


STATE OF MARYLAND  
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES  
DIVISION OF CORRECTION

 DIVISION OF CORRECTION	<b>PROGRAM:</b> <b>PERSONNEL</b>
	<b>DCD #:</b> <b>50-29</b>
	<b>TITLE:</b> <b>Request for Legal Representation by the Office of the Attorney General</b>
	<b>ISSUED:</b> <b>January 10, 1992</b>
	<b>APPROVED:</b> /s/ <b>Richard A. Lanham, Jr.</b> <b>COMMISSIONER</b>

- I. Reference: State Government Article, Sections 12-301 to 12-318, ACM
- II. Applicable to: All Employees
- III. Purpose: To establish a method of requesting legal representation by the Attorney General's Office.
- IV. Definitions: None
- V. Policy: In accordance with the State Government Article, Sections 12-301 to 12-318, ACM, employees named as defendants in certain actions may request legal representation by the Attorney General's Office.
  - A. Any employee may be represented by the Attorney General's Office for civil actions or special proceedings against the employee in a State or Federal court if the Attorney General's Office finds the employee eligible for representation.
  - B. When a State employee requests representation by the Attorney General's Office, the Attorney General is required to conduct an investigation. The investigation is to determine whether the employee was acting within the scope of his/her employment, whether the act or omission was malicious, or whether the act or omission was grossly negligent.
  - C. Any employee who is directed to appear before the Office of Administrative Hearings by the Inmate Grievance Office because of an allegation that the employee physically abused an inmate, or used actual physical force against an inmate, may request representation by the Attorney General's Office. Representation will not be afforded to an employee appearing before the Office of Administrative Hearing on any other matter.
  - D. Any employee named as a defendant in a criminal action may not be represented in those proceedings by the Attorney General. However, the State Government Article, Sections 12-313 to 12-318, provides for the possibility of reimbursement of personal expenses incurred for retaining counsel under certain conditions. These conditions and the procedures to be followed are further explained in Appendix 6 to this DCD.
- VI. Procedure:

- A. Any employee who has been served by mail, rather than by personal service, as defendant in a complaint filed in a federal court shall immediately:
1. complete and sign the enclosed “Notice and Acknowledgment of Receipt of Summons and Complaint by Mail” (See Appendix 1),
  2. return the original directly to the Clerk of the Court’s Office, and
  3. retain a copy.
- B. Any employee who has been served by any means as a defendant in a complaint filed by an inmate in any court, or who has been notified of a qualifying Inmate Grievance Office action shall, immediately:
1. complete and sign the form letter, “Request for Legal Representation” (See Appendix 2),
  2. complete DC Form 50-29aR, “Legal Representation Agreement” (See Appendix 3),
  3. forward both completed forms, along with a copy of the original complaint and all other documents served upon the employee, including the copy of the Notice and Acknowledgment of Receipt of Summons and Complaint by Mail when the complaint was filed in a Federal court and service was obtained by mail to:

Assistant Commissioner – Field Services  
Division of Correction – Headquarters  
6776 Reisterstown Road  
Baltimore, Maryland 21215

and copies to

Supervising Attorney  
Correctional Litigation Unit  
Office of the Attorney General  
200 St. Paul Place  
St. Paul Plaza Building – 19<sup>th</sup> floor  
Baltimore, Maryland 21202

4. contact the institutional staff person designated by the warden, in accordance with subsection VI.C.1. of this regulation, to assist that person in preparing affidavits and gathering copies of all pertinent documentation for preparation of a defense.

NOTE: The employee shall immediately notify the Supervising Attorney, Correctional Litigation Unit, of any change of address or assignment during the course of the litigation.

- C. Each warden shall:

1. designate one staff person to be responsible for:
  - a. coordinating the preparation and submission of all “Requests for Legal Representation,”
  - b. preparing affidavits (See Appendix 4) from all individuals having personal knowledge of the events in question for a particular case; forwarding those relating to **allegations of excessive force** to the Commander, Division of Correction Investigation Unit as soon as possible after the submission of the “Request for Legal Representation”; and forwarding copies of all affidavits in all other cases directly to the Supervising Attorney, Correctional Litigation Unit,
  - c. submitting copies of all pertinent documentation necessary for the preparation of a defense in a particular case (e.g., adjustment reports, medical reports, correspondence to or from the plaintiff, serious incident reports) to the Supervising Attorney, Correctional Litigation Unit, at the same time affidavits mentioned above are forwarded.
2. assure that the Assistant Commissioner-Field Services is aware of the name of the designated staff person whose responsibilities are outlined above.

D. The Commander of the Investigation Unit shall immediately review all material related to excessive force cases submitted by the warden’s designee as well as all files, reports and material in the files of the Investigation Unit relative to the instant case and the individual involved. The Commander shall summarize the employee’s involvement in a report and submit that report and all related material to the Assistant Commissioner-Field Services for review. The Assistant Commissioner – Field Services will immediately forward the complete package to the Supervising Attorney, Correction Litigation Unit of the Attorney General’s Office, with a recommendation relative to representation by the Attorney General’s Office.

E. For lawsuits described in paragraph A or B, but brought by a person other than an inmate, the same procedures should be followed, but the request for representation (Appendix 2) and other documents should be addressed to Supervising Attorney, Office of the Attorney General, Suite 311, 6776 Reisterstown Road, Baltimore, Maryland 21215.

F. No institutional directive is required.

#### VII. Attachments:

- A. Appendix 1, Sample “Notice and Acknowledgment of Receipt of Summons and Complaint by Mail”
- B. Appendix 2, “Request for Legal Representation” form letter
- C. Appendix 3, “Legal Representation Agreement”
- D. Appendix 4, Sample Affidavits
- E. Appendix 5, Correctional Litigation Unit

- F. Appendix 6, "Employees Charged with Criminal Violations or Under Criminal Investigation"
- Appendix 7, Management Audit Form

VIII. Rescission: DCD 50-29 dated January 1, 1990

Distribution:

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