



MILWAUKEE POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

890 – CIVIL LITIGATION

GENERAL ORDER: 2019-24
ISSUED: July 29, 2019

EFFECTIVE: July 29, 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

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 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 CIVIL INVESTIGATIONS SECTION RESPONSIBILITIES (WILEAG 1.3.6)

The following procedures shall be followed when responding to requests 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 a request is made for information 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. The results shall be forwarded to the Office of the Milwaukee City Attorney, to assist in defending against the claim/complaint.
- 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

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 8:00 a.m. to 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 4:00 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