

# GENERAL ORDER



Title  
**Legal Counsel for Employees**

Topic/Number  
**GO-PER-201.12**

Effective Date  
**March 28, 2003**

Distribution  
**B**

Replaces/Rescinds  
**General Order 201.12 (Legal Counsel for Members of the Department)**

## DISTRICT OF COLUMBIA

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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 employees of the MPD.
2. Civilian employees – non-sworn MPD staff.
3. Legal Counsel - an attorney who provides legal advice, representation, or case preparation.
4. Citizen's Complaint - an allegation or accusation made by a citizen against an MPD member concerning the member's conduct.

#### **IV. RULES**

- 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 Corporation Counsel (OCC) in civil actions with damages resulting from an alleged wrongful arrest. Representation in civil matters where other misconduct is alleged, i.e., assault/battery, wrongful death, is determined on a case-by-case basis. (CALEA 22.2.7)
- B. If there is a potential conflict of interest, where the member or civilian employee may be subject to an Adverse Action arising out of the same incident that gave rise to the lawsuit, or where the member or civilian employee has a claim or lawsuit pending against the District of Columbia, the OCC may decline to represent that member or civilian employee.

#### **V. REGULATIONS**

- A. Members and civilian employees who decline representation by the OCC and elect to hire private counsel, shall be responsible for payment of their own legal fees.
- B. If the OCC declines or is unable to provide legal representation for an MPD member or civilian employee in a civil action, the OCC may authorize payment for legal expenses for the member or civilian employee pursuant to an established fee schedule. (CALEA 22.2.7)
- C. OCC may indemnify and provide legal counsel for members or civilian employees for acts or omissions arising out of their official duties and responsibilities. (CALEA 22.2.7)

#### **VI. PROCEDURAL GUIDELINES**

- A. Members and civilian employees who wish to be represented by the OCC shall execute a PD Form 858 (Request for Representation by the Corporation Counsel) in triplicate. The member or civilian employee shall bring the summons, complaint and PD Form 858, along with any of the PD Forms (e.g. 251, 255, 163), reports of investigation or other related materials, to the Office of the General Counsel, the next business day after receipt, or as soon as practical. The documents shall be forwarded to the OCC where a determination shall be made concerning legal representation for the member or civilian employee.
- B. Failure on the part of a member or civilian employee to cooperate with the OCC 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. When a member or civilian employee is notified that he/she is the subject of an Internal Affairs investigation, the member or civilian employee is issued a written statement of the allegations and of the member's or civilian employee's rights and responsibilities. (CALEA 52.1.6)
- D. It is the member's/civilian employee's responsibility to secure his/her own legal counsel in the following circumstances: after Administrative/Trial Board charges are brought against a member; after a citizen complains (informally or formally) about a member's performance; and after a member or civilian employee has been arrested and formally charged with a crime.
- E. The Office of the General Counsel shall:
  - 1. Process requests for representation by the Corporation Counsel on a PD Form 858;
  - 2. Prepare litigation reports and other correspondence;
  - 3. Assist the Corporation Counsel in the defense of civil actions against members and civilian employees of the Department.
  - 4. Advise members and civilian employees 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.

## VII. CROSS REFERENCES – Related Directives

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

// SIGNED //  
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CHR:NMJ:MAR:njg