

GENERAL ORDER



Subject Legal Counsel for Employees		
Topic	Series	Number
PER	201	12
Effective Date June 14, 2011		
Replaces: General Order 210.12 (Legal Counsel for Employees), Effective Date 03/28/03		

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I. BACKGROUND

The manner in which members carry out law enforcement procedures changes frequently as courts, in various locations and at various levels, decide cases and issues that have a direct impact on law enforcement officers. The manner in which members conduct themselves in the field and around victims, complainants, witnesses, and suspects is governed by these decisions. The duties of the law enforcement profession and the daily interaction with members of society expose law enforcement professionals to potential redress for grievances, either administratively and/or through the court system. Therefore, it is imperative that members and civilian employees of the Department have access to appropriate legal counsel when in need of legal advice and representation.

II. POLICY

The policy of the Metropolitan Police Department (MPD) is to ensure compliance with all legal rights guaranteed to MPD members and civilian employees by Constitutional, statutory, and any collective bargaining or contractual provisions.

III. DEFINITIONS

For the purpose of this directive, the following terms shall have the designated meanings:

1. Members — Sworn or civilian employees of the MPD or members of the Reserve Corp.
2. Legal Counsel — Attorney who provides legal advice, representation, or case preparation.
3. Citizen's Complaint — Allegation or accusation made by a citizen against an MPD member concerning the member's conduct.

IV. REGULATIONS

- A. Pursuant to D.C. Official Code 5-115.04 (a), members of the force may be entitled to free legal representation by the Office of the Attorney General (OAG) in civil actions with damages resulting from an alleged wrongful arrest.
- B. Representation in civil matters where other misconduct is alleged, (e.g., assault/battery, wrongful death), is determined on a case-by-case basis, provided the actions giving rise to the matter were a result of the member performing his/her official duties for the MPD.
- C. If there is a potential conflict of interest, where the member may be subject to adverse action arising out of the same incident that gave rise to the lawsuit, or where the member has a claim or lawsuit pending against the District of Columbia, the OAG may decline to represent that member or civilian employee.
- D. Members who decline representation by the OAG and elect to hire private counsel, shall be responsible for payment of their own legal fees.
- E. If the OAG declines or is unable to provide legal representation for an MPD member in a civil action, the OAG may authorize payment for legal expenses for the member pursuant to an established fee schedule.
- F. OAG may indemnify and provide legal counsel for members for acts or omissions arising out of their official duties and responsibilities.

V. PROCEDURAL GUIDELINES

- A. Members who wish to be represented by the OAG shall:
 1. Respond to the Office of the General Counsel (OGC), the next business day after receipt of a summons and complaint, or as soon as practical.

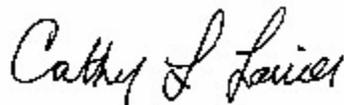
2. Execute a PD Form 858 (Request for Legal Representation by the Office of the Attorney General). (Attachment A)
 3. Bring the summons, complaint, along with any of the PD Forms (e.g., 251, 252, 163), reports of investigation or other related materials. The documents shall be forwarded to the OAG where a determination shall be made concerning legal representation for the member.
- B. Failure on the part of a member to cooperate with the OAG or General Counsel in the defense of his/her case may result in the loss of legal representation, court sanctions, payment of attorney's fees, as well as disciplinary action.
- C. It is the member's responsibility to secure his/her own legal counsel in the following circumstances:
1. After administrative charges are brought against a member.
 2. After a citizen complains (informally or formally) about a member's performance.
 3. After a member has been arrested and/or formally charged with a crime.
- D. The Office of the General Counsel shall:
1. Process requests for representation by the OAG on a PD Form 858.
 2. Provide the member with and process the OAG Employee Representation Form.
 3. Prepare litigation reports and other correspondence.
 4. Assist the OAG in the defense of civil actions against members of the MPD.
 5. Advise members concerning compliance with subpoenas and the release of information pursuant to subpoenas duces tecum (subpoena requesting a member to appear in court with documents, evidence, or other materials to be used or inspected), and the implementation of this order.

VI. CROSS REFERENCES

- A. GO-PCA-701.04 (Service of Subpoenas and Civil Lawsuits Upon Members of the Department)
- B. GO-PER-120.21 (Disciplinary Procedures and Processes)
- C. GO-PER-120.25 (Citizen Complaints)

VII. ATTACHMENTS

- A. PD Form 858 (Request for Representation by the Office of the Attorney General) (Revised, April, 2011.)

A handwritten signature in black ink that reads "Cathy L. Lanier". The signature is written in a cursive, flowing style.

Cathy L. Lanier
Chief of Police

CLL:PAB:MOC:CC

GOVERNMENT OF THE DISTRICT OF COLUMBIA

Metropolitan Police Department

TO: The Office of the Attorney General of the District of Columbia

SUBJECT: Request for Legal Representation by the Office of the Attorney General.

I, _____
(Member's Name) (Position) (Element)

Presently residing at _____
(Home Address)

request counsel to defend me in Civil Action No. _____. Process
was/was not served upon me personally _____
(Address at Which Service was Received)

_____ on _____ 20____, by
(Address at Which Service was Received)

_____. If service is not by a
(Name of the U.S. Marshall)

U.S. Marshall, specify by whom _____.

If service was not made personally, indicate the circumstances under which it
occurred: _____

IMPORTANT:
ATTACH COPIES OF ALL SUMMONSES, PLEADINGS AND OTHER PAPERS SERVED

(_____) _____
(Member's Home Phone)

(_____) _____
(Member's Work Phone)

(_____) _____
(Member's Cell Phone)

(Member's E-Mail Address)

(Signature of Member Submitting Request)

(Date of Request)