



# GENERAL POLICE ORDER CLEVELAND DIVISION OF POLICE



ORIGINAL EFFECTIVE DATE: <b>MARCH 1, 2002</b>	REVISED DATE: <b>OCTOBER 24, 2013</b>	NO. PAGES: <b>1 of 4</b>	NUMBER: <b>1.3.14</b>
SUBJECT: <b>CIVIL LAWSUITS AND LEGAL ADVICE</b>			
ASSOCIATED MANUAL:		RELATED ORDERS:	
CHIEF OF POLICE: <i>Michael McGrath, Chief</i>			

*This General Police Order has been revised in its entirety*

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

**POLICY:** To provide members of the Division of Police 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.

**PROCEDURES:**

- I.** Federal Rules for Civil Procedure require that defendants have 21 days to answer a complaint. After that time a default judgment may be declared against the member and the Division.
- II.** If a member is uncertain as to whether or not to accept service of a summons and complaint regarding a civil action, the member shall contact the City of Cleveland’s Chief Trial Counsel (Law Department).
- III.** A summons and complaint regarding a civil action that is not accepted shall be marked “Service refused” and state the reason. Members of the Division shall not accept a lawsuit if:
  - A. It is addressed to “John Doe” with no badge number.
  - B. It is addressed to retired, resigned, or terminated members.
  - C. It is addressed to a Division member who is on Suspension, Sick Leave, Furlough, or any other type of time off that would delay the personal service in excess of **7 calendar days**.
  - D. The attempted service is made to a location other than the member’s current assignment.

PAGE: 2 of 4	SUBJECT: CIVIL LAWSUITS AND LEGAL ADVICE	GPO NUMBER: 1.3.14
-----------------	---	-----------------------

- IV. When a member of the Division accepts a summons and complaint regarding a civil action the following procedures shall apply.
- A. The Division shall accept a lawsuit only if:
    - 1. The member is presently employed by the Division. Members unfamiliar with the name or badge number of the member being served shall contact the Personnel Unit.
    - 2. It identifies the member by name and badge number; or
    - 3. It identifies the member by name only; or
    - 4. It identifies a member by badge number alone or by the name “John Doe” and badge number.
  - B. When any member accepts service of a summons and complaint regarding a civil action, they shall **immediately** forward the entire document to the Chief’s office by facsimile to (216) 623-5584 or scan the entire document as a “PDF” file and e-mail it as an attachment to [police@city.cleveland.oh.us](mailto:police@city.cleveland.oh.us) (Chief’s Office).
  - C. The summons contact person for a member is the member’s commanding officer.
  - D. When a lawsuit is accepted and the member, OIC, or immediate supervisor has completed the required tasks described in section IV B they shall assemble a package consisting of a **copy** of the original summons and a **copy** of the Form-1 for the Law Department, and the **original** summons and the **original** Form-1 for the Chief’s Office. A copy shall also be made for the personal records of the member being served.
  - E. A day-shift supervisor shall, as soon as possible during normal business hours, hand deliver the package to the Chief’s Office, obtaining a date and time stamp on **all** documents. The Chief’s Office shall immediately forward the Law Department’s copies to the Director of Law.
  - F. The original summons and original Form-1 will remain in the Chief’s Office files/archives.

PAGE: 3 of 4	SUBJECT: CIVIL LAWSUITS AND LEGAL ADVICE	GPO NUMBER: 1.3.14
-----------------	---	-----------------------

- V. When a member is served with a summons and complaint regarding a civil action the member shall:
- A. Immediately complete a Form-1 limited to stating the member's desire for legal representation by the Law Department, the case number, and the name of the plaintiff. The Form-1 **shall not** mention any facts or circumstances of the incident.
  - B. Complete and forward the package as described in section IV D.
- VI. When the OIC or the immediate supervisor of the member served accepts a summons and complaint regarding a civil action for a member expected to return within 7 calendar days the following procedures shall apply.
- A. When the member served returns within 7 calendar days the member shall follow the procedures described in section V of this order.
  - B. If, for unforeseen reasons, the member does not return to work within 7 calendar days the OIC or immediate supervisor shall:
    - 1. Complete a Form-1 on behalf of the member containing all the information required in section V and have it taken to the member to obtain the member's signature; or
    - 2. If a member is unable to sign, the OIC or immediate supervisor shall notify the member about the civil case and complete the Form-1 on behalf of the member containing all the information required in section V and note in the Form-1 when and how the member was notified; or
    - 3. If the OIC or immediate supervisor is unable to contact the member, the OIC or immediate supervisor shall complete a Form-1 containing all the information required in section V and include the reason why the member was not notified.
    - 4. Complete and forward the package described in section IV D.

PAGE: 4 of 4	SUBJECT: CIVIL LAWSUITS AND LEGAL ADVICE	GPO NUMBER: 1.3.14
-----------------	---	-----------------------

## VII. Request for legal advice and opinions

- A. Members in need of legal advice shall complete a Form-1, and forward it to the Chief's Office through the chain-of-command. When an immediate ruling is required and the member has supervisory approval, the member may, in this order, contact the City's Chief Trial Counsel, Chief Assistant Director of Law (General Litigation), Chief Assistant Director of Law (Public Safety), or any other available attorney in the Law Department.
- B. Members shall request legal advice only from the Law Department and no other governmental agency or office, except when the matter is connected with a pending issue and the Law Department has already declined to assist or represent the member.