connecticut driver's license number and expiration date;
- (8) Whether the applicant is an elector in the county in which the vacancy occurs;
- (9) The applicant's criminal convictions and any pending criminal charges;
- (10) The applicant's employment history for the five years immediately preceding the date of application;
- (11) The names of three Connecticut residents who are not members of the applicant's immediate or extended family or household, who can attest to the applicant's good character;

(12) Whether the applicant is free from any physical, mental or emotional disorder that would prevent him or her from performing the duties of a state marshal; and

(13) The applicant's signature.

(d) The commission shall conduct a background investigation of an applicant to determine if the applicant possesses the qualifications set out in this section including, but not limited to, criminal background checks, and contact with references and current and/or former employers. All applications shall be accompanied by a fully executed authorization in a form to be provided by the commission authorizing the commission to access information concerning the applicant's background.

(e) An applicant may be required to submit a letter from a physician stating whether he or she has any physical, mental or emotional disorder that would prevent the person from performing the duties of a state marshal, or the commission may require the applicant to undergo a physical/mental examination.

(Adopted effective October 3, 2002)

Sec. 6-38b-3. Examination

(a) The State Marshal Commission shall administer to each applicant for appointment as a state marshal a written examination to determine the applicant's knowledge of service of process and execution.

(b) The examination shall include, but not be limited to, the following subjects:

(1) The functions of a state marshal, including, service of process and execution; and

(2) Familiarity with the applicable portions of the Connecticut General Statutes, the Connecticut Practice Book and the commission's regulations.

(c) A raw score of at least 80 percent shall be required to pass the examination.

(Adopted effective October 3, 2002)

Sec. 6-38b-4. Training

(a) The State Marshal Commission shall publish a manual providing information relevant to the duties and responsibilities of state marshals. This manual shall be provided to all state marshals.

(b) The commission shall establish a statewide training program for state marshals appointed pursuant to section 6-38b of the Connecticut General Statutes. The commission shall appoint instructors for such program who shall hold classes on the subject area of a state marshal's duties and responsibilities, as determined by the commission after consultation with the State Marshal Advisory Board.

(c) State marshals shall comply with all continuing education requirements and certification or re-certification requirements as established by regulation.

(Adopted effective October 3, 2002)

Sec. 6-38b-5. Appointment

(a) No person shall be appointed as a state marshal pursuant to section 6-38b of the

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Connecticut General Statutes unless such person:

(1) Meets all of the qualification requirements set forth in section 6-38b-1 of the Regulations of Connecticut State Agencies;

(2) Has submitted an application which complies in all respects with section 6-38b-2 of the Regulations of Connecticut State Agencies;

(3) Has completed and passed the examination administered pursuant to section 6-38b-3 of the Regulations of Connecticut State Agencies in compliance with all rules governing the examination, pursuant to chapter 67 of the Connecticut General Statutes, unless waived in accordance with the provisions of subdivision (8) of section 6-38b-1 of the Regulations of Connecticut State Agencies;

(4) Has satisfactorily completed the training program required in section 6-38b-4 of the Regulations of Connecticut State Agencies;

(5) Is in compliance with section 6-39 of the Connecticut General Statutes;

(6) Provides to the State Marshal Commission sufficient evidence that the applicant has in effect personal liability insurance which complies with the requirements of section 6-30a of the Connecticut General Statutes; and

(7) Has been fingerprinted and successfully passed a federal and state records check.

(b) The commission may deny appointment of an applicant because of a prior conviction of a crime if, after considering:

(1) The nature of the crime and its relationship to the job for which the person has applied;

(2) Information pertaining to the degree of rehabilitation of the convicted person; and

(3) The time elapsed since the conviction or release, the commission determines that the applicant is not suitable to be a state marshal.

(c) The commission shall issue to newly-appointed state marshals a certificate of appointment, an identification card and a badge. All state marshals shall carry the identification card and badge with them while performing the duties of a state marshal.

(Adopted effective October 3, 2002)

Sec. 6-38b-6. Standards of conduct

A state marshal shall:

(1) Comply with all federal, state and local laws, including all applicable state laws, rules of court and regulations concerning a state marshal's duties;

(2) Act with honesty and professional integrity with respect to all matters concerning his or her duties;

(3) Not, while performing the duties of a state marshal, engage in the practice of law or render legal advice;

(4) Perform services in a timely fashion in order to comply with any requirements stated in the Connecticut General Statutes;

(5) Maintain up-to-date records of all process that identify all fees collected and disbursed;

(6) Make his or her records available for inspection by the State Marshal Commission

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upon request;

(7) Inform the commission of the trustee account identification number(s);

(8) Notify the commission, in writing, of his or her intention to perform collection work for any client, prior to engaging in such collection work and

(A) Deposit all funds collected on behalf of any client in a non-interest bearing trustee account, provided no such funds may be commingled with any non-client funds;

(B) Advise the commission, in writing, of the name of the banking institution, branch address, and the name and number of any such trustee account opened or closed;

(C) Deliver any funds to the owner in accordance with the Connecticut General Statutes.

(9) No checks from the trustee account shall be made payable to “cash”. No disbursements may be made from the trustee account except for remittance to the client, the disbursement of the applicable fee to the state marshal and for expenses directly related to a specific client. When specific client expenses are paid from the trustee account, the check shall note the name of the client and the nature of the expense. An amount not to exceed \$1,250.00 may be retained in the trustee account to provide for bank charges.

(10) Not use his or her powers, his or her appointment, or any of the incidents thereof, for personal gain or to gain an advantage for another person, other than the authorized collection of fees for service of process or other duties performed by the state marshal;

(11) Not use his or her position for an unlawful, unauthorized or improper purpose;

(12) Not use his or her powers, his or her appointment, or any of the incidents thereof, in connection with any personal matter or dispute;

(13) Not consume alcohol or be under the influence of alcohol while involved in performing his or her duties and not use illegal drugs at any time;

(14) Cooperate fully and truthfully in any inquiry or investigation conducted by the commission or any law enforcement or regulatory agency, subject to the exercise of applicable privileges;

(15) Inform the commission, within 48 hours after being arrested and inform the commission of the disposition of the case no later than 48 hours after being notified of such disposition;

(16) Remain at all times in a physical and mental condition suitable to the satisfactory performance of the duties of a state marshal;

(17) Apprise the commission in writing of any change in the state marshal’s residence or business address or residence or business phone number within ten days of such change;

(18) Not display the credentials of a state marshal for any unauthorized, unlawful or improper purpose;

(19) Not knowingly violate the provisions of section 6-38d of the Connecticut General Statutes; and

(20) Not engage in conduct that could harm or otherwise impugn his or her professional reputation, standing or integrity.

(Adopted effective October 3, 2002)

Sec. 6-38b-7. Investigations

(a) When the State Marshal Commission receives a written complaint concerning a state marshal, the commission shall notify the state marshal that a complaint has been received.

(b) The State Marshal Commission may initiate and conduct any investigation that the commission deems necessary within the commission's jurisdiction. The commission shall send a notice of such investigation to the state marshal being investigated.

(c) The commission may appoint an investigator.

(d) The investigator shall review the allegations against a state marshal and determine the course of any investigation.

(e) The investigator shall prepare a report to include, at a minimum: copies of documents obtained; a summary of the information gathered and recommended findings.

(f) Such findings shall be presented by the investigator to the commission for the purposes of determining the appropriate action to be taken in the matter.

(g) The state marshal shall be notified in writing of any proposed action and advised of his or her right to a hearing.

(Adopted effective October 3, 2002)

Sec. 6-38b-8. Disciplinary actions

(a) Emergency suspension of appointment - Emergency suspension of the appointment of a state marshal by the State Marshal Commission shall be in accordance with the process contained in section 4-182(c) of the Connecticut General Statutes.

(b) The commission may suspend or revoke the appointment of a state marshal when it determines, after due notice and hearing that the state marshal:

(1) Lacks the ability, knowledge, skill, or professional judgment to perform the duties of a state marshal;

(2) Failed to maintain any of the qualification requirements of section 6-38b-1 of the Regulations of Connecticut State Agencies;

(3) Has failed to perform the duties and responsibilities of a state marshal, and that failure resulted in: (A) the life, health, or safety of a person being placed in jeopardy of death or injury; or (B) a person's property being placed in jeopardy of loss or damage;

(4) Since appointment, has been convicted of a crime, after consideration of the nature of the crime and its relationship to the position of state marshal;

(5) Has been found to have falsified or omitted information required to be provided in the state marshal application process;

(6) Misapplied or misappropriated money or property;

(7) Engaged routinely in inaccurate accounting;

(8) Failed to account for funds;

(9) Failed to be in compliance with section 6-39 of the Connecticut General Statutes;

(10) Failed to adhere to the accounting practices contained in section 6-38b-6 of the Regulations of Connecticut State Agencies;

(11) Failed to maintain the insurance required by section 6-30a of the Connecticut

General Statutes; or

(12) Knowingly violated the provisions of section 6-38d of the Connecticut General Statutes.

(c) Suspension or revocation of the appointment of a state marshal may also be imposed for any conduct that could harm or otherwise impugn his or her professional reputation, standing or integrity, including violations of section 6-38b-6 of the Regulations of Connecticut State Agencies.

(d) Suspension or revocation of the appointment of a state marshal may be considered for violation of section 6-38b-6(16) of the Regulations of Connecticut State Agencies. The commission may, after due consideration and review of the circumstances in the matter, require that the state marshal submit to a medical examination.

(Adopted effective October 3, 2002)

Sec. 6-38b-9. Hearing procedure

Hearings shall be conducted in accordance with the provisions of the Uniform Administrative Procedure Act, section 4-166, et seq., of the Connecticut General Statutes.

The hearing may be held before one or more hearing officers or one or more members of the State Marshal Commission. No individual who has personally carried out the function of an investigator in a contested case may serve as a hearing officer.

(1) Official address. All correspondence relating to hearings shall be addressed to: State Marshal Commission, 765 Asylum Avenue, Hartford, Connecticut 06105.

(2) Notice of hearings. The hearing/presiding officer shall mail a notice of hearing to all parties. Notice shall be mailed to the addresses provided to the commission by the parties, at least ten (10) days before the scheduled hearing, unless all parties waive the requirement of advance notice. The notice shall include a statement of the time, place, the legal authority under which the hearing is to be held, reference to the particular sections of the statutes and regulations involved and nature of the hearing and a short and plain statement of the matters asserted. If the hearing/presiding officer is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished.

(3) Location of hearings. Hearings shall be held at 765 Asylum Avenue, Hartford, Connecticut and at such other location or locations as the hearing/presiding officer may designate.

(4) Postponements and adjournments. Postponements or adjournments shall be granted only for good cause shown upon a request made to the hearing/presiding officer. The hearing/presiding officer may reschedule a hearing or adjourn a hearing in progress to another date and time.

(5) Waiver of oral hearing and personal appearance. Any state marshal who is the subject of a hearing may waive oral hearing and personal appearance and request that the matter be adjudicated on the basis of the available written and demonstrative evidence on file with the hearing/presiding officer including any evidence submitted by the state marshal who is

the subject of the hearing.

(6) Adjudication in absence of a party. Where the hearing/presiding officer finds that the notice of hearing has been properly served by mail and the respondent or any witness has failed to appear, the hearing/presiding officer may in his or her discretion hear the case.

(7) Rules of evidence. The rules of evidence set forth in section 4-178 of the Connecticut General Statutes shall apply.

(8) Limiting number of witnesses. To avoid unnecessary cumulative evidence, the hearing/presiding officer may limit the number of witnesses or the time for testimony upon a particular issue in the course of any hearing. The hearing/presiding officer may permit any party to offer testimony in written form, if it will expedite the hearing. Such written testimony shall be received in evidence with the same force and effect as though it were stated orally by the witness who has given the evidence, provided that the interests of the parties shall not be prejudiced substantially. Any party or witness who submits written testimony shall be present at the hearing at which such testimony is offered and shall adopt the written testimony under oath unless the opposing party has waived the right to cross-examine such party or witness as provided in subsection (9) of this section.

(9) Cross-examination. A party may conduct cross-examinations required for a full and true disclosure of the facts.

(10) Final decision.

(A) A final decision following a hearing shall be in writing or stated in the record. The hearing/presiding officer shall, after hearing a matter, make a proposed final decision to the commission. The commission shall review the proposed final decision of the hearing/presiding officer and render a final decision.

(B) All parties shall be notified either personally or by mail of the final decision.

(11) Any appeal of the final decision of the commission shall be in accordance with section 4-183 of the Connecticut General Statutes.

(12) A state marshal may have legal representation, at his or her own expense, at a hearing to which he or she is a party.

(Adopted effective October 3, 2002)

Sec. 6-38b-10. Minimum fees for service of process and execution

Except as otherwise provided in the Connecticut General Statutes:

(1) Each state marshal who serves process, summons or attachments shall receive a fee of not less than five dollars (\$5.00) for each process served.

(2) Each state marshal who serves an execution on a summary process judgment shall receive a fee of not less than twelve dollars and fifty cents (\$12.50).

(3) Each state marshal who removes a defendant under section 47a-42 of the Connecticut General Statutes, or other occupant bound by a summary process judgment, and the possessions and personal effects of such defendant or other occupant, shall receive a fee of not less than eighteen dollars and seventy-five cents (\$18.75).

(Adopted effective October 3, 2002)

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Sec. 6-38b-11. Creation

The State Marshal Commission is established by section 6-38b of the Connecticut General Statutes.

(Adopted effective November 4, 2002)

Sec. 6-38b-12. Authority and duties

The commission shall have the duties and responsibilities as provided by sections 6-38b, 6-38e and 6-38f of the Connecticut General Statutes.

(Adopted effective November 4, 2002)

Sec. 6-38b-13. Membership and terms of office

(a) The commission is composed of eight (8) members, plus two (2) ex officio members, appointed in accordance with the provisions of subsection (a) of section 6-38b of the Connecticut General Statutes.

(b) The terms of all members shall be as set forth in subsection (b) of section 6-38b of the Connecticut General Statutes.

(Adopted effective November 4, 2002)

Sec. 6-38b-14. Definitions

As used in sections 6-38b-1 to 6-38b-28, inclusive, of the Regulations of Connecticut State Agencies:

(1) “Chairman” means the member of the State Marshal Commission appointed by the governor to serve as chairman;

(2) “Commission” means the State Marshal Commission of the State of Connecticut;

(3) “Ex officio member” means a state marshal appointed to the commission in accordance with the provisions of subsection (a) of section 6-38b of the Connecticut General Statutes; such ex officio members are nonvoting members of the commission;

(4) “Hearing” means the proceedings by which the commission makes further inquiry concerning the suspension or revocation of a state marshal’s appointment or concerning a declaratory ruling;

(5) “Hearing officer” shall have the meaning defined in subdivision (4) of section 4-166 of the Connecticut General Statutes;

(6) “Meeting” means any hearing or proceeding of a quorum of the commission in which the business of the commission is being conducted;

(7) “Member” means any of the eight (8) individuals who serve on the commission;

(8) “Presiding officer” means a member of the commission designated by the commission to preside over a hearing conducted in accordance with section 6-38b-9 of the Regulations of Connecticut State Agencies; and

(9) “Quorum” means five (5) members of the commission.

(Adopted effective November 4, 2002)

Sec. 6-38b-15. Principal office and official address

(a) The principal office of the commission is located at 765 Asylum Avenue, Hartford, CT 06105.

(b) All communications shall be addressed to the commission at its principal office.

(Adopted effective November 4, 2002)

Sec. 6-38b-16. Meetings

(a) The commission shall hold its meetings in accordance with the provisions of the Freedom of Information Act. The chairman may cancel meetings.

(b) The chairman may call special or emergency meetings of the commission whenever he determines that such meetings are necessary.

(c) Notice of meetings shall be provided to members of the commission and to the public in accordance with the requirements of the Freedom of Information Act.

(d) A quorum of the commission shall be present at a meeting in order for business of the commission to be conducted.

(e) Minutes of meetings shall be kept in accordance with the provisions of the Freedom of Information Act.

(Adopted effective November 4, 2002)

Sec. 6-38b-17. Public inspection of records and requests for information

The records of the commission shall be maintained at its principal office and shall be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except legal holidays. Copies of documents shall be provided pursuant to the requirements of the Freedom of Information Act.

(Adopted effective November 4, 2002)

Sec. 6-38b-18. Applicability of regulations

Sections 6-38b-1 to 6-38b-9, inclusive, and sections 6-38b-19 to 6-38b-28, inclusive, of the Regulations of Connecticut State Agencies govern practice and procedure before the commission under the applicable laws of the State of Connecticut, except where otherwise provided by statute.

(Adopted effective November 4, 2002)

Sec. 6-38b-19. Contested cases

In conjunction with the provisions of sections 6-38b-7 to 6-38b-9, inclusive, of the Regulations of Connecticut State Agencies, the following provisions shall apply:

(1) Designation of parties.

(A) In issuing the notice of hearing, the chairman or his designee shall designate as a

party any person known to the commission whose legal rights, duties or privileges are required by statute to be determined by a commission proceeding and who is required by law to be a party in a commission proceeding and any person whose participation as a party is then deemed to be necessary to the proper disposition of the proceeding. Subsequent to the issuance of the notice of hearing, no person before the commission, other than a respondent who is identified in the notice of hearing, has standing as a party within the definition set forth in subdivision (8) of section 4-166 of the Connecticut General Statutes except upon the express order of the hearing/presiding officer.

(B) Any person who is not identified as a party in the notice of hearing may petition the hearing/presiding officer for admission as a party subsequent to the issuance of the notice and prior to the commencement of oral testimony in any hearing. The petition shall be in writing, signed by the petitioner or his or her authorized representative and shall be served on the commission and the parties at least five days before the date of the hearing. The petition shall state facts that demonstrate that the petitioner's legal rights, duties or privileges shall be specifically affected by the commission's decision. The hearing/presiding officer shall rule on the petition prior to the commencement of any oral testimony in the hearing and shall notify the petitioner of the ruling in writing unless the petitioner is present at the contested case hearing.

(C) The hearing/presiding officer may remove as a party any person whose rights, duties or privileges are determined not to be at issue in the contested case.

(D) The conferring of party status shall not be deemed to be an admission by the commission that such party may be aggrieved by any final decision, order or ruling of the commission.

(2) *Intervenors.*

(A) The hearing/presiding officer may grant any person status as an intervenor in a contested case if he or she finds that: (A) the person has submitted a written petition to the hearing/presiding officer and served copies to all parties and intervenors at least five days before the date of the hearing; and (B) the petition states facts that demonstrate that the petitioner's participation is in the interest of justice and will not impair the orderly conduct of the proceeding. An intervenor shall participate only in those portions of the contested case that the hearing/presiding officer shall expressly allow.

(B) The conferring of intervenor status by the hearing/presiding officer shall not be deemed to be an admission by the commission that such intervenor may be aggrieved by any final decision, order or ruling of the commission.

(3) *Representation of parties and intervenors.* Each person authorized to participate in a contested case as a party or as an intervenor shall file a written notice of appearance with the commission. Such appearance may be filed on behalf of parties and intervenors by an attorney, subject to the rules hereinabove stated. The filing of a written appearance may be excused by the hearing/presiding officer.

(Adopted effective November 4, 2002)

Sec. 6-38b-20. Petitions concerning adoption of regulations

(a) **General rule** - Subsections (b) and (c) of section 6-38b-20 of the Regulations of Connecticut State Agencies set forth the procedure to be followed by the commission in the disposition of a petition concerning the adoption, amendment or repeal of regulations.

(b) **Form of petition** - Any interested person may petition the commission or the commission may on its own motion initiate a proceeding to adopt, amend or repeal any regulation. The petition shall set forth clearly and concisely the text of the proposed regulation, amendment or repeal. The petition shall contain the name and address of the petitioner. Such petition shall also state the facts and arguments that favor the action it proposes by including such data, facts and arguments in the petition or in a brief annexed thereto. The petition shall be addressed to the commission and delivered to it at its principal office.

(c) **Procedure after petition filed**

(1) Decision on petition. Upon receipt of the petition the commission shall within thirty (30) days determine whether to deny the petition or to initiate regulation-making proceedings in accordance with law.

(2) Procedure on denial. If the commission denies the petition, the commission shall give the petitioner notice in writing, stating the reasons for the denial based upon the data, facts and arguments submitted with the petition by the petitioner and upon such additional data, facts and arguments as the commission shall deem appropriate.

(Adopted effective November 4, 2002)

Sec. 6-38b-21. Petitions for declaratory rulings

(a) **General rule.** Subsections (b) and (c) of section 6-38b-21 of the Regulations of Connecticut State Agencies set forth the procedure to be followed by the commission in the disposition of a petition for a declaratory ruling as to the applicability to specified circumstances of any provision of any statute or of any regulation or final decision on a matter within the commission's jurisdiction.

(b) **Form of petition for declaratory ruling.** Any person may petition the commission, or the commission may on its own motion initiate a proceeding, for a declaratory ruling as to the validity of any of its regulations, or the applicability to specified circumstances of any provision of any statute, or any regulation, or final decision on a matter within the commission's jurisdiction. The petition shall conform to this subsection. Such petition shall be addressed to the commission and delivered to it at its principal office. The petition shall contain the name and address of such petitioner. The petition shall (1) state clearly and concisely the substance and nature of the petition; (2) identify the statute, regulation or order concerning which the petition is made; and (3) identify the particular aspect thereof to which the petition is directed. The petition for a declaratory ruling shall be accompanied by a statement of any supporting data, facts and arguments that support the position of the petitioner.

(c) **Procedure after petition for declaratory ruling filed.**

(1) Notice. Within thirty (30) days after receipt of a petition for a declaratory ruling, the commission shall give notice of the petition to all persons who have requested notice of the declaratory ruling petitions on the subject matter of the petition.

(2) Parties and intervenors. If the commission finds that a timely petition to become a party or to intervene has been filed according to section 6-38b-19 of the Regulations of Connecticut State Agencies, the commission: (A) may grant a person status as a party if the commission finds that the petition states the facts demonstrating that the petitioner's legal rights, duties or privileges shall be specifically affected by the commission proceedings; and (B) may grant a person status as an intervenor if the commission finds that the petition states facts demonstrating that the petitioners participation is in the interests of justice and will not impair the orderly conduct of the proceedings. The commission may define an intervenor's participation in the manner set forth in subsection (d) of section 4-177a of the Connecticut General Statutes.

(3) Commission action. Within sixty (60) days after receipt of petition for a declaratory ruling, the commission in writing shall: (A) issue a ruling declaring the validity of a regulation or the applicability of the provision of the Connecticut General Statutes, the regulation, or the final decision in question to the specified circumstances; (B) order the matter set for specified proceedings; (C) agree to issue a declaratory ruling by a specified date; (D) decide not to issue a declaratory ruling and initiate regulation-making proceedings, under section 4-168 of the Connecticut General Statutes, on the subject; or (E) decide not to issue a declaratory ruling, stating the reasons for its action.

(4) Provision for hearing. If the commission deems a hearing necessary or helpful in determining any issue concerning the petition for a declaratory ruling, the commission shall schedule such hearing and give such notice thereof as shall be appropriate. Section 6-38b-9 of the Regulations of Connecticut State Agencies governs the practice and procedure of the commission in any hearing concerning a declaratory ruling.

(Adopted effective November 4, 2002)

Sec. 6-38b-22. Personal data, definitions

(a) Terms defined in section 4-190 of the Connecticut General Statutes shall apply to sections 6-38b-22 to 6-38b-28, inclusive, of the Regulations of Connecticut State Agencies.

(b) As used in sections 6-38b-22 to 6-38b-28, inclusive, of the Regulations of Connecticut State Agencies, unless the context otherwise requires:

(1) "Categories of personal data" means the classifications of personal information set forth in subdivision (9) of Section 4-190 of the Connecticut General Statutes.

(2) "Commission" or "agency" means the State Marshal Commission.

(3) "Employment record" means that compilation of personal data, in either manual or automated form, which relates to the qualifications of employment applicants.

(4) "Other data" means any information that because of name, identifying number, mark or description can be readily associated with a particular person.

(5) "Personnel file" means that compilation of personal data, in either manual or

automated form, relating to a commission employee's employment and personnel activities, including, but not limited to, his or her performance, evaluation and payroll and other employment-related record keeping which is necessary for the conduct of the commission's business and which is kept and maintained by the commission's business office.

(6) "State marshal file" means that compilation of personal data, in either manual or automated form, relating to a specific state marshal, including his or her qualifications, application, training and appointment and any investigation, disciplinary action or audits with respect to such state marshal.

(Adopted effective November 4, 2002)

Sec. 6-38b-23. General nature and purpose of personal data system

(a) The commission has a single designated personal data system consisting of three parts and whose nature and purpose is to maintain accurate and current information regarding:

- (1) The appointment and discipline of state marshals under the relevant sections of chapter 78 of the Connecticut General Statutes;
- (2) The qualifications of employment applicants; and
- (3) Employees' employment and personnel activities necessary for the conduct of the commission's business.

(b) The commission's personal data system is both manual and automated and is located at the commission's principal office at 765 Asylum Avenue, Hartford, Connecticut 06105. The commission is responsible for maintaining the system and requests for disclosure or amendment of information should be made in care of the commission's Administrative Director. The commission's routine sources of personal data are witnesses, parties, public records, appointment applications, employment applications, personal resumes and Department of Administrative Services and State Comptroller forms.

(Adopted effective November 4, 2002)

Sec. 6-38b-24. Categories of personal data in the commission's personal data system

The categories of personal data maintained by the commission consist of information concerning the appointment and disciplinary actions of state marshals and employment records and personnel files of the commission's employees. In addition, the commission maintains a general correspondence file that contains other data. Records of personal data are maintained on state marshals, agency personnel and employment applicants. State marshal files may also contain personal data concerning parties, witnesses and other persons.

(Adopted effective November 4, 2002)

Sec. 6-38b-25. Maintenance of personal data

(a) The commission shall strive to collect and maintain all personal data with accuracy and completeness. Any personal data not relevant and necessary to accomplish the lawful purpose of the commission shall be disposed of in accordance with the commission's record

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retention schedule, or upon permission from the public records administrator to dispose of said records under section 11-8a of the Connecticut General Statutes.

(b) Insofar as it is consistent with the needs and mission of the commission, the commission, wherever practical, shall collect personal data directly from the persons to whom a record pertains.

(c) All employees who function as custodians for the commission's personal data system, or are involved in the operation of such system, shall be given a copy of the provisions of the Personal Data Act, sections 6-38b-22 to 6-38b-28, inclusive, of the Regulations of Connecticut State Agencies, a copy of the Freedom of Information Act and any other state or federal statute or regulations concerning maintenance or disclosure of personal data kept by the agency.

(d) All such commission employees shall take reasonable precautions to protect personal data under their control or custody from the danger of fire, theft, flood, natural disaster and other physical threats.

(e) The commission shall incorporate by reference the provisions of the Personal Data Act and sections 6-38b-22 to 6-38b-28, inclusive, of the Regulations of Connecticut State Agencies in all contracts, agreements or licenses for the operation of a personal data system or for research, evaluation and reporting of personal data for the commission or on its behalf.

(f) An agency requesting personal data from the commission shall have an independent obligation to insure that the personal data is properly maintained.

(g) Access to the commission's personal data system is available to commission members and employees who require such information in the performance of their official and lawful duties and to such other persons who are entitled to access under law. The commission shall keep an up-to-date roster of commission employees entitled to access to the commission's personal data system.

(h) The commission shall ensure against unnecessary duplication of personal data records. In the event it is necessary to send personal data records through interdepartmental mail, such records shall be sent in envelopes or boxes sealed and marked "confidential," where such records are required by law to be kept confidential.

(i) The commission shall ensure that all records in its manual personal data system are kept under lock and key, and, to the greatest extent practical, are kept in controlled access areas.

(j) The commission shall, to the greatest extent practical, locate automated equipment and records in a limited access area.

(k) To the greatest extent practical, the commission shall require visitors to such area to sign a visitor's log and permit access to such area on a bona-fide need-to-enter basis only.

(l) The commission, to the greatest extent practical, shall ensure that regular access to automated equipment is limited to operations personnel and other authorized persons.

(m) The commission shall use appropriate access control mechanisms to prevent disclosure to unauthorized individuals of personal data required to be kept confidential by

law.

(Adopted effective November 4, 2002)

Sec. 6-38b-26. Disclosure of personal data

(a) Any individual may request from the commission whether it maintains personal data on that individual; the category and location of the personal data maintained on that individual and procedures available to review the information. The commission shall, within four business days of receipt of a written request, mail or deliver to the requesting individual a written response in plain language.

(b) Except where nondisclosure is required or specifically permitted by law, the commission shall disclose to any person upon request all personal data concerning that person that is maintained by the commission. Such disclosure shall be made so as not to disclose any personal data concerning persons other than the individual requesting such information. The procedures for disclosure shall be in accordance with sections 1-200 to 1-232, inclusive, of the Connecticut General Statutes. If the personal data is maintained in coded form, the commission shall transcribe the data into a commonly understandable form before disclosure.

(c) Commission personnel shall verify the identity of any person requesting access to his or her own personal data.

(d) The commission may refuse to disclose to a person medical, psychiatric or psychological data regarding that person if it is determined by the commission that such disclosure would be detrimental to the person, or if such non-disclosure is otherwise permitted or required by law. If the commission refuses to disclose medical, psychiatric or psychological data to a person, it shall inform the person of his or her right to seek judicial relief provided by section 4-195 of the Connecticut General Statutes.

(e) If the commission refuses to disclose medical, psychiatric or psychological data to a person based on its determination that disclosure would be detrimental to that person and the nondisclosure is not mandated by law, the commission shall, at the written request of such person, permit a qualified medical doctor to review the personal data contained in the person's record to determine if the personal data should be disclosed. If nondisclosure is recommended by such person's medical doctor, the commission shall not disclose the personal data and shall inform such person of the judicial relief provided under section 4-195 of the Connecticut General Statutes.

(f) The commission shall maintain a record of each person, individual, agency or organization who has obtained access to or to whom disclosure has been made of personal data in accordance with subsection (c) of section 4-193 of the Connecticut General Statutes, together with a reason for each such disclosure or access. This record shall be maintained for not less than five years from the date of such disclosure or access or for the life of the personal data record, whichever is longer. This record shall be disclosed to any person upon written request.

(Adopted effective November 4, 2002)

Sec. 6-38b-27. Procedures for contesting content

The following procedure shall be used in order to provide an opportunity to contest the accuracy, completeness or relevancy of personal data:

(1) Any individual may file a written request with the commission for correction of personal data pertaining to him or her.

(2) Within thirty days of receipt of such request, the commission shall give written notice to such individual that it will make the correction, or if the correction is not to be made as submitted, the commission shall state the reason for its denial of such request and notify the person of his or her right to add his or her own statement to his or her personal data records.

(3) Following such denial by the commission, the individual requesting such correction shall be permitted to add a statement to his or her personal data record setting forth what he or she believes to be an accurate, complete and relevant version of the personal data in question. Such statements shall become a permanent part of the commission's personal data system and shall be disclosed to any individual, agency or organization to which the disputed personal data is disclosed.

(Adopted effective November 4, 2002)

Sec. 6-38b-28. Uses to be made of the personal data

(a) State marshal files are routinely used in the performance of the commission's statutory mandate under section 6-38b and other relevant sections of chapter 78 of the Connecticut General Statutes concerning the appointment of state marshals.

(b) Employment records are routinely used for evaluating the qualifications of employment applicants.

(c) Personnel files are routinely used for recording and evaluating the work performance of commission employees. Personnel files are used also for payroll and other employment-related record keeping, as required by the Department of Administrative Services, the Office of the Comptroller, the Office of Policy and Management and other legal authorities.

(d) Records contained in the commission's personal data system shall be retained for the period indicated for such records in the commission's retention and destruction of records schedule, as amended from time to time, approved by the state records administrator pursuant to section 11-8a of the Connecticut General Statutes.

(e) When an individual is asked by the commission to supply personal data, the commission, upon request, shall disclose to that individual:

(1) The name of the agency requesting the personal data;

(2) The legal authority under which the commission is empowered to collect and maintain the personal data;

(3) The individual's rights pertaining to such records under the Personal Data Act and commission regulations;

(4) The known consequences arising from supplying or refusing to supply the requested personal data;

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(5) The proposed use to be made of the requested personal data.

(Adopted effective November 4, 2002)