



# ROCKFORD POLICE DEPARTMENT

## GENERAL ORDER

**NUMBER:** 10.10

**TITLE:** Civil Lawsuits involving Department Personnel

**SERIES NUMBER:** 10

**SERIES TITLE / SUBJECT:** Organization, Management, and Administration

**TOPICS/ REFERENCE:** Civil Charges against a Police Officer, Notification to the City in Case of a Suit for Damages, Suit for Damages against a Police Officer

**APPENDICIES:** A

**ORIGINAL / EFFECTIVE ISSUE DATE:** April 09, 2013

**DATE OF LAST REVISION:** May 01, 2013

**THIS ORDER REMAINS IN EFFECT UNTIL REVISED OR RECINDED**

**CALEA STANDARDS:** 52.2.2

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### Policy:

It is the policy of the Rockford Police Department that the City of Rockford shall support its employees who have become involved in civil litigation arising from the lawful discharge of their duties. All personnel shall immediately report to the Chief of Police and City Legal Department any lawsuit/civil action filed against them involving injury to or damage of property of another person. The Rockford Police Department shall monitor and respond to officer involved lawsuit/civil actions which may affect the officer's ability to perform their duties, whether such processes arise from on or off-duty conduct.

### Purpose:

The purpose of this General Order is to establish a procedure to be followed when a lawsuit/civil action is filed against department personnel for injuries or damages to/of another person while the officer was performing their duties as a police officer and a lawsuit/civil action which may affect the officer's ability to perform their official duties, whether such processes arise from on or off-duty conduct.

This Order is comprised of the following numbered sections:

- I. Responsibility of the officer as spelled out in (65 ILCS 5/1-4) Illinois Municipal Code.
- II. Procedure to be followed by all officers to satisfy the requirements of the statutes and the requirements of the police department.
- III. Effective Date
- IV. Reviews, Revisions and Cancellations

Appendices:

- A. (65 ILCS 5/1-4) Illinois Municipal Code
- I. Responsibility of the officer as spelled out in (65 ILCS 5/1-4) Illinois Municipal Code:
    - A. "Any police officer, or other person who, at the time of performing such an act complained of was a police officer, who is made a party defendant to any such action shall, within 10 days of service of process upon them, notify the municipality by who he is or was employed of the fact the action has been instituted, and he has been made a party defendant to the same."
    - B. "Such notice shall be in writing and shall be filed in the office of the city attorney or corporation counsel, if there is a city attorney or corporation counsel, and also in the office of the municipal clerk, either by themselves, his agent, or his attorney."
    - C. "This notice shall state in substance, that such police officer, (naming them), has been served with process and made a party defendant to an action wherein it is claimed that a person has suffered injury to his person or property caused by such police officer; stating the title and the number of the case; the court wherein the same is pending; and the date such police officer was served with process in such action and made a party defendant thereto."
  - II. Procedure to be followed by all officers to satisfy the requirements of the statutes and the requirements of the police department:
    - A. Responsibility of the individual officer.(CALEA 52.2.2)
      - 1. The individual officer shall notify the Chief of Police via an Officer's Report and copy the immediate Bureau Chief when served a civil subpoena, civil summons and/or civil lawsuit stemming from the officers official duties as a sworn or non-sworn member of the Rockford Police Department. The Officer's Report shall include who served the summons or subpoena and the circumstances of the officer's involvement in the matter underlying the claim. The individual officer shall also include a copy of the civil subpoena and or lawsuit with Officer's Report.
      - 2. In all cases wherein the officer is a named defendant in the lawsuit, the officer shall refer any contact by an agent or attorney representing the party suing the police officer or municipality to the City Legal Director and make no statement, either oral or written, to anyone except the City Legal Director or the Chief of Police.
      - 3. Do not under any circumstances discuss the case with any news media. Refer all contacts of this nature to the Chief of Police or the City Legal Director.
    - B. Responsibility of the Commander of the Administrative Services Bureau.
      - 1. Notify the City and Department and advise them of the circumstances surrounding the event and make available to them all documentation pertaining to the incident underlying the lawsuit or claim.
  - X. Effective Date:
    - A. The effective date of this Order (10.10 - Civil Lawsuits involving Department Personnel) is, 11/13/2012.

XI. Reviews, Revisions and Cancellations:

- A. This General Order will be reviewed annually by the Commander of the Investigative Services Bureau and, when necessary, revised or cancelled in accordance with the procedures for reviewing written directives established in General Order *10.01 – Written Directives*.
- B. This order does not supercede or cancel any previously issued Department policy or procedure.
- C. Any employee with suggestions for revisions and/or improvements to this order are encouraged to submit their ideas to the Commander of the Investigative Services Bureau.

BY ORDER OF

Chet Epperson

Chief of Police

## APPENDIX A

(65 ILCS 5/Art. 1 Div. 4 heading)

### DIVISION 4. ACTIONS AGAINST AND LIABILITIES OF MUNICIPALITIES

(65 ILCS 5/1-4-5) (from Ch. 24, par. 1-4-5)

Sec. 1-4-5. In case any injury to the person or property of another is caused by a member of the police department of a municipality having a population of 500,000 or over, while the member is engaged in the performance of his or her duties as a police officer, and without the contributory negligence of the injured person or the owner of the injured property, or the agent or servant of the injured person or owner, the municipality in whose behalf the member of the municipal police department is performing his or her duties as a police officer shall indemnify the police officer for any judgment recovered against him or her as the result of such injury, except where the injury results from the wilful misconduct of the police officer. A municipality, which is not otherwise required to indemnify pursuant to this Section, may indemnify a police officer for any judgment recovered against him or her for injuries sustained as a result of the police officer's performance of his duties as a police officer.

For the purposes of this section no civilian defense worker, nor any member of any agency engaged in any civilian defense activity, performing services as a part of any civilian defense program, shall be considered to be a member of a municipal police department.

If any person in obeying the command of any such police officer to assist in arresting or securing an offender is killed or injured or his or her property or that of his or her employer is damaged and such death, injury or damage arises out of and in the course of aiding such police officer in arresting or endeavoring to arrest a person or retaking or endeavoring to retake a person who has escaped from legal custody, the person or employer so injured or whose property is so damaged or the personal representatives of the person so killed shall have a cause of action to recover the amount of such damage or injury against the municipal corporation by which such police officer is employed at the time such command is obeyed.

(Source: P.A. 84-551.)

(65 ILCS 5/1-4-6) (from Ch. 24, par. 1-4-6)

Sec. 1-4-6. In case any injury to the person or property of another is caused by a member of the police department of a municipality having a population of less than 500,000 while the member is engaged in the performance of his or her duties as a police officer, and without the contributory negligence of the injured person or the owner of the injured property, or the agent or servant of the injured person or owner, the municipality in whose behalf the member of the municipal police department is performing his or her duties as police officer shall indemnify the police officer for any judgment recovered against him or her as the result of such injury, except where the injury results from the wilful misconduct of the police officer, to the extent of not to exceed \$1,000,000 including costs of the action. Any police officer, or any person who, at the time of performing such an act complained of, was a police officer, who is made a party defendant to any such action shall, within 10 days of service of process upon him or her, notify the municipality by whom he or she is or

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was employed, of the fact that the action has been instituted, and that he or she has been made a party defendant to the same. Such notice shall be in writing, and shall be filed in the office of the city attorney or corporation counsel, if there is a city attorney or corporation counsel, and also in the office of the municipal clerk, either by himself, his or her agent, or attorney. The notice shall state in substance, that such police officer, (naming him or her), has been served with process and made a party defendant to an action wherein it is claimed that a person has suffered injury to his or her person or property caused by such police officer; stating the title and number of the case; the court wherein the same is pending; and the date such police officer was served with process in such action, and made a party defendant thereto. The municipality which is or may be liable to indemnify the police officer shall have the right to intervene in the suit against the police officer, and shall be permitted to appear and defend. The duty of the city to indemnify any such policeman for any judgment recovered against him shall be conditioned upon receiving notice of the filing of any such action in the manner and form hereinabove described.

For the purposes of this Section, no civilian defense worker, nor any member of any agency engaged in any civilian defense activity, performing services as a part of any civilian defense program, shall be considered to be a member of a municipal police department.

If any person in obeying the command of any such policeman to assist in arresting or securing an offender is killed or injured, or his or her property or that of his or her employer is damaged, and such death, injury or damage arises out of and in the course of aiding such policeman in arresting, or endeavoring to arrest, a person or retaking or endeavoring to re-take a person who has escaped from legal custody, the person or employer so injured, or whose property is so damaged, or the personal representatives of the person so killed, shall have a cause of action to recover the amount of such damage or injury against the municipal corporation by which such police officer is employed at the time such command is obeyed.

If a police officer is acting within a municipality other than his or her employing municipality under an agreement pursuant to Section 11-1-2.1, the liability or obligation to indemnify imposed by this Section does not extend to both municipalities. Only that municipality designated by the agreement is subject to such liability or obligation to indemnify, but, if the agreement is silent as to such liability or obligation, then the municipality by which the police officer is employed is subject to such liability or obligation.

If a police officer is acting within a municipality other than his or her employing municipality under the provisions of Section 1-4-8, the liability or obligation to indemnify imposed by this Section shall be the liability or obligation of the requesting municipality only. The notice required in this Section 1-4-6 shall be given to the municipality in which he was acting if other than his employing municipality.  
(Source: P.A. 92-810, eff. 8-21-02.)

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(65 ILCS 5/1-4-7) (from Ch. 24, par. 1-4-7)

Sec. 1-4-7. The municipality shall be liable for any injury occasioned by actionable wrong to property by the removal, destruction or vacation, in whole or in part, of any unsafe or unsanitary building, by any municipal officer, board or employee charged with authority to order or execute such removal, destruction or vacation, if such removal, destruction or vacation is pursuant to valid statutes, ordinances or regulations, and if such officer, board or employee has acted in good faith, with reasonable care and probable cause. (Source: Laws 1961, par. 576.)

(65 ILCS 5/1-4-8) (from Ch. 24, par. 1-4-8)

Sec. 1-4-8. In addition to the powers of the police of any municipality under Section 7-4-8 of this Act, the corporate authorities of any municipality under 500,000 population may request of any other such municipality or municipalities its police and police department equipment, and any such requested municipality may furnish its policemen and police department equipment, to aid the requesting municipality in suppressing or attempting to suppress, any mob action, riot or civil disturbance occurring within the requesting municipality, to preserve the peace, and to protect the lives, rights and property of citizens, regardless of whether any mutual assistance agreement exists under Section 11-1-2.1 of this Act.

Any municipality requesting and receiving such assistance from another jurisdiction shall be liable or obligated to indemnify the furnishing police department for any of its equipment damaged or destroyed, and the individual policemen so furnished for any material damage to property, injury to his person or on account of his death, resulting from the unlawful activities performed or caused by the mob action, riot or civil disturbance, being or attempted to be suppressed by the requesting municipality.

Municipalities requesting police assistance under this Section shall also be liable for any liability or obligation to indemnify the furnished policeman, their legal representatives in case of death, or the furnishing municipality or police department, as the case may be, for any liability or obligation to indemnify created by Section 1-4-5 and 1-4-6 which may occur as a result of any police assistance furnished under this Section.

Policemen furnished to other municipalities under this Section have all the powers of the police officers of the requesting municipality and are subject to the direction of the chief of police of the requesting municipality; however, they shall retain all their pension and disability rights while so furnished and working outside of their police district or territory.

The corporate authorities of any municipality included in this Section may contract to procure necessary liability insurance to cover any liability created or imposed by this Section.

(Source: Laws 1968, p. 26.)

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(65 ILCS 5/Art. 1 Div. 4 heading)

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(65 ILCS 5/1-4-5) (from Ch. 24, par. 1-4-5)

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For the purposes of this section no civilian defense worker, nor any member of any agency engaged in any civilian defense activity, performing services as a part of any civilian defense program, shall be considered to be a member of a municipal police department.

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(Source: P.A. 84-551.)

(65 ILCS 5/1-4-6) (from Ch. 24, par. 1-4-6)

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him or her, notify the municipality by whom he or she is or was employed, of the fact that the action has been instituted, and that he or she has been made a party defendant to the same. Such notice shall be in writing, and shall be filed in the office of the city attorney or corporation counsel, if there is a city attorney or corporation counsel, and also in the office of the municipal clerk, either by himself, his or her agent, or attorney. The notice shall state in substance, that such police officer, (naming him or her), has been served with process and made a party defendant to an action wherein it is claimed that a person has suffered injury to his or her person or property caused by such police officer; stating the title and number of the case; the court wherein the same is pending; and the date such police officer was served with process in such action, and made a party defendant thereto. The municipality which is or may be liable to indemnify the police officer shall have the right to intervene in the suit against the police officer, and shall be permitted to appear and defend. The duty of the city to indemnify any such policeman for any judgment recovered against him shall be conditioned upon receiving notice of the filing of any such action in the manner and form hereinabove described.

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If a police officer is acting within a municipality other than his or her employing municipality under an agreement pursuant to Section 11-1-2.1, the liability or obligation to indemnify imposed by this Section does not extend to both municipalities. Only that municipality designated by the agreement is subject to such liability or obligation to indemnify, but, if the agreement is silent as to such liability or obligation, then the municipality by which the police officer is employed is subject to such liability or obligation.

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The corporate authorities of any municipality included in this Section may contract to procure necessary liability insurance to cover any liability created or imposed by this Section.

(Source: Laws 1968, p. 26.)