



Office of the Director, Fiscal and Human Resources
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Asa Hutchinson
Governor

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PERSONNEL

ADVAP 2-28

October 16, 2015

HANDLING SERVICE OF PROCESS

1. General: "Service of Process" can be a "Summons" that initiates a lawsuit, a "Subpoena" that demands the agency to turn over its records, and/or that personal testimony be given by an employee, or that a personal appearance in court be made by an employee, or other legal documents issued by the court.

An attorney licensed to practice in Arkansas, who is listed as the counsel of record, may also issue such documents.

In Arkansas, a civil action commences with the filing of a complaint with the clerk of the court. The party who commences the action is called the "Plaintiff" and the opposing party is called the "Defendant." Upon the filing of the complaint, the court clerk shall forthwith issue a summons and cause it to be delivered for service to a person authorized to serve process.

Service of process shall be made by:

- (1) A sheriff of the county where the service is to be made, or his/her deputy, unless the sheriff is a party to the action;
- (2) Any person appointed pursuant to Arkansas Judiciary Administrative Order No. 20 for the purpose of serving summons by either the court in which the action is filed or a court in the county in which service is to be made;
- (3) Any person authorized to serve process under the law of the place outside this state where service is made; or
- (4) In the event of service by mail or commercial delivery company, pursuant to subdivision (d)(8) of Arkansas Judiciary Rule 45, by the plaintiff or an attorney of record for the plaintiff.

2. Scope: This policy applies to all employees of the Arkansas Department of Veterans Affairs (ADVA), and especially to all supervisors whose duties may entail legal issues for which the agency's documents or an employee's testimony may be sought in a legal proceeding.

3. Definitions:

- a. "Service of Process" refers to a document used to notify a person or entity about a legal proceeding. Such documents are usually delivered in person by a "Process Server" but in certain circumstances may arrive by mail.
- b. "Process Server" refers to a person authorized by the court to serve a legal document to the person or entity named in the document.
- c. "Summons and Complaint" refers to a legal document that initiates a lawsuit.
- d. "Subpoena" refers to a legal document that demands a person or an entity to provide records, information or testimony, or to appear in court to give testimony.

4. References:

- a. Arkansas Judiciary Rules of Civil Procedure, published online at: <https://courts.arkansas.gov/rules-and-administrative-orders/rules-of-civil-procedure>
- b. Arkansas Judiciary Rule 45, *Subpoena*, published online at: <https://courts.arkansas.gov/rules-and-administrative-orders/court-rules/rule-45-subpoena>

5. Responsibilities:

- a. The Director shall:
 - 1) Designate a "Service of Process Representative" for the agency, who is authorized to receive service of process on behalf of ADVA.

The Director hereby designates and authorizes the following staff to serve as the agency's "Service of Process Representative":

Executive Assistant to the Director
Arkansas Department of Veterans Affairs
501 Woodlane Drive, Suite 230C
Little Rock, AR 72201
Phone: (501) 683-1787
Fax: (501) 682-4833

The Director hereby designates and authorizes the following staff to serve as the agency's backup when the "Service of Process Representative" is unavailable or absent:

Chief Fiscal Officer
Arkansas Department of Veterans Affairs
501 Woodlane Drive, Suite 230C
Little Rock, AR 72201
Phone: (501) 683-1643
Fax: (501) 682-4833

- b. All supervisors shall:
 - 1) Ensure that his/her supervised employees have knowledge of this policy and procedure.
 - 2) Ensure that his/her supervised employees have knowledge of the requirement to keep their supervisor informed of any occurrence that might be covered by this policy and procedure.
- c. All employees shall:
 - 1) If an employee is approached by a process server or other individual attempting to serve process, the employee shall inform the process server or other individual serving process that the "Service of Process Representative" is the authorized representative to receive service of process on behalf of the agency, unless the document to be served is addressed to a specific employee by name, then see (i) on page 4, or (5) "Exclusions" on page 5.
 - 2) The employee shall provide the process server or other individual serving process with the contact information for the "Service of Process Representative."
 - 3) The employee shall immediately inform his/her supervisor of taking said action.
- d. Upon being served process, the "Service of Process Representative" shall immediately deliver the original "Summons," "Subpoena," or other legal document to the Director, or in the Director's absence to the Deputy Director.
- e. If the Director and the Deputy Director are both out of the office, the "Service of Process Representative" shall immediately contact the Director or the Deputy Director via cell phone to advise him of having been served process on behalf of the agency.

- f. The "Service of Process Representative" shall ensure that the document is immediately faxed or scanned and emailed to the agency's legal counsel in the Attorney General's office.
- g. The Director, or Deputy Director, shall immediately review the document to determine the nature of the legal action and the imposed deadline for compliance.
- h. The "Service of Process Representative" will be the liaison with the Attorney General's office, and will notify the Director/Deputy Director if the deadline for compliance is approaching, according to the following notification timetable:

Deadline Notification Timetable	Action To Be Taken By Service of Process Representative
Ten (10) working days prior to the deadline	Send a written reminder via email to the AG legal counsel, the Director/Deputy Director, and other named employee, if any.
Five (5) working days prior to the deadline	Send a written reminder via email to the AG legal counsel, the Director/Deputy Director, and other named employee, if any.
Three (3) working days prior to the deadline	Call and remind the AG legal counsel, the Director/Deputy Director, and other named employee, if any.
One (1) working day prior to the deadline	Call and remind the AG legal counsel, the Director/Deputy Director, and other named employee, if any.

- i. If the subpoena is addressed to a specific employee but involves agency business, the "Service of Process Representative" will coordinate with the named employee, and will remind him/her if the deadline for compliance is approaching according to the "Deadline Notification Timetable" shown in (h) above.
- j. Upon advice of the agency's legal counsel, in the case of an employee, former employee, applicant for employment, or other individual with whom the agency has interacted and for which it maintains records, the Director shall notify the appropriate supervisor to take the necessary action to ensure that a reasonable attempt is made to notify, in writing, the individual about whom the agency's records or information is being sought.

- k. Upon advice of the agency's legal counsel, in the case of a resident or former resident at the Arkansas Veterans Home, the Director shall notify the appropriate supervisor to take the necessary action to send a notice about the subpoena to the resident or former resident, or the resident's or former resident's legal guardian, about whom the agency's records or information is being sought.
 - l. Upon advice of the agency's legal counsel, the Director shall notify the appropriate supervisor to take the necessary action to locate and copy, or provide for inspection, the agency's records that appear to be responsive to the subpoena. Such effort will involve working with all offices and employees likely to have any records responsive to the subpoena, whether those records are maintained in the agency's active files, stored records, or electronically maintained records.
 - m. The Director's Executive Assistant will ensure that a copy of the subpoena, the documents provided in response to the subpoena, and any other materials related to the subpoena are maintained in the Director's files.
- 5. Exclusions: This policy does not apply if the person contacted to accept the service of process is the same person named in the legal document to be served, and if the service of process is of a personal nature and not relevant to the agency.
 - 6. Supersession: None.
 - 7. Forms prescribed: None.

By:

Matt Snead
Director

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