



Commonwealth of Pennsylvania
GOVERNOR'S OFFICE

MANAGEMENT DIRECTIVE

205.6 Amended
Number

Subject:

Defense of Suits Against Commonwealth Employees

By Direction of:

Murray G. Dickman, Secretary of Administration

Date:

September 30, 1986

Procedures for the reporting of prosecutions and civil suits against Commonwealth officials and employes and for determining in which cases the Commonwealth will provide attorneys to defend them, or pay attorneys' fees, are contained herein.

1. **SCOPE.** Includes all criminal prosecutions and civil suits arising out of employment with the Commonwealth.

2. **POLICY.** Title 4 Pa. Code §§39.1- 39.4 and Management Directive 630.2.

3. **PROCEDURES.**

a. **Criminal Cases.** Officials and employes who are defendants in criminal cases will, in all cases, be required to engage their own attorneys. To obtain reimbursement for attorneys' fees or to be advanced fees in the circumstances specified in 4 Pa. Code §39.1, an employe must report immediately to his or her agency that he or she has been charged with a crime. The agency, upon receipt of such notification, must report to the General Counsel all of the circumstances known to the agency concerning the prosecution.

- Based upon such information and any independent investigation he may direct, the General Counsel will decide whether or not and in what amounts reimbursement or advancement of attorneys' fees are warranted.

b. **Civil Cases Involving Vehicles of the Automotive Fleet.** Civil suits arising from accidents occurring while a person is operating a Commonwealth-owned motor vehicle or a mili-

tary vehicle on loan to the Commonwealth will, in most cases, be covered by the Commonwealth's Automobile Liability Self-Insurance Program (ALSIP) and consequently defended by Commonwealth attorneys. Any such suit must be reported immediately to an employe's agency and the agency, in turn, must report it to the Bureau of Risk and Insurance Management, Department of General Services.

c. **Civil Cases Covered Under the Employes Liability Self Insurance Program (ELSIP).** Pursuant to Management Directive 630.2, persons involved in claims or potential claims covered by ELSIP must report immediately to their agencies that claims have or may be made against them. Agencies, upon notification of a claim, must prepare Form STD-430, Liability Accident Report, and forward it immediately to the Bureau of Risk and Insurance Management, Department of General Services. Documents related to civil suits should be hand-carried or sent by certified mail with a return receipt requested. Since time limits for responsive pleadings begin when complaints are served, complaints should be forwarded without delay.

- d. All Other Civil Cases.** A suit not involving Commonwealth vehicles and not covered or only partially covered by ELSIP must be reported immediately to an employe's agency and the agency, in turn, must report it immediately to the General Counsel. The
- report must include all of the circumstances known to the agency concerning the case.
 - The General Counsel will decide whether, under the guidelines of 4 Pa. Code §39.3, the Commonwealth will provide an attorney, who the attorney will be, or whether, if proper, the Commonwealth will reimburse the employe
 - for reasonable attorneys' fees. The General
 - Counsel's decision as to the reasonableness of attorneys' fees shall be final.

e. Personal Attorney. An employe always has a right to engage his or her own attorney. However, in many cases an employe is not entitled to be reimbursed by the Commonwealth for an attorney's fees. 4 Pa. Code §§39.1– 39.4 should be examined carefully to determine when reimbursement is permitted.

- f. Payment of Fees and Judgments.** Except in civil cases involving vehicles of the automotive fleet or civil cases covered under ELSIP, paragraphs 3b and 3c above, the payment of any attorneys' fees determined by the
- General Counsel to be reasonable and warranted or judgments hereunder shall be made by the agency of the employe involved.

This amended version replaces in its entirety Management Directive 205.6 dated January 25, 1983.