

	DEPARTMENT OF PUBLIC SAFETY	EFFECTIVE DATE: JAN 28 1993	POLICY NO.: ADM.03.04
	DEPARTMENT ADMINISTRATION POLICY AND PROCEDURES	SUPERSEDES (Policy No. & Date): 493.03.09 2/7/86	
SUBJECT: <p style="text-align: center;">SERVICE OF PROCESS</p>		Page 1 of 5	

No. 93-17801

1.0 PURPOSE

To establish procedures for Department personnel who are delivered a Summons, Writ, or other process in connection with a work-related incident.

2.0 REFERENCES AND DEFINITIONS

.1 References

Act 211, SLH 1989, Establishment of the Department of Public Safety, Powers and Duties of the Director.

.2 Definitions

- a. Court deadline for filing an answer to a complaint: 20 days from date of service of process.
- b. Service of process: A Complaint and Summons, Writ, Subpoena, Order to Show Cause, Notice of Civil Suit, or other process that is delivered to an individual either by mail or by another individual in person which names the State or an employee.
- c. Acknowledgment: Abbreviated term for Acknowledgment and Receipt of Summons and Complaint forms.
- d. Work-Related Incident: Any action which involves an employee and which occurred while the employee was actually on work status or in which the employee, even though being officially off duty, was purported to be acting in an official capacity as an employee or representative of the Department.
- e. Subpoena Duces Tecum: A court order requiring the surrender of specific records, reports, or documents which are allegedly in the custody of the receiver of the Subpoena to a person or office named in the Subpoena.

ADM P & PM	SUBJECT: SERVICE OF PROCESS	POLICY NO.: ADM.03.04
		EFFECTIVE DATE: JAN 28 1993
		Page 2 of 5

3.0 POLICY

- .1 The courts only allow a limited time for an answer to a complaint to be filed. To allow the Department of the Attorney General sufficient time to investigate the case, Department employees shall respond to all civil and criminal processes served upon them in accordance with the provisions of this policy.
- .2 All employees shall abide by the decisions and advice offered to them by the Department of the Attorney General concerning a work-related incident or a service of process.
- .3 Employees shall not seek the advice of, nor heed the decisions of, private attorneys in any matter in which the State has an interest or in which they are served with any process as an employee of the State without first consulting with the Department of the Attorney General and receiving a clearance to proceed and to seek such advice.

4.0 PROCEDURES

- .1 Acceptance of Service of Process By Mail
 - a. An employee shall not accept service of process by mail on behalf of another employee. This includes all Acknowledgment forms from the U.S. Marshal and postal return receipt cards.
 - b. Acknowledgment forms shall be signed only by the named defendant who is being served with the summons and complaint. The postal return receipt cards shall also be signed only by the named defendant and no one else.
 - c. If the employee addressed on the envelope is not available to accept the mail, the mail shall be refused.
 - d. Recipients of service by mail shall respond promptly by signing and mailing the forms to the U.S. Marshal in the envelope provided no later than the next day following service. However, they are only to do so if they are named in the complaint and have received a complaint along with the Acknowledgment.

ADM P & PM	SUBJECT: SERVICE OF PROCESS	POLICY NO.: ADM.03.04
		EFFECTIVE DATE: JAN 28 1993
		Page 3 of 5

Employees who are served but are not mentioned in the suit or where no complaint was sent with the Acknowledgment, shall contact the head of the Social Services Division, Department of the Attorney General, by telephone, for advice before returning the Acknowledgment. When the Acknowledgment is returned, the recipient shall retain the pink copy.

- e. A recipient of service should never ignore or discard the Acknowledgment because if there is no response, the recipient may be liable for the cost of follow-up personal service.

.2 Acceptance of Service of Process By an Individual

- a. Civilians who wish to serve a process on on-duty Department personnel shall not be allowed to compromise security by being allowed to enter areas restricted to employees.
- b. An employee shall not accept personal service of process by a U.S. Marshal or other process servers on behalf of another employee. However, if the recipient is on the premises but unable to accept personally, they may authorize another staff member (such as a receptionist) to accept service for them. The person accepting the service for another shall be responsible for personally delivering the documents to the intended recipient before the end of the work day.

An employee shall not be compelled to accept the responsibility of accepting personal service on behalf of another if they are not willing to do so.

- c. Avoiding inconvenience to the Marshal or the desire to accommodate the Marshal or a postal employee does not authorize someone other than the addressee to accept service.
- d. Service shall never be accepted on behalf of an employee if they are not on the premises or absent that day. The Marshal and other process servers shall be encouraged to call ahead to arrange a time and place for service.
- e. Recipients of personal service shall respond promptly in accordance with the provisions outlined in Procedure 4.1.d., above.

ADM P & PM	SUBJECT: SERVICE OF PROCESS	POLICY NO.: ADM.03.04
		EFFECTIVE DATE: JAN 28 1993
		Page 4 of 5

f. If the process server is an inmate, the recipient shall respond in the same manner accorded to any process server, such as a U.S. Marshal.

.3 Notification of Department Administration and the Attorney General of Service of Process

- a. An employee who receives a process shall complete a Notice of Civil Process, form PSD 0030 (reference attachment), no later than the next day following service and deliver the form and a copy of any documents received and signed for to their supervisor.
- b. The employee's supervisor shall FAX form PSD 0030 and related documents to the head of the Social Services Division, Department of the Attorney General, on the same day they are received.
- c. Form PSD 0030, with copies of related documents attached, shall be forwarded to the appropriate division administrator or staff office administrator through the employee's chain of command. The time and date of FAX transmission to the Attorney General shall be noted on PSD 0030 in the appropriate area prior to forwarding.

4. RECEIPT OF A SUBPOENA DUCES TECUM

Whenever an employee receives a Subpoena Duces Tecum, the employee shall immediately consult with their supervisor and the head of the Social Services Division, Department of the Attorney General.

- a. Immediately after consultation with the Department of the Attorney General, a written report shall be submitted to the division administrator via the chain of command. The report shall note the document or paper being subpoenaed, the time and date of receipt of the subpoena, the time and date of the consultation with the Department of the Attorney General, the name of the Deputy Attorney General consulted, and the advice received.
- b. 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 so informed and directed to the proper Divisional element having such control or possession of the document or paper.

ADM P & PM	SUBJECT: SERVICE OF PROCESS	POLICY NO.: ADM.03.04
		EFFECTIVE DATE: JAN 28 1993
		Page 5 of 5

5.0 SCOPE

This policy applied to all employees of the Department.

APPROVAL RECOMMENDED:

Robert C Vidney

Deputy Director for Administration

JANUARY 27, 1993

Date

APPROVED:

Greg Sumner

Director

1-28-93

Date

STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

NOTICE OF CIVIL PROCESS

TO: _____

Notice is hereby given that at _____ on _____
(time) (day/date)
at _____, I, _____
(location) (name/position)
of _____
(facility/office/unit)

- 1. Was served as a respondent with a civil process
- 2. Accepted a civil process on behalf of _____
(individual/facility)
- 3. Was subpoenaed as a witness

under Civil Number _____. The plaintiff in the case is

_____, who is represented by
(name)

_____. The suit alleges
(plaintiff's attorney/law office)

(briefly describe)

The Department of the Attorney General was notified via FAX: _____

at _____ on _____ by _____
(time) (date) (name of supervisor)

Plaintiff is _____ was _____ was not _____ an inmate of the State.

(name/position)

(time/date)