



CLEVELAND DIVISION OF POLICE

GENERAL POLICE ORDER



EFFECTIVE DATE: JULY 19, 2021	CHAPTER: 2 - Legal	PAGE: 1 of 3	NUMBER: 2.03.02
SUBJECT: CIVIL LAWSUITS AND LEGAL ADVICE			
CHIEF: <i>Calvin D. Williams, Chief</i>			

Substantive changes are italicized

PURPOSE: To assist Division members involved in civil lawsuits or in requesting legal advice.

POLICY: *It is the policy of the Cleveland Division of Police to provide members prompt legal representation when a civil action arises out of an alleged act or omission which occurs while members are acting within the scope of their employment, while on-duty, or off-duty excluding secondary employment.*

PROCEDURES:

I. General Guidelines

A. Federal rules for civil procedures:

1. Require that defendants have 21 days to answer a complaint.
2. After 21 days, a default judgment may be declared against the member and the Division.

B. If a member is uncertain about whether to accept service of a *subpoena or summons* and complaint regarding a civil action, the member shall contact the City of Cleveland’s Law Department Chief Trial Counsel.

II. Civil Lawsuits

A. Members shall not accept a civil subpoena or summons and complaint for the following:

1. Service addressed to “John Doe” with no badge number.
2. Service addressed to retired, resigned, or terminated members.
3. Service addressed to a member who is suspended, on sick leave or furlough, or any other type of time off that would delay the personal service for more than seven calendar days.
4. Service to a location other than the member’s current assignment.

B. Members shall only accept a civil subpoena or summons and complaint when the following apply:

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1. The member is currently employed by the Division *and works at that location*.
2. Service identifies the member by name and badge number, by name only, or by the name “John Doe” and badge number.
3. *Members unfamiliar with the name or badge number of the member being served shall contact the Personnel Unit for verification before accepting service.*

C. Members accepting service shall immediately scan the document and e-mail it (*as an attachment*) to the Chief’s Office at Police@clevelandohio.gov.

III. Responding to a Civil Subpoena or Summons and Complaint

A. Member responsibilities.

1. Complete a Form-1 stating only the request for legal representation *or advice* from the Law Department, the case number, and the name of the plaintiff or defendant; no information about the incident should be included in the Form-1.
2. *Immediately* complete a packet to be forwarded to the Chief’s Office, containing:
 - a. The original *subpoena* or complaint and summons.
 - b. A Form-1 *stating/requesting* legal representation by the Law Department.
3. Retain a copy of the packet.

B. Supervisor responsibilities.

1. When accepting a civil subpoena or summons and complaint for a member expected to return to work within seven calendar days, issue the document to the member and have them complete the procedures described in section III.A.
2. When accepting a civil subpoena or summons and complaint for a member who, for unforeseen circumstances, does not return to work within seven calendar days, the member’s Officer-in-Charge or immediate supervisor shall:
 - a. Complete a Form-1 on the member’s behalf and have it taken to them for signature.
 - b. If the member is unable to sign, notify them about the civil case and include in the Form-1 when and how the notification was made.
 - c. If contact cannot be made, include in the Form-1 what actions taken and/or attempts were made and indicate that the member was not notified.

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3. As soon as possible during regular business hours, personally hand-deliver, or have a day shift supervisor hand-deliver the packet to the Chief's Office and obtain a date and time stamp on *each* document.

C. Chief's Office responsibilities.

1. Immediately forward the packet to the Director of Law.

2. Retain the original in the Chief's Office files.

IV. Requesting Legal Advice

A. Members requesting legal advice shall complete a Form-1 and forward it to the Chief's Office through the chain of command.

B. When an immediate ruling is required, and supervisory approval is granted, the member may contact the below in the following order:

1. The City's Chief Trial Counsel.

2. *Chief Assistant Director of Law (Public Safety).*

3. *Chief Assistant Director of Law (General Litigation).*

4. Other available Law Department attorneys.

C. Members shall request legal advice from the Law Department only and no other government agency or office except when the Law Department *is unable* to assist the member *and directs the member to another government department or agency.*

D. *Members shall request legal representation from the Law Department only.*

THIS ORDER SUPERSEDES ANY PREVIOUSLY ISSUED DIRECTIVE OR POLICY FOR THIS SUBJECT AND WILL REMAIN EFFECTIVE UNTIL RESCINDED OR SUPERSEDED.