


Division of Pretrial
Detention and Services
Directive


Approved by:
Wendell M. France
Commissioner

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| Title: Service of Process | Directive Number: DPDS.020.0004 |
| Related MD Statute/Regulations: Maryland Rule 2-121 | Supersedes: DPDS.020.0004, titled Service of Process and issued on July 28, 2009 |
| Related ACA Standards: N/A Related MCCS Standards: N/A | Authorized by: Warden and DPDS Litigation Coordinator |
| Related Directives: DPDS.050.0029, Request for Representation by the Office of the Attorney General | Effective Date: October 23, 2010 Number of Pages: 5 |

.01 Purpose

- A. This directive establishes procedures for handling a request for service of process to:
- (1) Any management or employee of the Division; or
 - (2) A detainee who is in the legal custody of the Division.
- B. This directive assigns responsibility for the oversight and handling of service of process.

.02 Scope.

This directive applies to all officials and employees of the Division.

.03 Policy.

- A. Officials and employees of the Division shall not evade service of process where:
- (1) The official or employee is a defendant or witness for criminal proceedings; or
 - (2) Where injunctive relief is sought, i.e. a domestic violence or restraining order; or
 - (3) Where the official or employee is a defendant to a civil proceeding that relates directly to his or her employment with the Division.
 - (4) Therefore, as a condition of employment with the Division, all staff hereby consent that the following entities are authorized to accept service of process under very limited circumstances:
 - (a) The Attorney General's Office for the Division and/or;
 - (b) The Division's Litigation Coordinator

- B. An official or employee of the Division may not be served with a process on the Division's premises in a civil proceeding that does not relate to the individual's employment with the Division.
- C. Cooperation shall be afforded in service of process to detainees who are in the physical custody of the Division. Service of process shall not be accepted for a detainee admitted to a community hospital, off-site court ordered treatment program, non-DPDS correctional facility, etc. In these situations, the Warden shall authorize an appropriate response on a case-by-case basis.
- D. No detainee shall be served directly by a sheriff or process server for any proceeding while in the physical custody of the Division. Institutional Security staff shall ensure that service is completed promptly and in accordance with this directive.

.04 Definitions.

A. In this directive, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Civil proceedings" means a legal action between private parties as distinguished from a criminal proceeding.
- (2) "Criminal proceeding" means a legal action, especially at court, where an individual is charged by the state with a violation of criminal law.
- (3) "Injunctive relief" means a court order mandating relief other than monetary damages, i.e., a temporary restraining order or permanent restraining order.
- (4) "Subpoena" means a writ directed to the sheriff or other proper person requiring him or her to notify an individual that an action has been commenced, that the individual has been named as a defendant, and that the individual has to answer the complaint or petition.

.05 Responsibility.

A. It shall be the responsibility of the Litigation Coordinator to:

- (1) Accept a summons or subpoena for a detainee currently in Division custody and:
 - (a) Log information into a tracking system;
 - (b) Complete a tracking sheet to attach to the summons or subpoena;
 - (c) Contact the Warden's Office to deliver the summons or subpoena; and
 - (d) Obtain a signed tracking sheet to prove delivery with the detainee's signature.

- (2) Accept a summons or subpoena on behalf of a Division employee as authorized by this directive and:
 - (a) Log information into a tracking system;
 - (b) Complete a tracking sheet to attaché to the summons or subpoena;
 - (c) Request that the Warden's Office/civilian supervisor order the employee to pick-up the summons or subpoena;
 - (d) Have the employee sign the signature log and documentation; and
 - (e) Contact the Assistant Attorney General's Office to deliver the signed documentation.

- (3) Accept a summons on behalf of a Division Management as authorized by this directive and:
 - (a) Log information into a tracking system;
 - (b) Inform the Assistant Attorney General's Office of the documents;
 - (c) Complete a tracking sheet to attaché to the summons or subpoena;
 - (d) Have Management sign the signature log and documentation; and
 - (e) Contact the Assistant Attorney General's Office to deliver the signed documentation.

B. It shall be the responsibility of the Warden's Office to ensure that service of process for detainees is conducted within the institution as specified in this directive. Upon receipt of a subpoena or summons, the individual(s) designated by the Warden shall promptly:

- (1) Log all pertinent information, to eventually include:
 - (a) Time and date of receipt by the institution;
 - (b) Detainee's name and SID#;
 - (c) Name of the Warden's designee;
 - (d) Time and date service of process was completed; and
 - (e) Concerns or issues.
- (2) Make a photocopy of the document;

- (3) Complete service of process by handing the original document to the detainee or placing the original document in the detainee's cell while the individual is present.
- (4) Document that services of process was completed by:
 - (a) Obtaining the detainee's signature on the photocopy; or
 - (b) In addition to a second witness, sign the photocopy and record that the detainee, upon receipt of the original document, refused/was unable to provide a signature.
- (5) Maintain the photocopy on file per the established retention schedule; and
- (6) Report to the Warden and to the Division's Litigation Coordinator that:
 - (a) Service of process and required documentation is complete; or
 - (b) Service of process could not be complete because of extenuating circumstances.

C. Employee Subpoena or Summons

- (1) Responsibility for employee subpoena or summons shall rest with:
 - (a) The Warden's Office for correctional officers; and
 - (b) The department head/administrative supervisor for all other staff to include
 - (i) Correctional maintenance officers;
 - (ii) Correctional supply officers;
 - (iii) Mailroom staff; and
 - (iv) Non-uniform personnel.
- (2) Upon notification from the Office of the Attorney General that a summons or subpoena was accepted on behalf of a Division employee, the responsible party, as designated in § .05.c.1 of this directive, shall order the employee to report to the Office of the Attorney General at an appointed time for service and information regarding possible legal representation by the Office.
- (3) Upon notification from the Division's Litigation Coordinator that a subpoena or summons was accepted on behalf of an employee, the responsible party, as designated in § .05.C (1) of this directive, shall
 - (a) Consult with the Division's litigation coordinator to agree upon the location, time and designee for service of process and distribution of DPDS.050.0029, titled Requesting Representation by the Office of the Attorney General:

- (b) Order the employee to report for services of process at the appointed place and time;
- (c) Take appropriate disciplinary action if the employee attempts to evade service of process; and
- (d) If designated to complete services of process:
 - (i) Accept the document;
 - (ii) Make a photocopy of the document;
 - (iii) Provide the employee with the original copy of the document and a copy of DPDS.050.0029, titled Requesting Representation by the Office of the Attorney General;
 - (iv) Before the end of the shift/workday, forward to the Division litigation coordinator a Matter of Record documenting all pertinent facts; and
 - (v) If questions arise as to the nature of the proceedings, contact the staff of the Attorney General's Office.

.06 Attachment(s).

There is no attachment to this directive.

.07 History.

- A. This directive rescinds DPDS.020.0004, titled, Service of Process and issued on July 28, 2009
- B. This directive supersedes provisions of any other prior existing Division communication with which it may be in conflict.