

HONOLULU POLICE DEPARTMENT

POLICY SUPPORT OPERATIONS

July 28, 2015

Policy Number 5.02

NOTIFICATION OF CRIMINAL PROCEEDING/CIVIL ACTION AND TRANSMITTAL OF LEGAL PAPERS

POLICY

Employees of the Honolulu Police Department (HPD) shall adhere to the procedures in this directive for notification of criminal arrest, indictment, plea, conviction, and sentence; filing a report of probable claim against the city or employees of the HPD; and the transmittal of information or legal papers to the Department of the Corporation Counsel (COR).

PROCEDURE

- I. Notification of Criminal Arrest, Indictment, Plea, Conviction, and Sentence
 - A. Any employee who is arrested, indicted, or otherwise charged for a criminal offense; enters a plea of guilty or no contest (including guilty or no contest pleas whose acceptance is deferred); is convicted and sentenced for any criminal offense or is found not guilty; or has a case dismissal, mistrial, or disposition of the case shall notify the Professional Standards Office (PSO). The notification shall be made by completing and forwarding the Notification of Criminal Proceeding/Civil Action, HPD-195 e-form, within 48 hours.
 - B. The HPD-195 e-form can be accessed on the city's intranet Web site at [REDACTED] Click on [REDACTED]
[REDACTED]

PUBLIC VERSION

Security procedures and information redacted pursuant to HRS Section 92F-13(3).

- C. The employee shall complete the HPD-195 e-form and forward a copy to his or her element commander.
- D. For cases that may adversely affect the HPD, the element commander shall follow the guidelines of article IX A of the Standards of Conduct. The officer or civilian shall be placed on leave with pay pending investigation pursuant to applicable rules of the Department of Human Resources.
- E. Upon notification, the PSO shall immediately bring all cases to the attention of the deputy chief and provide a synopsis of the incident.
- F. The deputy chief shall bring the case to the attention of the Administrative Review Board for discussion and provide an interim recommendation to the Chief of Police regarding the assignment of the officer or civilian employee involved.

II. Notification of Civil Action

- A. Upon receipt of a civil action or temporary restraining order (TRO) against an officer or civilian employee of the department, the Records and Identification Division shall transmit by facsimile a copy of the document to the officer's or employee's division-level commander.
- B. Any employee who is served with (1) a civil action that is related to his or her actions and involvement as an employee of the City and County of Honolulu or (2) a TRO shall notify the PSO of the service of civil action or TRO. The notification shall be made by completing and forwarding the Notification of Criminal Proceeding/Civil Action, HPD-195 e-form, no later than 48 hours after service.
- C. The employee shall complete the HPD-195 e-form and forward a copy to his or her element commander of the service of the civil action or TRO.

- D. In order to obtain timely legal counsel from the city, it is essential for the employee to submit the HPD-195 e-form as soon as possible after service of a TRO.

III. Probable Claim Against the City or Employees of the HPD

Any collision or police-connected incident that may result in a claim for damages against the city or civil or criminal action against an officer or civilian employee of the HPD shall be reported as follows:

- A. The employee shall immediately notify his or her supervisor and the appropriate investigative unit if there are extensive injuries or damages to a person or property.
- B. The investigative unit shall investigate the collision or incident thoroughly and file a written report thereon with the following information:
 - 1. Date, time, and place of the collision or incident;
 - 2. Photographs, diagrams, sketches, etc., of the collision;
 - 3. Description of the collision;
 - 4. Cause or causes of the collision, if ascertainable;
 - 5. Description or listing of injuries to persons or damages to property;
 - 6. Names, permanent addresses (home and business), and telephone numbers of probable claimant and witnesses and their statements, if any, with regard to the collision;

7. Recovery or preservation of the object or cause of the collision when practicable; and
 8. Alleged criminal violation(s).
- C. The investigative unit shall:
1. Send a copy of the collision or incident report to the COR;
 2. Notify the COR of any follow-up investigations and forward all written reports thereon; and
 3. Notify the appropriate department that is responsible for maintenance or repairs (when circumstances warrant it) to take the necessary corrective action in order to prevent future collisions, irrespective of the presence or absence of any negligence on the part of the city.
- D. All departmental employees shall refrain from expressing any opinion to the probable claimant or any other person that the city was negligent or at fault with regard to the collision or incident.

IV. Transmittal of Legal Notifications and Processes

- A. Whenever an employee of the HPD receives a complaint and summons, order to show cause, notice of civil suit, notification that he or she is the subject of an investigation by the court or other law enforcement agency, or any other form of legal process naming the city or an officer or employee of the department, that document or a copy thereof shall be forwarded to the PSO no later than the next working day.
1. Notification shall be made on the HPD-195 e-form. Also, a copy of the document(s) received shall be attached.

10-12-2016

2. On the HPD-195 e-form, the officer shall also indicate whether he or she is requesting legal representation by the City and County of Honolulu in accordance with Sections 52D-8 and 52D-9, Hawaii Revised Statutes, and the Guidelines for the Honolulu Police Commission Request for Legal Counsel (adopted on September 6, 1995).

B. Sovereign Citizen Movement Documents

As noted in Policy 4.47, SOVEREIGN CITIZEN MOVEMENTS, documents generated from sovereign citizen groups carry no legal validity and require no departmental response. They shall be forwarded to the Major Events Division no later than the next working day.

C. Subpoena Duces Tecum

1. Definition: A subpoena duces tecum is a legal document or process that commands a witness to produce a document or paper at a trial or a hearing.
2. Subpoenas duces tecum addressed to the "Custodian of Records" or "Custodian of Records and Identification" shall be processed by the commander of the Records and Identification Division.
3. Subpoenas duces tecum addressed to employees other than the "Custodian of Records" or the "Custodian of Records and Identification" shall be handled as follows:
 - a. Whenever an employee of the HPD receives a subpoena duces tecum, the employee shall immediately confer and register the document with the PSO prior to any contact with the COR or the Department of the Prosecuting Attorney (PAT).

- b. All employees receiving other civil or criminal documents requesting dispositions, reports, evidence, or personnel information shall contact the PSO to register the requesting document and to confer prior to answering the specified request of the document.
- c. If the employee being served does not have control or possession of the original document or paper that is named on the subpoena duces tecum, the person attempting service should be notified of this fact and be directed to the proper division commander having control or possession of the document or paper.
- d. Immediately after consultation with the PSO, a report shall be submitted by the employee to the employee's assistant or deputy chief (via channels) noting the document or paper being subpoenaed, the time and date of the consultation with the PSO, and the advice received.
- e. The PSO shall act as the liaison between the employee, the COR, and the PAT.
- f. In certain instances (e.g., cases that have raised public concern), the assistant or deputy chief shall immediately forward a copy of the employee's report to the Office of the Chief of Police.

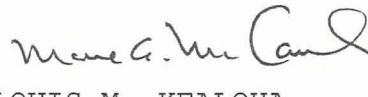
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- g. Since the COR is required to institute proceedings prior to filing an answer or appearing in court, the PSO shall expeditiously contact the COR on behalf of employees who have received subpoenas duces tecum.

D. Subpoenas Served on HPD Employees

Refer to Policy 7.12, SUBPOENAS FOR AND COURT APPEARANCES BY DEPARTMENTAL PERSONNEL, regarding subpoenas to be served on HPD employees.



LOUIS M. KEALOHA
Chief of Police

Post on bulletin
board for one week

Policy first issued
May 9, 2002