

## Washington and Lee University

### PROTOCOL ON RECEIPT OF OFFICIAL LEGAL DOCUMENTS, SITE VISITS AND OTHER CONTACTS FROM INVESTIGATORY OR REGULATORY AUTHORITIES AND ATTORNEYS

#### *Background and Purpose*

From time to time, University personnel, including student workers, receive official legal documents notifying the University of the commencement of a lawsuit or agency proceeding, requiring that the University produce copies of records related to court or agency proceedings, or requiring the University to take other action. These documents may take various forms, including summonses, subpoenas, search warrants, other court orders, and other notices from official personnel/entities (federal, state, or local.)

These legal documents are sometimes addressed to the University itself - - "Washington and Lee University" or "The Board of Trustees of Washington and Lee University" - - or to a particular office/school or named official of the College: for example, "The Washington and Lee University School of Law," "Business Office, Washington and Lee University," or "Scott Dittman, Registrar, Washington and Lee University." In some cases, these types of notices are received by mail; in other instances, they may be hand-delivered by a "process server" (a law enforcement official, such as an FBI agent or deputy sheriff, or a private process server.)

It is important for all University personnel, including student workers, to be aware of the appropriate course of action to take if approached by law enforcement officials with official legal documents or if personnel receive such documents by mail. It is especially important for personnel who work in University libraries, Information Technology Services, University Registrar, Law Records, Human Resources, the Business Office, the Mail Room, and any other office that maintains employee or student records, to be aware of this protocol, as these offices are the most likely to receive search warrants or subpoenas. By following this protocol, personnel will facilitate prompt review of such documents by the Office of General Counsel and Director of Public Safety, who will assist in determining the validity of the document and the appropriate response on behalf of the University.

It is also important for all University personnel, including student workers, to be aware of the appropriate course of action to take if visited or contacted by

government regulatory or investigative agencies on routine background checks, or other, non-routine matters, or if contacted by attorneys or investigators representing government authorities or parties involved in litigation with the University. By following this protocol, personnel will facilitate prompt review of the situation by the Office of General Counsel and Director of Public Safety, who will assist in determining whether the contact/site visit is authorized and legally permissible, and the appropriate response on behalf of the University.

General Counsel may be contacted at extension 8940/8941, Washington Hall, W-32. The Director of Public Safety may be contacted at extension 8999/8427, Elrod Commons, Room 254.

### ***Acceptance of Hand-Delivered Summonses, Subpoenas, Search Warrants and Other Court Orders***

You should not accept a hand-delivered summons, subpoena, search warrant, or other court order that is addressed to another individual or department, unless that individual or department has specifically authorized you to accept it. If you do not have specific authority to accept service of such a document addressed to another individual or department, tell the process server that you do not have authority to accept service of the document, and that the process server should take the document to the individual or department to whom it is addressed or to the Office of General Counsel, so that the General Counsel's Office can determine whether the document can be accepted by the University. You should notify the Office of General Counsel or Director of Public Safety immediately of the attempted service of process.

You should insist that law enforcement officials serving summonses, subpoenas, search warrants, or other court orders present official identification, including a photograph.

### ***Responding to a Search Warrant***

If a legitimate law enforcement official presents a search warrant addressed to you or your department, do not interfere with the search or seizure. Call your department head or supervisor and the Office of General Counsel or the Director of Public Safety immediately and provide the General Counsel's Office a copy of the search warrant the same day, with the date and time served noted on the warrant. Prepare and maintain an inventory of any records provided pursuant to the search warrant.

### ***Response to All Other Official Legal Documents***

For all other hand-delivered or mailed official legal documents, including summonses, subpoenas, and other court orders, contact your department head or supervisor and the Office of General Counsel or the Director of Public Safety immediately and provide a copy of the document to the General Counsel's Office the same day. You should note on the document the date, time and method (hand-delivered or mail) by which you received the document. *You should not* take any action in response to a summons, subpoena or other official legal document involving University business until the Office of General Counsel has confirmed the validity of the document and the appropriate response on behalf of the University. For instance, the General Counsel's Office may determine that the scope of the records requested in a subpoena is overly broad and that the University should object to the subpoena. Once the Office of General Counsel has determined the appropriate response to the document, prepare an inventory of any records provided pursuant to the document.

#### ***Routine Background Checks***

If you are approached by an FBI agent or other official conducting a routine background check, you should first verify the person's I.D. You should examine a copy of the release signed by the student or former employee that authorizes the background check, and keep a copy of the release in your files. You should not give a copy of the student's or former employee's files to the requestor *unless* the release specifically authorizes release of records – if in doubt, contact the Office of General Counsel.

*Note to Faculty Members: you may follow the above process for background checks, or, if you are unsure or uncomfortable, simply direct the requestor to the University Registrar, the Vice President of Student Affairs and Dean of Students, or the Associate Dean of the Law School (as appropriate).*

#### ***Call-In Requests for Background Checks***

In the case of a caller requesting information about a student or former employee, begin by requiring the individual to fax you a signed copy of the release. You should also take reasonable steps to verify the caller's identity (e.g. ask for his/her extension and call a publicly-available switchboard for the agency where the caller claims to work).

#### ***Notice of Contacts by Government Regulatory/Investigative Personnel and Outside Attorneys or Investigators***

If you are contacted on a non-routine matter by a government attorney, a representative of a government agency (federal, state, or local), or an attorney or investigator for any party to a lawsuit or other legal proceeding involving

University business, you should refer them to the Office of General Counsel and notify the General Counsel's Office or the Director of Public Safety of the contact immediately.

***Confidentiality***

Personnel, including student workers, should not communicate the fact of service of official legal documents, contacts by government personnel or private attorneys, or the details regarding any response to such circumstances, to anyone without a legitimate need to know in accordance with this University policy. Inappropriate disclosures of certain official legal documents or contacts to individuals without a legitimate need to know may in fact be illegal.

Effective: March 2006

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