

# Georgia Department of Public Safety

## Policy Manual

SUBJECT <b>LEGAL PROCEEDINGS AND REPRESENTATION</b>	POLICY NUMBER <b>8.03</b>
DISTRIBUTION <b>ALL EMPLOYEES</b>	DATE REVISED <b>12/17/2014</b>

### 8.03.1 Purpose

To provide general guidance to employees regarding the proper notification of legal proceedings and requests for legal representation.

### 8.03.2 Policy

All employees acting within the scope of their official duties are eligible for legal representation for claims arising from actions taken within the course of their employment.

### 8.03.3 Procedures

#### A. Civil Proceedings

1. If an employee becomes involved in a legal action that may impair the operations of the Department or reflect discredit upon the Department, the circumstances shall be immediately reported to the appropriate supervisor who shall inform the appropriate Division Director.
2. If the acts that brought about the legal action occurred within the course and scope of employment, the employee is entitled to legal representation by the Attorney General's office or outside counsel selected by the Attorney General and paid for by the State in civil proceedings.
3. If an employee files a civil action against another Department member, the employee shall notify his/her supervisor prior to filing. The supervisor shall notify the appropriate Division Director.

#### B. Request for Attorney General Representation

1. The Department of Law must receive a written request from the Commissioner of the Department of Public Safety or his designee on behalf of the member seeking assistance who is named in a lawsuit. However, the Commissioner must first receive a written request for this assistance from the member involved. This request should be sent directly to Legal Services with all original documents received attached. The request for representation, along with the original documents, should be sent to Legal Services no later than the next business day after receipt of the legal documents. A copy of the request and legal document received should also be forwarded through the employee's chain of command to the Director of Legal Services.

2. Exhibit 8.03-1 is a pre-drafted request form that will be sufficient when the spaces are completed and signed by the member desiring assistance.
3. Method for sending request:
  - a. If an employee is personally served with a lawsuit regarding actions which occurred during the course and scope of employment, the employee shall immediately send the request for representation along with the original documents to the Director of Legal Services by scanning and emailing, facsimile or hand delivery. If the request is sent by facsimile, the original documents shall also be forwarded to Legal Services via mail or hand delivery.
  - b. If an employee receives such a lawsuit in the mail, the employee shall not return any documents or acknowledgements to the court. The lawsuit, all original documents and a completed Request for Representation form (Exhibit 8.03-1) shall be sent no later than the following business day to the Director of Legal Services by registered or overnight mail or by hand delivery.
4. No employee other than the Commissioner, the Director of Legal Services or their designee is authorized to accept service for any other employee, former employee or on behalf of the Department of Public Safety or Georgia State Patrol. In the event that service is attempted on another employee, former employee, Department or GSP, Legal Services should be contacted for guidance.

C. Authority to Request Attorney General's Opinions

1. All requests for opinions or advice from the Department of Law must be requested in writing from the Commissioner, the Director of Legal Services or his or her designee.
2. Any employee requesting an opinion must do so through their chain of command.
3. At the direction of the Commissioner, the Director of Legal Services or his or her designee will put the request in proper legal form and prepare the necessary correspondence for the Commissioner's request to the Attorney General.

D. Criminal Proceedings

1. An employee arrested or indicted for any alleged criminal act, whether on or off duty, shall not be represented by the Department of Law in criminal proceedings. The employee may retain private counsel and in the event the employee is not convicted, a claim may be filed through the Legal Services Section for reimbursement from the Department of Administrative Services, Risk Management Division.
2. In each case where an employee is arrested or indicted, the matter shall be reported to the appointing authority or their designee immediately. In consultation with the employee's chain of command, the Directors of Office of Professional Standards, Legal Services, and Human Resources a review of the incident shall be conducted to determine whether disciplinary or other appropriate action should be taken.

3. Any employee seeking a warrant for the arrest of another Department member shall notify their supervisor prior to seeking the warrant. The supervisor shall then notify the appropriate Division Director and the Director of Legal Services.