

# DALTON POLICE DEPARTMENT

	<i>Effective Date</i> <b>February 24, 2004</b>	<i>Number</i> <b>GO03-2.13</b>
<i>Subject</i> <b>Civil Litigation</b>		
<i>Reference</i> <b>CALEA Standards – 11.3.3, 11.3.4</b>		<i>Revised</i> <b>July <del>23, 2019</del> 27, 2021</b>
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I. **Policy**

It is the policy of the Dalton Police Department to take proactive measures to limit the causes and impact of civil litigation filed against its Officers, Supervisors, and administration.

II. **Definitions**

- A. *Civil Law* – The law of civil or private rights, sometimes called a *tort law*. In the case of civil lawsuits brought against Officers or Administrators, plaintiffs may ask the court to:
  - 1. Award money damages to be paid by the Officer, Administrators, or City
  - 2. Force the Department to make changes in the way it operates by granting an injunction or entering into a consent decree (agreement to change)
- B. *Discovery* – The judicial process for compelling production of written records or other evidence for use in civil litigation.
- C. *In-camera Inspection* – Judicial inspection of allegedly privileged information to determine whether the need to present such information, as part of the essential proof of the case, outweighs the interest in maintaining its confidentiality.
- D. *Plaintiff* – A person or persons who brings a civil case. A plaintiff may be an inmate, detainee, citizen, a group of citizens, or another governmental body.

III. **Procedures**

A. General Guidelines

The distractions caused by civil litigation will be are often minimized through the triad of personnel training, supervision, and adherence to policy and procedures. Supporting this triad is the requirement to reasonably and articulately document our decisions and actions.

B. High-Risk Incidents

1. Any employee that becomes aware of an incident in which there may be a question as to the Agency's Department's liability or the potential for heightened community interest shall immediately notify the Chief of Police or his / her designee through his / her chain of command.
2. The following are some of the operational areas frequently involved in litigation against law enforcement agencies. Officers should be thoroughly familiar with, and use particular care to follow, Agency Department policies and procedures guiding these operational areas:
  - a.1. Use of force in response to resistance
  - b.2. Firearms and less-lethal weapons
  - c.3. Vehicular pursuits
  - d.4. Patrol driving and response
  - e.5. Domestic violence
  - f.6. Investigatory stops and arrest procedures
  - g.7. Searches
  - h.8. Motor vehicle stops and searches
  - i.9. Release or distribution of duty-related confidential information
  - j.10. Workplace harassment
  - k.11. Transportation of prisoners
  - l.12. Secondary employment and off-duty powers

C. Response to High-Risk Incidents

1. When responding to or on the scene of a high-risk incident, Officers shall:
  - a.1. Secure the scene and all evidence.
  - b.2. Record the names and addresses of all witnesses on the scene.
  - c.3. Obtain statements at the scene from all relevant sources.
  - d.4. Note all necessary information regarding the incident.
  - e.5. Request a Supervisor be dispatched to the scene if dictated by policy and procedure or if the Officer believes it is necessary to:

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- (1)~~a.~~ Conduct an independent review of all relevant information prior to release of the scene.
- (2)~~b.~~ Review a search or arrest which may have been handled improperly.

2.~~6.~~ The Supervisor ~~will~~ shall request ~~an~~ the Crime Scene Investigator or other designated personnel to process crime scenes according to Departmental procedure.

3.~~7.~~ The documentation of critical information shall include:

- a. Whether medical treatment was needed, requested, or received.
- b. Observations regarding all suspects' general mental and physical health and presence of any specific health problems requiring special treatment.
- c. Photographs of suspects and victims, to include any specific injuries.

#### D. Post-Incident Procedures

- 1. All Officers involved in high-risk incidents ~~will~~ shall fully document the incident to their Supervisor before concluding their shift. Supervisors ~~will~~ shall review the reports, obtain necessary supplemental information, and forward reports to the Records ~~Unit~~ Section, as soon as practical.
- 2. Officers working or involved in the case must understand and adhere to the following:
  - a.~~4.~~ An internal investigation does not necessarily imply misconduct.
  - b.~~2.~~ Officers are not to discuss incidents with members of the news media, and shall follow procedures outlined in policy GO88-2.8, News Media / Public Information. ~~This is to be referred to the Public Relations Specialist or Chief of Police or his / her designee.~~ Officers are not to discuss incidents with attorneys not associated with the Department or representing the Officer, unless approved by the Chief of Police or his / her designee or a court order.

#### E. Responsibilities of the Professional Standards Unit

With the aid of the Department's legal counsel, the Professional Standards Unit ~~will~~ shall coordinate all responses to pending or potential litigation against the Department. The assigned litigation coordinator ~~will~~ shall:

- 1. Notify all divisions and involved personnel to activate a litigation hold on all records, documents, and evidence related to the incident.
- 2. Develop litigation files for each case that include:

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- a. Copies of relevant Departmental written directives pertaining to the incident
  - b. Copies of relevant radio communications, computer records, or telephone records
  - c. Relevant photographs pertaining to the incident
  - d. Copies of the disciplinary and training records of all involved personnel
  - e. Criminal dockets, where applicable, from any criminal case arising from the incident
3. Establish a quality assurance process to confirm that:
- a. Documents are routed to appropriate parties for resolution
  - b. Documents are processed and completed by due dates
  - c. Records are kept detailing information released in each case and the purpose for its release
  - d. Policies and procedures are protected from release, in accordance with the Georgia Open Records Act
4. Conduct audits and semi-annual reviews of Departmental litigation to determine if a need for policy and procedure revisions or training exists
5. Disseminate updated written directives resulting from new case law, statutes, or needs analysis to **Agency all** personnel
6. Update employees involved in civil litigation regarding meaningful developments in and status of the cases, especially cases that have been concluded or settled
- F. Responsibilities of Employees

Employees named as parties to civil actions for acts or omissions allegedly arising out of their scope of authority or official duties ~~will~~ **shall**:

1. Immediately notify their immediate Supervisor and the Professional Standards Unit
2. Request representation from the Department's legal counsel or secure representation from a private attorney at his / her own expense, if desired
3. Maintain accurate and detailed reports

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4. Avoid making public statements concerning the litigation without prior approval of the Chief of Police or his / her designee

G. Response to Subpoenas and Discovery Requests

Employees ~~of the Dalton Police Department will~~ shall follow these guidelines regarding subpoenas in matters arising out of their official capacity:

1. When receiving a subpoena to testify, provide deposition, or produce documents, employees ~~will~~ shall immediately notify their immediate Supervisor, the Professional Standards Unit, and the Department's legal counsel. A copy of the subpoena ~~will~~ shall be provided with the notice.
2. All discovery requests or subpoenas for Department records, reports, or Officer notes ~~will~~ shall be acted upon, as directed by the Department's legal counsel and state law.
3. The following information may be released to a judge for in-camera inspection with regard to discovery requests:
  - a. Policy and procedure sections governing the alleged misconduct
  - b. Personnel records
  - c. Citizen complaints
  - d. Internal investigation files related to the incident
  - e. Responses to requests for past internal investigations into alleged misconduct of Officers
  - f. Responses to requests for internal investigations into alleged misconduct or misconduct similar to that being litigated
4. Privileged material generally not subject to discovery includes:
  - a. Names of confidential informants or citizens who wish to remain anonymous
  - b. Records of on-going internal investigations that would be jeopardized by disclosure
  - c. Investigative files relating to ongoing criminal investigations
  - d. Communications subject to any legal privilege

H. Response to Media

The ~~Public Relations Specialist or~~ Chief of Police or his / her designee ~~are the individuals~~ is responsible for authorizing or coordinating all statements pertaining to any incident or litigation involving the Department. The ~~Public Relations~~

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~~Specialist or~~ Chief of Police or his / her designee ~~will~~ shall work with legal counsel to present fair and accurate media statements pertaining to testimony, legal issues, or other concerns arising from litigation or any other incident involving the Department. Employees asked to comment or talk with representatives of the news media ~~will~~ shall, prior to such a meeting or discussion, secure permission from the Chief of Police.

I. Liability Protection

Employee liability protection is provided by the City of Dalton to the extent of, and subject to, the terms and conditions of the insurance policies of the City of Dalton.

*This policy supersedes any previous policies issued.*

**BY ORDER OF**

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**CHIEF OF POLICE**

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