5-07/280.00 - Handling Civil Actions Against Department and/or Employees

A unit commander who has an employee under his command who receives written legal notice that a civil action, other than small claims, is being undertaken against him for official conduct, shall immediately report the circumstances on the Service of Process Notification (SHâ€‘Clâ€‘348), through channels, to his division chief or division director. The unit commander shall forward the original civil summons and complaint, along with the white copy of Service of Process Notification form SH-CI-348 (Rev. 8/91), directly to the Civil Litigation Unit, within three working days after receipt of the civil summons or complaint, for processing. The SH-CI-348 form shall be completed in its entirety, with distribution as indicated on the form.

If the civil summons or complaint is of a nature that would adversely affect the Department's operation, such as a request for a court ordered injunction halting a certain Department function, **immediate** telephonic notification (during business hours or the next business day) shall be made to the Civil Litigation Unit.

The Department, and/or any employee served with a civil summons or complaint, has only 20 calendar days to respond to a federal court action and 30 calendar days for a state court action. Failure to comply within the proper time periods may result in a judgment of default against the Department and the named employee.

It is the responsibility of each named employee, once served in a civil action, to ensure that notification is made through their operations office, to the Civil Litigation Unit.

The Civil Litigation Unit shall assist the concerned unit with investigating the civil action, if necessary, and submit its findings to county counsel which will then answer the civil action to the court having jurisdiction.

Any information obtained at the time of the initial inquiry regarding the civil claim will be used as documentation for this purpose. If no initial inquiry was conducted by the concerned unit prior to the receipt of the civil summons or complaint, an immediate inquiry shall be conducted by the concerned unit commander as directed in section 5-07/290.05.

A Service of Process Notification form shall be submitted for each employee served on a given case, or when an employee is served an amended/additional complaint or legal papers on the same case. This notification form must be used for each separate service of legal process.

Acceptance of Service

If an employee being served at his present unit of assignment is absent, service shall be accepted by the watch deputy, watch sergeant, watch commander, or designated supervisor and in civilian units, by the authorized supervising civilian employee. The person accepting service shall immediately forward the documents to the unit operations office for processing.

Service shall not be accepted if the employee being served is not presently assigned to the unit. All attempts shall be made to determine where the employee is assigned and this information relayed to the process server.

Employees shall not accept service for a person who is no longer employed by the Department, nor shall any information regarding the former employee be furnished to the process server.

Service for employees who are relieved of duty shall be accepted at the employee's regular unit of assignment. It shall be the responsibility of the employee's regular unit of assignment to notify the employee, regardless of his status, that this service has occurred.

When service is accomplished by mail and acknowledgment is requested, e.g., service through the U.S. Mail with a notice and acknowledgment form enclosed, the notice and acknowledgment form shall not be processed by the employee being served. County counsel will process the "Acknowledgment of Receipt" after they receive the summons and complaint from the Civil Litigation Unit.

Employees should contact the Civil Litigation Unit for assistance if there are any questions regarding civil actions.

Civil Litigation Unit shall be responsible for forwarding the legal documents and Department correspondence to the county counsel.

Service of lawsuits naming the Department, Sheriff, undersheriff, or assistant sheriff shall be accepted by the Civil Litigation Unit, Risk Management Bureau. 4900 Eastern Avenue, Suite 102, Commerce, California 90040.