

	<b>STANDARD OPERATING PROCEDURE</b> State Form 39870 (R/S-06)	Reference Number <b>LEG-003</b>
	Subject <b>Civil Liability and Legal Actions Involving Employees</b>	
	Special Instructions Replaces LEG-005 dated May 31, 2018	Effective Date <b>April 4, 2024</b>

**I. PURPOSE**

Establishes guidelines for Department employees to report and request assistance in matters that could result in Department or individual civil liability.

**II. POLICY**

All incidents of potential civil liability shall be reported to the Legal Office as soon as possible. The Chief Counsel, or designee, shall be notified of serious incidents as outlined below. Employees who, as a result of acts performed within the scope of their duties, are sued for civil damages or charged with crimes, shall report such fact immediately to the Legal Office. Employees shall immediately report in writing to the Legal Office when they are the subject of litigation as outlined below.

**III. PROCEDURE**

A. In general, civil suits against employees may allege damages under state tort law or deprivation of rights under federal law.

1. Under the Tort Claims Immunity Act, IC 34-13-3 et. seq., an employee’s personal liability is usually limited to intentional torts. Intentional torts include, but are not limited to:

- a. Battery, e.g., wrongful physical contact;
- b. False arrest;
- c. False imprisonment;
- d. Assault, e.g., threat to inflict injury;
- e. Trespass, e.g., damage to property; and
- f. Conversion, e.g., impounding vehicles improperly.

2. A federal civil action for deprivation of Constitutional rights may be brought under Section 1983 of Title 42 of the United States Code. Furthermore, violation of Title 18, Section 242 of the United States Code by an employee may result in criminal liability when an act:

- a. Was committed under “color of law” as in a police officer acting under legal authority; and
- b. The act willfully subjects a person to deprivation of any Constitutional right.

B. Employees who are charged with crimes or who, as a result of acts performed within the scope of their duties, are sued for civil damages, shall report such fact immediately to their Zone Legal Liaison/Counsel.

C. Employees shall report in writing to their Zone Legal Liaison/Counsel when they are the subject of other civil matters when:

- 1. There is any allegation of criminal conduct on the part of the employee;
- 2. The employee is subject to a protective or no contact order; or
- 3. The employee initiates or is served with a civil action, other than domestic relations filings.

D. The Legal Office has a responsibility to limit civil liability against the Department and may investigate situations, if warranted, that may lead to legal action.

E. The Operations Center shall immediately notify the Zone Legal Liaison/Counsel of any:

1. Action involving the Department in which deadly force was used;
2. Vehicle crash involving any Department vehicle that resulted in serious injury or death; and
3. Action or incident which, from the very nature, suggested the likelihood of serious legal consequences to the officers involved.

F. The Legal Office will review, evaluate and determine the appropriate response to each incident.

G. Any employee who is served with any pleading or who receives a subpoena for deposition or production of evidence in matters relating to potential Department or individual liability, or employee being called as a character witness shall:

1. Contact and obtain authorization from the Legal Office before complying with any such subpoena; and
2. Forward a copy of any pleading or subpoena and corresponding case report, if applicable, to the Legal Office. The employee shall indicate the date and time received.

H. To avoid accusations of partiality by the Department, employees shall not offer testimony (formal or informal) or appear as witnesses in civil actions as representatives of the Department, except in response to valid process issued by the court (subpoena).

I. The Superintendent may approve compliance with subpoenas from other states.

J. The Department shall be compensated in the amount of the witness fee set by the court of jurisdiction. Any compensation related to complying with legal process shall be made payable to the Indiana State Police and submitted to the Fiscal Division for deposit.

K. This procedure is to be used in conjunction with all relevant Department regulations, rules, policies and procedures.