

# GENERAL ORDER



Title  
**Service of Civil Summonses and Subpoenas Upon Members of the Department**

Topic / Number  
**GO-PCA-701.04**

Effective Date  
**December 17, 2007**

Distribution

Replaces / Rescinds  
General Order 701.04 (Service of Civil Summonses and Subpoenas Upon Members of the Department dated October 19, 2004)

DISTRICT OF COLUMBIA

I. Background.....	Page 1	V. Procedural Guidelines.....	Page 3
II. Policy.....	Page 1	VI. Cross References.....	Page 13
III. Definitions.....	Page 1	VII. Attachments.....	Page 14
IV. Regulations.....	Page 2		

## I. BACKGROUND

This General Order prescribes the policies and procedures to be followed by any individual seeking to serve subpoenas and civil summons upon members of the Metropolitan Police Department in connection with legal matters arising from the performance of their official duties for the Department.

Such policies and procedures shall not apply to service of process for legal matters which do not arise from a member's performance of his/her official duties for the Department.

## II. POLICY

The Department's policy is that members shall abide by civil summonses or subpoenas that are legally served upon them in relation to the performance of their duties. (CALEA 26.1.1)

## III. DEFINITIONS

When used in this directive, the following terms shall have the meaning designated:

1. Assistant Chief/Senior Executive Director (SED) – When referred to in this general order, "Assistant Chief/SED" shall also include his/her designee(s) for purposes of service of process.
2. Commander/Director – When referred to in this general order, "Commander/Director" shall also include his/her designee(s) for purposes of service of process

3. Member – When referred to in this general order, “member” shall apply to any individual employed by the Department, sworn or civilian.
4. Notice of Deposition – A document informing a witness of the intention to question him/her in matters involved in a lawsuit through the taking of testimony under oath. The deposition usually occurs outside the courtroom setting (i.e., an attorney’s office). Normally, the lawyers for all parties to the trial and a stenographer will be present at the time of the deposition. The witness being deposed can be subjected to questioning by all parties present and the questioning can extend into areas, such as hearsay, which are not admissible as evidence in the trial. A deposition can be either oral or by means of written interrogatories (questions).
5. Subpoena – A legal notice to a person to appear as a witness and give testimony at the place, date and time specified in the subpoena. A subpoena may direct a witness only to appear and give testimony. A subpoena *Duces Tecum* may direct the witness to bring relevant documents.

Note: *Duces Tecum* means to bring all relevant documents related to the controversy under the control of the person.

6. Summons – A legal document notifying the person summoned that an action has been initiated against him/her in the court where the summons was issued. A person who has been properly served with a summons in a civil action is a defendant in that case, and an answer must be filed, in court, on his/her behalf within twenty (20) days from the date of the service of the summons. If an answer is not filed within twenty (20) days, the court can render a default judgment against that defendant.

#### IV. REGULATIONS

- A. In order to protect the privacy of Department members, employees shall not disclose the home address of members unless so ordered by a court. This is based on the understanding that members will be available at their element for legitimate purposes related to their duty, to include service of civil process.
- B. Members shall not be required to accept civil summonses or subpoenas. However, members should be mindful that intentionally evading service or ignoring a properly served subpoena or civil summons may result in the member being held in contempt, placed in default, and/or liable for attorney’s fees and court costs.
- C. As outlined in Title 6A, Chapter 20 (Service of Process) of the District of Columbia Municipal Regulations (DCMR), if a person seeking to serve a member willfully makes a false statement in any required certification, he/she

may be subject to a fine not to exceed \$1,000 and/or imprisonment not to exceed 180 days, per District of Columbia Official Code § 22-2405.

- D. Any person seeking to serve a member in connection with legal matters arising out of the performance of his/her official duties for the Department may contact the Department's Professional Development Bureau, Office of Human Resource Management to request:
1. The name and address of the organizational unit to which the member is assigned;
  2. The name, office telephone number, and office address of the member's Commander/Director; and
  3. The name, office telephone number, and office address of the Assistant Chief responsible for overseeing the member's organizational unit.
- E. Members of the Department shall not accept a subpoena or civil summons for another member, in person, or by certified mail (return receipt requested); unless he/she has been authorized to do so by the "Appointment of Agent for Service" process outlined in Title 6A, Chapter 20 § 2002 (Service of Process).

## **V. PROCEDURAL GUIDELINES**

### **A. Appointment of Agent to Accept Service**

1. An employee assigned to the Office of the General Counsel shall accept service on behalf of the Chief of Police, if requested by the Chief.
2. A member may appoint his/her Assistant Chief and/or his/her designee(s) as the member's agents to accept service by completing and submitting the upper portion of a PD Form 161 (Appointment of Service of Process Agent Designee Form) (Attachment A) to his/her Assistant Chief.
3. A member may revoke his/her appointment of his/her Assistant Chief as the member's agent to accept service at anytime by completing and submitting the middle portion of the PD Form 161 to his or her Assistant Chief.
4. A member may decline to appoint his/her Assistant Chief and/or his/her designee(s) as the member's agents to accept service by completing and submitting the bottom portion of a PD Form 161 (Attachment A) to his or her Assistant Chief.

5. The Assistant Chief shall maintain a list of all members who have appointed the Assistant Chief and his/her designee(s) as their agents to accept service for legal matters involving the performance of their official duties.
6. Any person seeking to serve a member may contact the member's Assistant Chief to ascertain whether the member has appointed the Assistant Chief and/or his/her designee(s) as the member's agents to accept service.

**B. Substitute Service of Process**

1. If the Assistant Chief has been appointed as the member's agent to accept service, the party to the legal action or his/her attorney, who is seeking to serve a member, shall provide to the Assistant Chief written certification indicating that the subpoena or summons to be served arise out of the member's performance of official duties, along with a PD Form 162 (Registration for Service of Process) (Attachment B).
2. If the subpoena or summons to be served is emergency in nature (requires a member to appear or act within five (5) calendar days or less), the party to the legal action or his/her attorney, shall provide to the Assistant Chief written certification that the need for emergency service of process was not reasonably foreseeable, which should also accompany the PD Form 162.
3. If an Assistant Chief has been appointed as an agent to accept service, he/she shall accept service on behalf of the member upon receipt of the required certification(s).
4. The Assistant Chief shall not accept service on behalf of a member without:
  - a. The member appointing in writing (with a PD Form 161) the Assistant Chief and/or his/her designee(s) as the agents to accept service; and
  - b. The party or attorney to the legal action providing the written certification(s).
5. If an Assistant Chief accepts service, he/she shall date-stamp the subpoena or civil summons and record:
  - a. The name and number of the case;
  - b. The title of the legal documents served;
  - c. The time and date of service;

- d. The member served;
  - e. The name of the person accepting service; and
  - f. The name of the person effecting service.
6. If an Assistant Chief and/or his/her designee(s) accept service of process on behalf of a member and the subpoena or civil summons served is emergency in nature (requires the member to appear or act within five (5) calendar days or less), the Assistant Chief shall immediately contact the member to inform him/her of service and arrange delivery of the document to the member.
  7. If not emergency (requires the member to appear or act within five (5) calendar days or less) in nature, an Assistant Chief shall forward the subpoena or civil summons within forty-eight (48) hours of service to the member's Commander/Director, who then shall date-stamp and deliver the subpoena or civil summons to the member.

Note: Acceptance of service of process by an Assistant Chief and/or his/her designee(s) does not automatically entitle the member to legal representation by the Office of the Attorney General.

### **C. Personal Service of Process**

1. If a member does not appoint his/her Assistant Chief as his/her agent to accept service, the Assistant Chief or his/her designee(s) shall inform a person seeking to serve a member that he/she cannot accept service on behalf of the member and direct him/her to the member's Commander/Director or his/her designee(s) to schedule service of process.
2. Except with respect to a member of the force engaged in undercover duties, a member being served shall make himself/herself available to receive and shall not refuse to receive personal service of process in any legal matter arising out of the performance of his/her official duties.
3. All attempts to personally serve a subpoena or civil summons upon a member in connection with a legal matter arising out of the performance of his/her official duties for the Department shall be conducted within the first fifteen (15) minutes of roll call, unless otherwise arranged by the member or his/her supervisor.
4. No member shall be summoned from roll call to make him/herself available for personal service of process unless the person seeking to serve the member registers and provides the written certification(s) as

required under Title 6A, Chapter 20 §§ 2008.1, 2008.2, and 2008.3 of the DCMR.

5. A Roll Call Official need not excuse a member from roll call for personal service of process and/or a member need not make himself/herself available for service if the person seeking service has not made a prior appointment pursuant to § 2005.3 or does not have a rescheduled appointment, unless the matter is an emergency (requires the member to appear or act within five (5) calendar days or less).
6. At no time shall a member be ordered to return from the field to his/her organizational unit to make him/herself available for personal service of process.

#### **D. Scheduling of Personal Service of Process**

1. To schedule personal service of process upon a member, the person seeking to serve a member shall contact the member's Commander/Director or his/her designee(s) and inform them of:
  - (a) His/her name and contact information;
  - (b) The name of the member whom he/she is seeking to serve;
  - (c) The name and number of the case;
  - (d) Whether the matter is civil, criminal, or administrative in nature; and
  - (e) Whether the matter is an emergency (requires the member to appear or act within five (5) calendar days or less).
2. The Commander/Director or his/her designee(s) shall disclose the hours of duty of a member of the force to any person seeking to serve a member in connection with a legal matter arising out of the performance of his/her official duties and shall ensure that the member is available for service of process during the member's hours of duty, provided that it shall be sufficient for the Commander/Director to make such member available during the first fifteen (15) minutes of roll call.
3. To personally serve process upon a member, the person seeking service shall schedule with the Commander/Director or his/her designee two (2) dates on which the member is designated to work to attempt service on the member.
4. If the subpoena or civil summons to be personally served upon a member is emergency in nature (requires the member to appear or act within five (5) calendar days or less), the Commander/Director or

his/her designee(s) shall immediately contact the member to inform him/her that emergency service is being attempted and to ascertain whether the member is available for service. The Commander/Director shall inform the person seeking emergency service of the member's availability.

- (a) If the member is available, the Commander/Director shall inform the person seeking emergency service that the member is available and direct him/her to the appropriate personnel with whom he/she must register and provide the necessary certifications.
- (b) If the member is not available, the Commander/Director or his/her designee(s) shall inform the person seeking emergency service of the time and location at which roll call takes place for the member's next tour of duty for which the member will be present and request that the person seeking emergency service attempt service at another time. If the person seeking emergency service specifies a time and date when service will again be attempted, the Commander/Director shall notify the member of the new date and time when emergency service will again be attempted.

5. If the subpoena or civil summons to be personally served upon a member is not emergency in nature (does not require the member to appear or act within five (5) calendar days or less), the Commander/Director or his/her designee(s) shall:

- (a) Direct the person seeking service to the appropriate personnel with whom he/she must register and provide the necessary certifications on the scheduled appointment dates; and
- (b) Inform the member upon whom service is being sought and the member's immediate supervisor of the selected appointment dates.

#### **E. Rescheduling Appointments for Personal Service of Process**

- 1. If a member knows in advance that he/she will be unable to make the two (2) selected appointment dates, then the member shall contact the person seeking service before the selected appointment dates to arrange two (2) substitute appointment dates.
- 2. If a member is unable to attend the two (2) selected appointment dates because of a sudden illness, an unexpected emergency, or other extenuating circumstances, then the member shall contact the person seeking service to arrange two (2) substitute appointment dates as soon as practicable after the extenuating circumstances arise.

3. A member shall inform his/her Commander/Director and his/her immediate supervisor of any new appointment dates.
4. A member shall not miss more than two (2) appointment dates with a person seeking service without good cause.
5. A member shall not reschedule appointments with a person seeking service more than once unless there is good cause to do so.

**F. Failure to Appear as Scheduled for Personal Service of Process**

1. If a member fails to attend both scheduled appointments without contacting the person seeking service to reschedule, then the person seeking service may contact the member's Commander/Director for assistance.
2. If a person seeking service has informed a member's Commander/Director that the member has failed to attend both scheduled appointments without rescheduling them, he/she shall determine whether the member had good cause to excuse his/her failure to attend the appointments.
3. If a member's Commander/Director determines that good cause exists to excuse the member's failure to attend both scheduled appointments, he/she shall inform the person seeking service of his/her determination and arrange for two (2) additional appointment dates.
4. The member's Commander/Director shall also inform the member of any new appointment dates arranged by the Commander/Director.
5. If a member's Commander/Director believes that the member failed to attend both scheduled appointments without good cause, he/she shall initiate an administrative investigation of the failure to attend, and shall direct the member to contact the person seeking service to make an immediate appointment to attempt service.

**G. Appearing for Personal Service of Process**

1. All persons seeking to personally serve process upon a member at his/her organizational unit must register with the appropriate personnel as designated by the Commander/Director. To register, a person seeking personal service must present for inspection a government-issued identification and provide the designated personnel with:
  - (a) His/her name and contact information;



- (b) The name of the member to be served;
  - (c) The name and number of the case;
  - (d) The title of the legal document(s) served;
  - (e) Whether the matter is civil, criminal, or administrative in nature;  
and
  - (f) The date and time of his/her appointments with the member, unless the matter is an emergency (requires the member to respond within five (5) calendar days or less).
2. When personal service of process is sought at a member's organizational unit, the party to the legal action or his/her attorney, who is seeking to serve process upon a member, shall certify in writing that the subpoena or civil summons to be served arise out of the member's performance of his/her official duties for the Department and present such certification to the designated personnel.
  3. If the subpoena or civil summons to be personally served upon a member at his/her organizational unit is emergency in nature (requires a member to appear or act within five (5) calendar days or less), the party to the legal action or his/her attorney, who is seeking to serve process upon a member, shall provide the designated personnel written certification that the need for emergency of process was not reasonably foreseeable.
  4. Personnel designated by the Commander/Director to register persons seeking to personally serve process upon a member shall record and maintain all required registration and certification information.
  5. After a person seeking personal service of process upon a member has registered and has provided the written certification(s) required, the personnel recording the registration and certification information shall contact the Roll Call Official and request that the member report to the area designated by the Commander/Director for service of process.
  6. Upon being informed that a scheduled personal service of process is being attempted upon a member, the Roll Call Official shall excuse the member from roll call and have him/her report to the appropriate area to make himself/herself available for service of process.
  7. Upon being excused from roll call by the Roll Call Official for personal service of process, the member shall report to the appropriate area to make himself/herself available for service.

## H. Avoidance of Service

If an administrative investigation establishes that a member failed to make himself/herself available for service at an appointed time and place without good cause, he/she shall be subject to discipline in accordance with the provisions set forth in GO-PER-120.21 (Disciplinary Procedures and Processes).

## I. Receipt of Summonses

1. Any member who receives a summons naming him/her as a defendant in a civil suit should immediately seek legal counsel, regardless of whether the member believes the summons was properly served or improperly served.
2. Within forty-eight (48) hours of being served with a civil summons, either through substitute or personal service, a member shall inform his/her immediate supervisor and the Office of General Counsel that service has been effectuated and the date and time of such service.
3. Members served with a summons in a civil suit shall immediately read the summons and complaint carefully. Members shall take immediate action to ensure that an answer is filed in court, on their behalf, prior to the expiration of the twenty (20)-day period. Members may be entitled to free legal representation by the Office of the Attorney General (OAG) for the District of Columbia (formerly the Office of the Corporation Counsel) in civil suits arising out of acts performed in the line of duty.
4. Members who wish to request representation by the OAG should immediately respond to the Department's Office of the General Counsel and complete a PD Form 858 (Request for Representation by the Office of the Attorney General for the District of Columbia) in triplicate. [See GO-PER-201.12 (Legal Counsel for Members of the Department)]. The summons and complaint shall be personally delivered to the Office of the General Counsel without delay, along with any PD Forms 251 (Incident-Based Event Report), 252 (Supplemental Report), 163 (Arrest/Prosecution Report), etc., or reports of investigation pertaining to the case which are readily available to the member served. Members who do not wish to be represented by the OAG may obtain private legal counsel at their own expense.

## J. Receipt of Subpoenas

1. Within forty-eight (48) hours of being served with a subpoena, either through substitute or personal service, a member shall inform his/her

immediate supervisor and the Office of General Counsel that service has been effectuated and the date and time of such service.

2. A subpoena cannot be ignored; it must be complied with, withdrawn or modified by the person who issued it, or modified or quashed by the court. A person who fails to obey a subpoena, without adequate excuse, can be held in contempt of court.
3. A subpoena must indicate the name of the case; the date, time and place of appearance; and the name of the person issuing the subpoena; as well as the name of the person being subpoenaed. If any of these elements are missing, a member need not accept service of the subpoena. A subpoena should also bear the signature of the clerk of the court and the seal of the court. A subpoena issued by a private attorney should be accompanied by \$40.00, or should note on the subpoena the phrase, *In Forma Pauperis*, or "Without Prepayment of Fees", which means that the court has given permission for the subpoena to be issued without paying a fee. The absence of any of these latter elements shall be pointed out to the process server for correction, but such deficiencies do not constitute grounds for refusal of service. Any member who receives a subpoena and has questions concerning the subpoena or wishes to have a subpoena quashed, modified or withdrawn should immediately contact the Office of the General Counsel.
4. In some cases, members will be served with subpoenas which not only require them to appear and testify in person in a case in which they are involved, but also to produce Department documents related to their testimony. Members are reminded that while they may have access to many Department documents, they are usually not the official custodian of the records, and may not release Department documents without proper authorization. Members who receive subpoenas requiring them to appear and give personal testimony and also to produce Department documents shall immediately bring the subpoena to the attention of their supervisor and shall notify the Office of the General Counsel. If it is determined that the documents may be released, the member will be authorized to bring the documents to the trial or hearing and he/she will be given appropriate instructions concerning the production of the documents. If it is determined that the documents may not be released, then the Office of the General Counsel may act to have the subpoena withdrawn, quashed, or modified.
5. In some cases, members will be presented with subpoenas requiring production of Department documents in a case which the member has no personal knowledge. Such subpoenas are usually directed to the Chief of Police, Assistant Chief, or Commander/Director. Members shall not accept service of subpoenas requiring production of Department documents for cases which the member has no

knowledge and cannot personally testify, unless the member is the official custodian of the documents specified in the subpoena. Process servers attempting to serve such a subpoena shall be told that the subpoena should be directed to the Chief of Police or his/her designated agent, and served at the Identification and Records Division. Members shall immediately notify the Office of the General Counsel if a process server leaves such a subpoena despite being told that the member cannot accept service of the subpoena.

6. In every case in which a subpoena directed to the Department requires the production of Department documents, the member receiving the subpoena shall take immediate action to respond to the subpoena or to have it quashed. If there is a question as to whether the subpoena was invalidly issued or improperly served, or whether the information requested is privileged or irrelevant to the issues in this case, or unduly burdensome to produce, the subpoena should immediately be brought to the attention of the Office of the General Counsel. Frequently requested materials that are often the subject of motions to quash are:
  - a. Investigatory files;
  - b. Records of proceedings and recommendations pertaining to Department disciplinary matters;
  - c. Personnel files of members;
  - d. Medical records of members, unless the subpoena is accompanied by an authorization to release from the member; and
  - e. Statistics, the compilation of which would require a major expenditure of time and staff.
7. With few exceptions, the fact that there may be a legal problem with a subpoena is not a valid reason to fail to make timely efforts to obtain the material requested in a subpoena. (The Department should always be prepared to produce material requested by a subpoena, at the time specified in the subpoena, if necessary.) Legal questions concerning the validity of the subpoena, or the propriety of disclosing the information requested in the subpoena, can be determined prior to actual delivery of the information.
8. Every subpoena must be responded to individually, and may not be ignored merely because the Department has furnished the same information requested in the subpoena to the opposing attorney in the case. In cases in which the Department has furnished information to one attorney prior to receiving a subpoena for the same information from the attorney representing the other side, the Office of the General

Counsel should immediately be notified so that steps can be taken to prevent unnecessary duplication of effort by the Department.

9. Members receiving subpoenas, who are parties in a case, and are represented by counsel, should immediately notify their counsel of the subpoena.

#### **K. Notice of Deposition**

1. Because of the importance of depositions as prior recorded testimony, members of the Department shall immediately, upon receipt of a Notice of Deposition relative to one of their cases or other business of the Department, contact the Office of the General Counsel for guidance. Members of the Department shall not accept personal service of a Notice of Deposition for any member unless specifically authorized by that member.
2. Members are not authorized to release any records (particularly personnel records), files or other papers of the Department. This prohibition, as to release, does not apply to the official custodians of Department records. Any case files, personal documents, notes, or materials relevant to the particular case shall be presented to the Office of the General Counsel for review.

#### **L. The Office of the General Counsel shall:**

1. Accept service of summonses and subpoenas directed to the Chief of Police in civil actions;
2. Review subpoenas for proper form in accordance with Part I.B.3 of this order; and
3. Log in subpoenas for production of documents as they are received, and forward them to the appropriate unit for action.

### **VI. CROSS REFERENCES**

#### **A. General Orders**

1. GO-PER-120.21 (Disciplinary Procedures and Processes)
2. GO-PER-201.12 (Legal Counsel for Members of the Department)

- B. D.C. Official Code § 22-240
- C. D.C. Municipal Regulations
  - 1. DCMR, Title 6A, Chapter 20 § 2002
  - 2. DCMR, Title 6A, Chapter 20 § 2005.3
  - 3. DCMR, Title 6A, Chapter 20 §§ 2008.1, 2008.2, and 2008.3

## VII. ATTACHMENTS

- 1. Attachment A: PD Form 161 (Appointment of Service of Process Agent Designee Form)
- 2. Attachment B: PD Form 162 (Registration of Service of Process)
- 3. Attachment C: Service of Process Flowchart
- 4. Attachment D: Roles and Responsibilities in the Service of Process

//SIGNED//  
Cathy L. Lanier  
Chief of Police

CLL:JAE:JGW:CWS:DEP:cbw:phc

## Metropolitan Police Department Appointment of Service of Process Agent Designee Form

I hereby **appoint** the Assistant Chief or Civilian Equivalent \_\_\_\_\_  
for the Metropolitan Police Department and/or his/her designee(s) as my agent(s)  
to accept service of process for all legal matters arising out of the performance of  
my official duties for the Department.

\_\_\_\_\_  
Signature of Appointee (Date)

\_\_\_\_\_  
Signature of Member (Date)

---

I hereby **revoke my appointment of** the Assistant Chief or Civilian Equivalent  
\_\_\_\_\_ for the Metropolitan Police Department and/or his/her  
designee(s) as my agent(s) to accept service of process for all legal matters  
arising out of the performance of my official duties for the Department. I  
understand that by revoking my appointment of an agent to accept service of  
process that I may be served personally with subpoenas, civil summons, and/or  
other legal documents.

\_\_\_\_\_  
Signature of Member (Date)

\_\_\_\_\_  
Signature of Appointee (Date)

---

I hereby **decline to appoint** an agent to accept service of process for all legal  
matters arising out of the performance of my official duties for the Department. I  
understand that by declining to appoint an agent to accept service of process that  
I may be served personally with subpoenas, civil summons, and/or other legal  
documents.

\_\_\_\_\_  
Signature of Appointee (Date)

\_\_\_\_\_  
Signature of Member (Date)

## Metropolitan Police Department Registration for Service of Process

Date Stamped: \_\_\_\_\_  
 Assistant Chief: \_\_\_\_\_  
 Commander/Director: \_\_\_\_\_  
 Registrar: \_\_\_\_\_

Case Name: \_\_\_\_\_  
 Case Number: \_\_\_\_\_  Civil  Criminal  Administrative  
 Title of Legal Documents: \_\_\_\_\_  
 Date/Time of Service: \_\_\_\_\_  
 Member to be Served: \_\_\_\_\_ Tour of Duty: \_\_\_\_\_  
 Person Accepting Service: \_\_\_\_\_  
 Person Effecting Service: \_\_\_\_\_

1. Does this case arise out of an MPD officer's performance of his/her official duties?  
 Yes  No
  - a. If "no," then service of process cannot be completed.
  - b. If "yes," you must present written certification that the case arises out of the officer's performance of his/her official duties.

INTERNAL USE ONLY	
<b>Written Certification of Official Duties Received?</b>	
<input type="checkbox"/> No	Service cannot be completed.
<input type="checkbox"/> Yes	Supporting document received and attached.

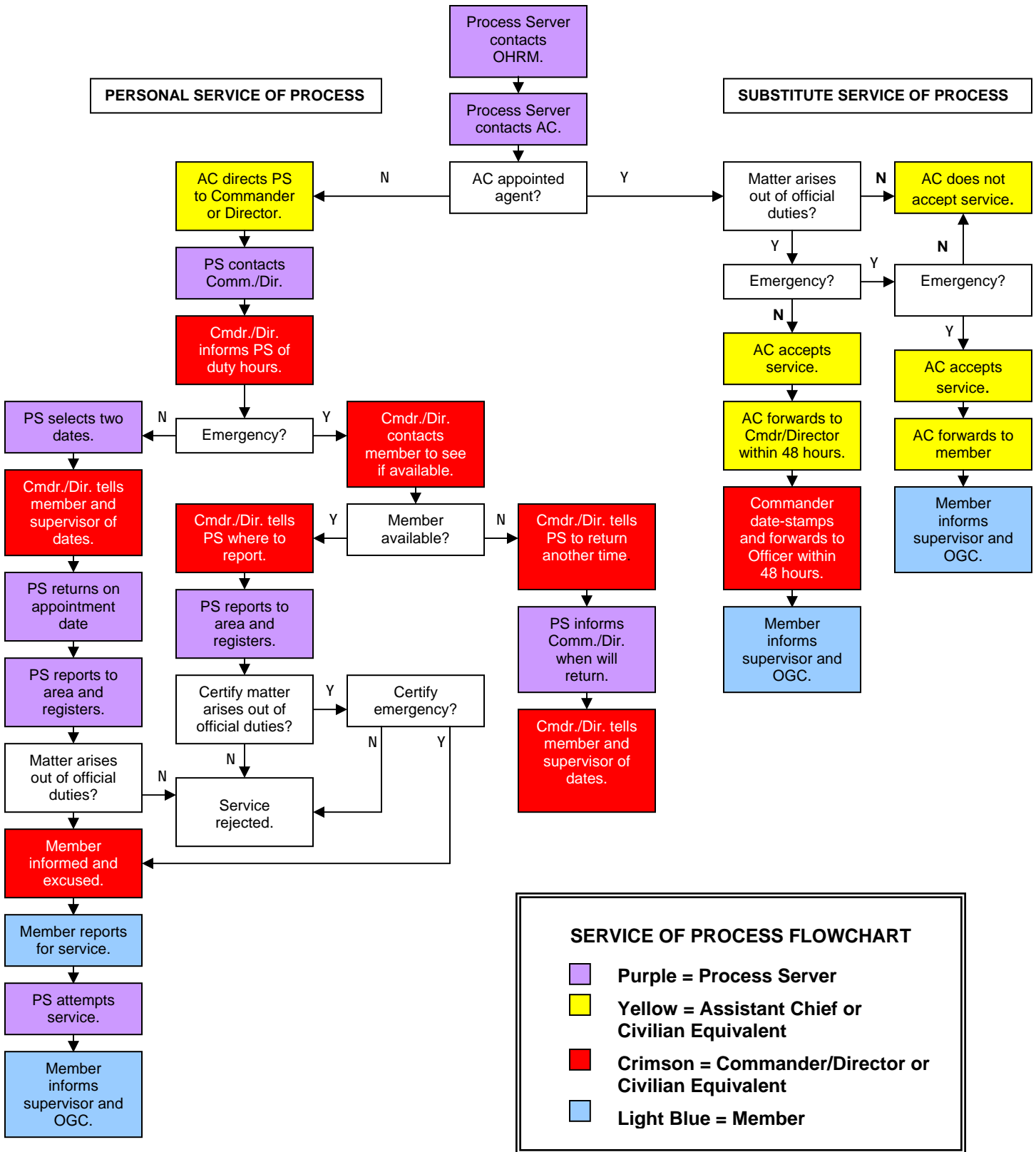
2. Is this an emergency, *i.e.*, requires an MPD member to appear or act within five (5) calendar days or less?  Yes  No
  - a. If "no," then the documents will be forwarded within forty-eight (48) hours.
  - b. If "yes," you must present written certification that the circumstances giving rise to the need for emergency service was not reasonably foreseeable.

INTERNAL USE ONLY	
<b>If Emergency Service Required, Written Certification for Emergency Service Received?</b>	
<input type="checkbox"/> No	Service cannot be completed.
<input type="checkbox"/> Yes	Supporting document received and attached. Immediately forward documents to member.

If a person seeking to serve a member willfully makes a false statement with regard to any of the above-required certifications, he/she may be subject to a fine not to exceed \$1,000 and/or imprisonment not to exceed 180 days, per District of Columbia Official Code § 22-2405.



# SERVICE OF PROCESS FLOWCHART



## **ROLES AND RESPONSIBILITIES IN THE SERVICE OF PROCESS**

### **I. Office of Human Resources Management:**

The Office of Human Resources Management (OHRM) may be the first point of contact for any person seeking to serve a member with a subpoena or civil summons.

- A. If a person calls regarding serving a member, OHRM must tell them:
  - 1. The name of the organizational unit to which the member is assigned,
  - 2. The address of the organizational unit where the member is assigned,
  - 3. The name of the member's Commander or Director,
  - 4. The office telephone number of the member's Commander or Director,
  - 5. The office address of the member's Commander or Director,
  - 6. The name of the Assistant Chief responsible for overseeing the member's organizational unit,
  - 7. The office telephone number of the Assistant Chief responsible for overseeing the member's organizational unit, and
  - 8. The office address of the Assistant Chief responsible for overseeing the member's organizational unit.
  
- B. OHRM must maintain within each member's Official Personal File, the original PD 161 (Appointment of Service of Process Agent Designee Form) and any amended PD 161 executed by the member.

## **II. Assistant Chiefs of Police/Civilian Equivalent:**

The Assistant Chiefs of Police or Civilian Equivalent may be designated by the members under their supervision to act as their agents to accept service on their behalf.

- A. Assistant Chiefs are responsible for receiving the original PD 161s (Appointment of Service of Process Agent Designee Form) and any amended PD 161s executed by the members and submitting the originals to OHRM.
- B. Assistant Chiefs are responsible for maintaining a copy of the PD 161s and any amendments for each member.
- C. Assistant Chiefs are responsible for creating and maintaining a list of members who have appointed them as agents to accept service.
- D. Assistant Chiefs are responsible for informing persons seeking to serve a member whether he or she has been appointed as the member's agent for service.
- E. If not appointed as the member's agent for service, Assistant Chiefs are responsible for directing the person seeking service to contact the member's Commander or Director to set up appointments to personally serve the member.
- F. If appointed as the member's agent for service, Assistant Chiefs are responsible for:
  - 1. Receiving written certification that the subpoena or civil summons to be served arise out of the member's performance of his or her official duties;
  - 2. Receiving written certification for emergency service of process (only necessary if member is required to appear or act within five (5) calendar days);
  - 3. Receiving and completing the internal portions of the PD 162 (Registration for Service of Process);
  - 4. Accepting service of the subpoena or civil summons after obtaining the necessary certifications;

5. Date-stamping the subpoena or civil summons once accepted for service and recording:
  - a. The name of the case,
  - b. The number of the case,
  - c. The title of the legal document(s) served,
  - d. The date of service,
  - e. The time of service,
  - f. The member served,
  - g. The name of the person accepting service, and
  - h. The name of the person effecting service.
6. Forwarding the original subpoena or civil summons and a copy of the completed PD 162 within forty-eight (48) hours of service to the member's Commander or Director, if emergency service is not required.
7. Immediately contacting the member and arranging delivery of the original subpoena or civil summons and a copy of the completed PD 162 to the member, if emergency service is required.
8. Maintaining copies of all subpoenas or civil summons and original PD 162s for which the Assistant Chiefs accepted service.

### **III. Commanders or Directors:**

Commanders and Directors are responsible for scheduling and overseeing service of process in their units.

- A. Commanders and Directors are responsible for designating a physical area within their units for persons seeking to personally serve members with subpoenas or civil summons to register and to meet with members.

- B. Commanders and Directors are responsible for designating personnel in each shift to register persons seeking to personally serve members.
- C. Commanders and Directors are responsible for forwarding to a member, within forty-eight (48) hours of receipt, any non-emergency subpoenas or civil summons, and accompanying PD 162, for which an Assistant Chief of Police has accepted service.
- D. Commander and Directors are responsible for maintaining copies of all completed PD 162s, whether service was accepted by an Assistant Chief or accepted personally by a member.
- E. Commanders and Directors are responsible for informing persons inquiring about personally serving a member of:
  - 1. The member's duty hours,
  - 2. The member's days off,
  - 3. The time of the roll call for the member's shift, and
  - 4. The location of the roll call.
- F. Emergency Subpoenas or Civil Summons:
  - 1. If a person is seeking serve an emergency subpoena or civil summons (requires a member to act or appear within five (5) days or less) on member, Commanders and Directors are responsible for immediately contacting the member to inform him or her that service is being attempted and to ascertain whether the member is available for service.
  - 2. If the member is available, Commanders and Directors are responsible for directing the person seeking emergency service to the appropriate personnel to register.
  - 3. If the member is not available, Commanders and Directors are responsible for:
    - a. Informing the person seeking emergency service of the next roll call in which the member will be present, and

- b. Informing the member and his immediate supervisor of the date and time when service will again be attempted.

G. Non-emergency Subpoenas or Civil Summons:

1. Commanders and Directors are responsible for scheduling two (2) appointments with any person seeking to personally serve a member.
2. Commanders and Directors are responsible for informing any person seeking to personally serve a member with whom he or she must register and provide the necessary certifications to on the scheduled appointment dates.
3. Commanders and Directors are responsible for informing the member and the member's immediate supervisor within forty-eight (48) hours of:
  - a. The name of the person seeking to serve the member,
  - b. The contact information of the person seeking to serve the member,
  - c. The name of the case,
  - d. The number of the case, and
  - e. The selected appointment dates.

H. Failure to Attend Scheduled Appointments:

1. When informed that a member has failed to attend both scheduled appointments for service, Commanders and Directors are responsible for determining whether a member had good cause to excuse his/her failure to attend the appointments.
2. If the member had good case to excuse his or her failure to attend both scheduled appointments, Commanders or Directors are responsible for:

- a. Informing the person seeking service of his or her determination and arranging for two additional appointment dates, and
  - b. Informing the member of his or her determination and any new appointment dates arranged.
3. If the member failed to attend both scheduled appointments without good cause, Commanders or Directors are responsible for:
- a. Initiating an administrative investigation of the failure to attend, and
  - b. Directing the member to contact the person seeking service to make an immediate appointment to attempt service.

#### **IV. Station Personnel:**

Personnel designated by the Commander or Director within each unit are responsible for registering persons seeking to personally serve members and facilitating personal service of process at the unit.

- A. When a person seeking to serve a member comes to a unit, the designated personnel are responsible for:
  1. Inquiring if the person has an appointment to see the member.
    - a. If service of the subpoena or civil summons is an emergency (requires the member to appear or act within five (5) calendar days), then no appointment is required.
    - b. If service of the subpoena or civil summons is not an emergency, an appointment is required.
    - c. If the person does not have an appointment and service of the subpoena or civil summons is not an emergency, he or she should be asked to make an appointment with the Commander or Director to personally serve the member.

2. Receiving written certification that the subpoena or civil summons to be served arise out of the member's performance of his or her official duties.
  3. Receiving written certification for emergency service of process (only necessary if member is required to appear or act within five (5) calendar days).
  4. Receiving and completing the internal portions of the PD 162 (Registration for Service of Process).
- B. After a person seeking to serve a member registers, the designated personnel is responsible for contacting a Roll Call Official to inform him or her that:
1. A person has an appointment to personally serve a member with a subpoena or civil summons or
  2. A person is attempting to serve an emergency subpoena or civil summons upon a member.
- C. After the member has been served, the designated personnel is responsible for transmitting a copy of the completed PD 162 to the Commander or Director.

**V. Roll Call Officials:**

- A. Roll Call Officials are responsible for excusing members from roll call when informed by designated personnel that:
1. A person has an appointment to personally serve a member with a subpoena or civil summons or
  2. A person is attempting to serve an emergency subpoena or civil summons upon a member.
- B. Roll Call Officials are not required to excuse members from roll call if a person seeking to serve a member does not have an appointment or is not seeking to serve an emergency subpoena or civil summons.



**VI. Members:**

- A. Each member is responsible for completing a PD 161 (Appointment of Service of Process Agent Designee Form) and submitting it to his or her Assistant Chief of Police.
1. A member may appoint his or her Assistant Chief to accept service by completing and submitting the upper portion of a PD Form 161 to his or her Assistant Chief.
  2. A member may revoke his or her appointment of his or her Assistant Chief as the member's agent to accept service at anytime by completing and submitting the middle portion of the PD Form 161 to his or her Assistant Chief.
  3. A member may decline to appoint his or her Assistant Chief to accept service by completing and submitting the bottom portion of a PD Form 161 to his or her Assistant Chief.
- B. A member is responsible for attending appointments for personal service of subpoenas and civil summons.
1. If a member is served with the subpoena or civil summons on the first scheduled appointment date, he or she need not attend the second scheduled appointment date.
  2. If a member cannot attend the first scheduled appointment date, he or she is responsible for attending the second scheduled appointment date.
  3. If a member knows in advance that he or she will be unable to make the two scheduled appointment dates, then the member is responsible for contacting the person seeking service before the scheduled appointment dates to arrange two substitute appointment dates.
  4. If a member is unable to attend the two scheduled appointment dates because of a sudden illness, an unexpected emergency, or other extenuating circumstances, then the member is responsible for contacting the person seeking service to arrange two substitute appointment dates as soon as possible.

5. A member is responsible for informing his or her Commander or Director and immediate supervisor of any substitute appointment dates.
- C. Failure to Attend Scheduled Appointments:
1. When a Commander or Director has found good cause to excuse a member's failure to attend both scheduled appointments, the member is responsible for attending one of the two appointment dates arranged by the Commander or Director.
  2. When a Commander or Director has found no good cause to excuse a member's failure to attend both scheduled appointments, the member is responsible for contacting the person seeking service to make an immediate appointment to attempt service.
- D. Members are responsible for informing their immediate supervisor and the Office of the General Counsel within forty-eight (48) hours that they have been served with a subpoena or a civil summons.
- E. Members may request to be represented by the Office of the Attorney General through the Office of the General Counsel when they have been served with civil summons.