



Fire and Police Commission

La Keisha W. Butler
Executive Director

Nelson Soler
Acting Chair

Ann Wilson
Fred Crouther
Angela McKenzie
Steven M. DeVougas
Everett Cocroft
Commissioners

Memorandum

To: Director Regina Howard, MPD Office of Management and Planning

CC: Sergeant Mark Krowski
Dave Gelting, Research and Policy Analyst
Nelson Soler, Acting Chair

From: Clifton Crump, FPC Operations Manager

Date: June 11, 2019

RE: Policy Review: SOP 890 Civil Litigation

The Fire and Police Commission has completed our review of the above referenced department policy/procedure/instruction per FPC Rule IV, Section 3. The FPC Chair and Executive Director have determined that the above referenced department policy/procedure/instruction:

- Is administratively approved.
- Will be placed on the Regular FPC Meeting Agenda. Meeting Date: 6-20-2019
- Is administratively denied.

If this policy will be placed on a regular FPC meeting agenda please provide our office with a suitably redacted version of the relevant documents for public distribution. Please contact our office if you have any questions.

Thank you,

LA KEISHA W. BUTLER
EXECUTIVE DIRECTOR

Clifton Crump
Operations Manager



MILWAUKEE POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

890 – CIVIL LITIGATION

GENERAL ORDER: 2019-XX
ISSUED: February 26, 2019

EFFECTIVE: February 26, 2019

REVIEWED/APPROVED BY:
Director Regina Howard
DATE: January 31, 2019

ACTION: Amends General Order 2017-23 (April 18, 2017)

WILEAG STANDARD(S): 1.3.6

ROLL CALL VERSION

**Contains only changes to current policy.
For complete version of SOP, see SharePoint.**

890.00 PURPOSE

The purpose of this standard operating procedure is to communicate the proper procedures to follow when the city of Milwaukee, the Milwaukee Police Department, the Chief of Police, or a department member is named as a party in civil litigation stemming from actions taken while performing official duties. It is imperative for department members to comply with the procedures set forth below. Failure to do so may result in a default judgment being entered against the city and/or the department member individually. Accordingly, department members are required to cooperate with the Office of the Milwaukee City Attorney, and any other entity that may be involved with representing the interests of the department member, the Milwaukee Police Department, the Chief of Police, and/or the city of Milwaukee.

890.05 ~~LAWSUIT AND CLAIM INVESTIGATION PROCEDURES~~ CIVIL INVESTIGATIONS SECTION RESPONSIBILITIES (WILEAG 1.3.6)

The following procedures shall be followed when responding to requests for further investigation made by the Office of the Milwaukee City Attorney in the context of civil claims and/or lawsuits filed against the city and/or its employee(s), regarding actions taken by department members while performing their official duties.

- A. Whenever an investigation or a request is made for information is requested by the Office of the Milwaukee City Attorney, after a "Notice of Claim" or "Summons and Complaint" has been filed naming the Milwaukee Police Department, the Chief of Police, the city of Milwaukee and/or a department member as a party, the commanding officer of the Internal Affairs Division - Risk Management shall direct members assigned to the Civil Investigations Section of the Internal Affairs Division - Risk Management to respond to the request conduct such an investigation or gather such information. The results shall be forwarded to the Office of the Milwaukee City Attorney, to assist in defending against the claim/complaint.
- B. When conducting responding to such an investigation a request, members of the Civil Investigations Section shall gather all necessary requested information and record

same on *Department Memorandum* forms (form PM-9E), and provide copies of same to the Office of the Milwaukee City Attorney.

- C. ~~Whenever an investigation is undertaken at the~~ responding to such a request, ~~each member of the Civil Investigation Section Office of the Milwaukee City Attorney, each officer responding with a written report should begin the~~ cover report by stating, "Per the request of the Office of the Milwaukee City Attorney, I am submitting the following information...".
- D. Prior to any department member being interviewed, ~~or~~ ordered to prepare a *Department Memorandum* (form PM-9E), ~~or otherwise provide information as part of a claim or lawsuit investigation conducted at the request of~~ for information made by the Office of the Milwaukee City Attorney, the member shall be informed by the Civil Investigations Section that all information provided by the member and the fruits thereof will not be used against the member in any criminal prosecution or personnel action.
- E. ~~Responsive written reports submitted by department members must be returned to the Civil Investigations Section within seven (7) days of the department member's receipt of the request for the report. If the responsive report cannot be completed within seven (7) days for good reason, the member shall immediately contact a representative of the Civil Investigations Section. Whenever an investigation relative to a lawsuit or claim is undertaken at the request of the Office of the Milwaukee City Attorney, and is related to a previous personnel investigation, members shall generate new responsive documents, and not submit copies of documents submitted in the context of any previous investigation.~~
- F. ~~Whenever a department member receives a notification memorandum from the commanding officer of the Internal Affairs Division - Risk Management regarding a civil lawsuit or other court related matter, the member shall take note of the information contained within the memorandum, sign the memorandum, promptly return the original, signed memorandum to the Internal Affairs Division, and then take action consistent with any directives contained within the memorandum, within seven (7) days of receipt.~~

~~**Note: Civil lawsuit notifications are sent in lieu of a subpoena at the direction of the Office of the Milwaukee City Attorney. These notifications are equivalent to a direct order from the commanding officer of the Internal Affairs Division. Accordingly, the member shall comply with the information and/or instructions given.**~~

890.10 "SUMMONS AND COMPLAINT" AND "NOTICE OF CLAIM" PROCEDURES MEMBER RESPONSIBILITIES (WILEAG 1.3.6)

- A. ~~A department member served with a "Summons and Complaint" or a "Notice of Claim" shall submit a *Department Memorandum* (form PM 9E) stating the date, time, manner of service (e.g., personal, mail, left with family member), and the name and title of the process server.~~

- ~~B. The department member shall specifically state within the *Department Memorandum* (form PM 9E) that they are “requesting representation from the Office of the Milwaukee City Attorney,” regarding the subject matter of the complaint or claim.~~
- ~~C. The department member shall promptly submit the *Department Memorandum* (form PM 9E) to his/her shift commander or immediate supervisor, who in turn shall review the report, date/time stamp the report, sign it, and return it to the department member.~~
- ~~D. It is the responsibility of the department member served with a “Summons and Complaint” to see that the *Department Memorandum* (form PM 9E) and the original “Summons and Complaint” are hand delivered to the Internal Affairs Division Risk Management within five (5) calendar days of service.~~
- ~~E. Regarding a “Notice of Claim”, the *Department Memorandum* (form PM 9E) and the original “Notice of Claim” can be either hand delivered or mailed via interdepartmental mail, to the Internal Affairs Division, within five (5) calendar days of service.~~
- ~~F. Department members who are unable to comply with any of the above procedures, due to a vacation, an extended leave of absence, or any other significant reason, shall call their commanding officer or a representative of the Civil Investigations Section **REDACTED** for further instructions.~~

A. SUMMONS AND COMPLAINT PROCEDURES

A process server must personally serve a department member with a Summons and Complaint. No member may accept a Summons and Complaint on behalf of another department member. Once served, the member shall then submit a *Department Memorandum* (form PM-9E) stating the date, time, and manner of service (e.g., personal, mail, left with family member). The department member shall specifically state within the *Department Memorandum* (form PM-9E) that he/she is “requesting representation from the Office of the Milwaukee City Attorney,” regarding the subject matter of the complaint. The memo and all original documents (including any envelopes) must be hand delivered within 5 days to Civil Investigations Section, at the Training Division, Room 304. Upon receipt of a summons and complaint via US Mail, with a waiver form attached, the waiver form should not be signed. Rather, the unsigned waiver form should be included with the original documents delivered to Civil Investigations Section.

B. NOTICE OF CLAIM / INJURY / CIRCUMSTANCE PROCEDURES

A process server must personally serve a department member with a Notice of Claim. No member may accept a Notice of Claim on behalf of another department member. The served member shall submit a *Department Memorandum* (form PM-9E) stating the date, time, and manner of service (e.g., personal, mail, left with family member). The department member shall specifically state within the *Department Memorandum* (form PM-9E) that he/she is “requesting representation from the Office of the Milwaukee City Attorney,” regarding the subject matter of the claim. The memo and all original documents (including any envelopes) must be either hand delivered or sent via interdepartmental mail within 5 days of receipt to Civil Investigations Section, at the

Training Division, Room 304.

C. CIVIL SUBPOENAS

A process server must personally serve a department member with a civil subpoena. No member may accept a civil subpoena on behalf of another department member. Once served, the member should then contact Civil Investigations Section regarding the subpoena, who will in turn notify the City Attorney's Office.

D. Department members should never hinder or obstruct the service of any of the above described-legal documents. A department supervisor should facilitate such service by making the member to be served available, or providing the process server with information which establishes the next shift when the member will be on duty.

E. The served department member shall promptly submit the required *Department Memorandum* (form PM-9E) to his/her shift commander or immediate supervisor, who in turn shall review the report, date/time stamp the report, sign it, and return it to the department member.

F. Written responses or responsive documents submitted by department members regarding requests for information made by the Office of the Milwaukee City Attorney in the context of pending civil litigation must be returned to the Civil Investigations Section within seven (7) days of the department member's receipt of the request for the information. If the responsive report or documents cannot be provided within seven (7) days for good reason, the member shall immediately contact the Civil Investigations Section so that alternative arrangements can be made. Whenever a request relative to a lawsuit or claim is made by the Office of the Milwaukee City Attorney, and is related to a previous personnel investigation, members shall generate new responsive documents, and not submit copies of documents submitted in the context of any previous investigation.

G. Department members who are unable to comply with any of the above procedures, due to a vacation, an extended leave of absence, or for any other reason, shall contact the Civil Investigations Section **REDACTED** for further instructions.

Note: A request for information made in the context of a civil-litigation-related matter is sent in lieu of a subpoena at the direction of the Office of the Milwaukee City Attorney. Such a request is the equivalent of a direct order from the commanding officer of the Internal Affairs Division. Accordingly, any member who receives such a request shall comply with the information and/or instructions given.

890.15 SERVICE OF LEGAL DOCUMENTS UPON THE CHIEF OF POLICE

A. Legal documents (e.g., "Notice of Claim", "Summons and Complaint", subpoenas) directed to or naming the Chief of Police will only be accepted for service by representatives of the Internal Affairs Division, who are located at the Training Division, which itself is located at 6680 North Teutonia Avenue. Such service of process will be accepted Monday through Friday, from ~~7:30~~ **8:00** a.m. to ~~4:30~~ **4:00**

p.m., at the front counter of the Training Division office. Internal Affairs Division - Risk Management personnel will be called by personnel assigned to monitor the front counter to meet the process server at the Training Division office, to accept service of legal documents as a designee of the Chief of Police.

- B. In certain exigent circumstances, such as those involving a Writ of Habeas Corpus, an order to cease and desist, a court injunction, or a restraining order, where legal process must be served after 4:30 ~~4:00~~ p.m. or on weekends, the matter must be referred to the on-duty commanding officer of the appropriate Criminal Investigation Bureau division or Specialized Investigations Division (note that the service of subpoenas naming department members does not constitute an exigent circumstance for referral to the appropriate Criminal Investigation Bureau division or Specialized Investigations Division).



ALFONSO MORALES
CHIEF OF POLICE

AM:mfk



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- B. When responding to such a request, members of the Civil Investigations Section shall gather all requested information and record same on *Department Memorandum* forms (form PM-9E), and provide copies of same to the Office of the Milwaukee City Attorney.
- C. Whenever responding to such a request, each member of the Civil Investigations Section should begin the cover report by stating, "Per the request of the Office of the Milwaukee City Attorney, I am submitting the following information . . ."

- D. Prior to any department member being interviewed, ordered to prepare a *Department Memorandum* (form PM-9E), or otherwise provide information as part of a request for information made by the Office of the Milwaukee City Attorney, the member shall be informed by the Civil Investigations Section that all information provided by the member and the fruits thereof will not be used against the responding department member in any criminal prosecution or personnel action.

890.10 MEMBER RESPONSIBILITIES (WILEAG 1.3.6)

A. SUMMONS AND COMPLAINT PROCEDURES

A process server must personally serve a department member with a Summons and Complaint. No member may accept a Summons and Complaint on behalf of another department member. Once served, the member shall then submit a *Department Memorandum* (form PM-9E) stating the date, time, and manner of service (e.g., personal, mail, left with family member). The department member shall specifically state within the *Department Memorandum* (form PM-9E) that he/she is "requesting representation from the Office of the Milwaukee City Attorney," regarding the subject matter of the complaint. The memo and all original documents (including any envelopes) must be hand delivered within 5 days to Civil Investigations Section, at the Training Division, Room 304. Upon receipt of a summons and complaint via US Mail, with a waiver form attached, the waiver form should not be signed. Rather, the unsigned waiver form should be included with the original documents delivered to Civil Investigations Section.

B. NOTICE OF CLAIM / INJURY / CIRCUMSTANCE PROCEDURES

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A process server must personally serve a department member with a civil subpoena. No member may accept a civil subpoena on behalf of another department member. Once served, the member should then contact Civil Investigations Section regarding the subpoena, who will in turn notify the City Attorney's Office.

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duty.

- E. The served department member shall promptly submit the required *Department Memorandum* (form PM-9E) to his/her shift commander or immediate supervisor, who in turn shall review the report, date/time stamp the report, sign it, and return it to the department member.
- F. Written responses or responsive documents submitted by department members regarding requests for information made by the Office of the Milwaukee City Attorney in the context of pending civil litigation must be returned to the Civil Investigations Section within seven (7) days of the department member's receipt of the request for the information. If the responsive report or documents cannot be provided within seven (7) days for good reason, the member shall immediately contact the Civil Investigations Section so that alternative arrangements can be made. Whenever a request relative to a lawsuit or claim is made by the Office of the Milwaukee City Attorney, and is related to a previous personnel investigation, members shall generate new responsive documents, and not submit copies of documents submitted in the context of any previous investigation.
- G. Department members who are unable to comply with any of the above procedures, due to a vacation, an extended leave of absence, or for any other reason, shall contact the Civil Investigations Section REDACTED for further instructions.

Note: A request for information made in the context of a civil-litigation-related matter is sent in lieu of a subpoena at the direction of the Office of the Milwaukee City Attorney. Such a request is the equivalent of a direct order from the commanding officer of the Internal Affairs Division. Accordingly, any member who receives such a request shall comply with the information and/or instructions given.

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- B. In certain exigent circumstances, such as those involving a Writ of Habeas Corpus, an order to cease and desist, a court injunction, or a restraining order, where legal process must be served after 4:00 p.m. or on weekends, the matter must be referred to the on-duty commanding officer of the appropriate Criminal Investigation Bureau Division or Specialized Investigations Division. Note that the service of subpoenas naming department members does not constitute an exigent circumstance for referral to the appropriate Criminal Investigation Bureau Division or Specialized

Investigations Division.



ALFONSO MORALES
CHIEF OF POLICE

AM:mfk