

[Agency Name]
Special Order

SPECIMEN

Subject: Litigation Office

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Number:

Effective Date:

Duration: Indefinite

CALEA Standards: 11.2.1; 11.4.5

Cross Ref: No. [REDACTED], [Response to Civil Litigation]

Distribution:

1. All [sergeants and command officers].
2. To be announced at roll-calls.
3. To be inserted into special orders binders [retained at designated locations].
4. To be posted on the [department's] intranet website.

I. PURPOSE

Civil litigation against a governmental entity and its employees occurs on a regular basis, and sets in motion a variety of responses from several units within the governmental entity, often with little or no coordination.

The purposes of this directive are to:

1. Facilitate the [department's] response to civil litigation, and
2. Establish and staff a Litigation Office [or Unit] within the [department].

II. POLICY

Litigation is time-consuming, expensive and impairs the public's perception of the [department] and its employees.

It is [department] policy to:

1. Identify high-risk incidents, events and situations.
2. Document such occurrences.
3. Take reasonable measures to reduce civil litigation through education, training, supervision, and adherence to [departmental] policy and procedures.
4. Initiate measures to facilitate the litigation process through the creation of a Litigation Office managed by a litigation specialist.

III. LITIGATION OFFICE

1. A Litigation Office is hereby created, to facilitate the [department's] response to claims and lawsuits naming the [city] or any [department] personnel.
2. It shall be staffed by a [part/full] time [officer] who shall serve as [manager] of the Office, and by such other officers, clerical personnel and support staff as may be required.
3. The [manager] of the Litigation Office shall be appointed by the [chief of police] and shall report to [the chief] or designated subordinates.
4. Without distinction of status or rank, the [manager] of the Litigation Office and his or her designees shall have full authority to request and receive copies of:
 - a. All reports relating to a crime, an arrest or other incident involving [department] personnel – even if no claim or lawsuit has been filed.
 - b. Personnel, training and disciplinary records of all [department] personnel named in a claim or lawsuit.
 - c. Lesson plans and other training materials that may be pertinent to the incident under review.
 - d. Laboratory reports and records related to an incident giving rise to a claim or litigation.
 - e. Copies of booking photographs, 911 calls, radio transmissions and field scientific tests, e.g., breathalyzer results.
 - f. Pertinent statements and reports obtained by [internal affairs] investigators.
 - g. Applicable transcripts of testimony and proceedings before [the use-of-force review board].
5. The Litigation Office [manager] shall undertake a periodic audit of departmental litigation to:
 - a. Determine whether there is a need for revisions of policies, procedures and training.
 - b. The audit shall include the outcome and status of prior and pending litigation, i.e., settlements, and all litigation filed or resolved during the period to be reviewed.
 - c. Updates on current case law and statutes relevant to law enforcement shall be disseminated to officers, as needed.
6. Upon conclusion or settlement of any civil litigation, the [manager] shall provide notification of the outcome of the case to the [chief of police], the command staff, all involved officers, and their supervisors.

7. The Litigation Office shall maintain a file on each claim or lawsuit brought against the [city] or [department] personnel, containing:
 - a. Copies of relevant departmental policies, procedures and training lesson plans pertaining to the incident.
 - b. Copies of relevant radio communications, computer, or telephone records or tapes.
 - c. Enlargements of relevant photographs pertaining to the incident.
 - d. Copies of the disciplinary and training records of all involved personnel.
 - e. Where applicable, the docket from any criminal case arising from the incident.

IV. INITIAL AND CONTINUING EDUCATION

1. The [manager] of the Litigation Office shall attend educational courses or programs as directed by the [chief of police], in the following subject areas:
 - a. The use of lethal force.
 - b. Less lethal force options.
 - c. The laws of arrest, search and seizure.
 - d. Vehicular pursuits.
 - e. Prevention and investigations of in-custody deaths.
 - f. Disciplinary investigations, standards and penalty assessments.
 - g. Management audits of the disciplinary process and procedures.
2. Use of force protocols, litigation techniques and judicial standards continually evolve. The [manager] of the Litigation Office, his/her successor, and designated support personnel need continuing legal education, as well as the ability to contact their counterparts in other agencies.
 - a. The [manager] [and designated support staff] shall attend relevant educational programs and earn and maintain appropriate certification[s] pertaining to criminal justice litigation.

V. PROACTIVE LIABILITY

1. The [manager] of the Liability Office shall recommend strategies that reduce the [department's] exposure to claims of inadequate training, deficient written directives, negligent supervision, deliberate indifference to medical needs and substandard disciplinary processes.

2. The [manager] shall establish procedures and protocols to achieve the intended purposes of the Litigation Office.

VI. LIAISON FUNCTIONS

1. The [manager] of the Liability Office is the principal representative of the [chief of police] for claims and litigation against the [department] or its personnel, with the following officials:
 - a. The [city's] law department.
 - b. Outside legal counsel hired to defend the [department] and/or its personnel.
 - c. The [risk management] office.
 - d. The Director of the state's [Peace Officer Standards and Training Board].

VII. ADDITIONAL DUTIES AND RESPONSIBILITIES

1. The [chief of police] may, in writing or verbally, augment the duties and responsibilities of the Litigation Office, as the need arises.

By order of

[Name]

[Title]

Remarks:

- This directive is labeled a “specimen” rather than a “model.” Criminal justice agencies vary in size and have different resources and objectives. One size does not fit all.
- Words [in parentheses] should be edited.
- Agencies that adopt a similar written directive are urged to send a copy to aele@aol.com with < Litigation office > in the subject area. The directive may be shared with other Litigation Offices.