



# Capias Mittimus Policy & Procedural Guide



State of Connecticut  
Judicial Branch

Support Enforcement Services  
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## 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,<sup>1</sup> 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)*

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<sup>1</sup> 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 Marshals<sup>2</sup>
- 2) Town Constables<sup>3</sup>
- 3) Department of Social Services Special Police Officers<sup>4</sup>
- 4) Judicial Marshals<sup>5</sup>

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.<sup>6</sup> 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.

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

<sup>3</sup> Ibid

<sup>4</sup> Pursuant to C.G.S §29-1g

<sup>5</sup> Pursuant to C.G.S §46b-225

<sup>6</sup> 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.<sup>7</sup> 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.<sup>8</sup>
- 2) Town Constables may execute capias mittimus orders in the town in which they were elected.<sup>9</sup>
- 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.<sup>10</sup>

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

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<sup>7</sup> 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.

<sup>8</sup> C.G.S. §52-56(d)

<sup>9</sup> C.G.S. §7-89

<sup>10</sup> 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.<sup>11</sup> If the proper officer is unable to effectuate service within this time frame, the original

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<sup>11</sup> 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.**

<b>I. Capias Outcomes</b>
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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](#)

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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:<sup>12</sup>
  - 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.

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<sup>12</sup> 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”<sup>13</sup>, 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

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<sup>13</sup> 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.<sup>14</sup> 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.

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<sup>14</sup> 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 officer<sup>15</sup> 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

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<sup>15</sup> 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 officer<sup>15</sup> 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.

*Phase 5:*

Goal: Accurate Capias Log entries.

Action: Update the Capias Log to reflect the findings of Phase 4. Utilize all available statuses to accurately reflect the status of the Capias.

For example:       if the NCP is incarcerated, set the status at Incarcerated  
                      if the NCP is out of state, set the status at Out of state  
                      if the Capias it out with a Marshal, set the status at Assigned

*Phase 6:*

Goal: Vacate all appropriate capias

Action: Prepare all appropriate cases for court. (Cases to be included is at a minimum the ones ordered more than five (5) years ago)

<b>K. Agency Capias Contacts</b>
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SES Administration Capias Liaison:     Raychel Carey, Program Manager

DSS-BCSE Capias Unit:                     Dean Festa, Program Manager

In addition to the two IV-D representatives overseeing the capias process, each office shall assign at least one (1) staff member to maintain the local office capias process. It is recommended that an additional person is knowledgeable on the capias process in the event the primary person is not available to address capias issues.

If you have any questions regarding these procedures, please contact: Raychel Carey at (860)566-8723 x. 309 or by email at [raychel.carey@jud.ct.gov](mailto:raychel.carey@jud.ct.gov).