

**CITY OF HIALEAH
CITY ATTORNEY'S OFFICE**

MEMORANDUM

TO: Mayor Carlos Hernandez and
Department/Division Heads

FROM: Lorena E. Bravo, City Attorney

DATE: April 23, 2020

RE: **COVID19 Amended procedures for acceptance of service of process**

This memorandum amends the memorandum dated April 25, 2018 on the City's standard procedures on acceptance of service of process. As a result of the global health pandemic caused by the novel Coronavirus COVID-19 declared by the state, county and the city at the beginning of March 2020, and as a result of the City's closure of non-essential departments and services to the public as of March 30, 2020, the city's standard procedures on the acceptance of service of process need to be amended to reflect the restrictions on person to person contact imposed by the several state, county and city emergency orders. This memorandum shall be posted on the city's website and the exterior door of the lobby at City Hall in a conspicuous manner for the information of all persons attempting service on the City or its officers or employees in their official capacity. These procedures shall be in place until further notice.

As with the April 25, 2018 memorandum, this memorandum discusses the procedure to be followed in accepting service of process on behalf of the City or an employee when named in their official capacity. A copy of the April 25, 2018 memorandum is attached to be used as a guide in understanding the general legal concepts of service of process.

I. Service of process of the initial complaint, petition or other civil action and subpoenas for deposition or trial on the Mayor, as the executive head, on behalf of the City and in his official capacity

The Mayor has authorized the City Attorney to accept service on his behalf when the Mayor is sued in his official capacity and as the executive head of the City, when the City is the named defendant. City Hall is closed to the public. Notwithstanding, the officer on duty in the lobby, following the emergency personal safety procedures implemented by order of the Chief of Police, shall call the City Attorney's Office at (305) 883-5926 if a process server appears in person to attempt service on the Mayor. If no one is available in person at the City Attorney's Office, the process service shall contact the City Attorney's Office at a later time to coordinate acceptance of process.

II. Service of process of initial complaint, petition or other civil action and subpoenas for deposition or trial on employees in their official capacity, employee regularly stationed at City Hall

Attempts on service for any other employee, who is regularly stationed at City Hall, in the employee's official capacity shall be handled in the same manner, by contacting the Office of the City Attorney at (305) 883-5926 to coordinate acceptance of service.

a. Service of process of initial complaint, petition or other civil action and subpoenas for deposition or trial on law enforcement officers

The Court Liaison Office can accept service of process on behalf of a law enforcement officer of the initial complaint, petition or other civil action if the law enforcement officer is being sued in his/her official capacity. If a sworn law enforcement officer is being subpoenaed in his/her official capacity, the Court Liaison Office can accept service on the officer's behalf as well. The Court Liaison Office must stamp the complaint or subpoena served with the date and time when received. Then, the complaint or subpoena must be given to the law enforcement officer and a copy to the Office of the City Attorney as expeditiously as possible. Delivery of the subpoena to the Office of the City Attorney should be on the same day by email. The original should be kept to add to the City Attorney's file when social distancing has been lifted. If delivery on the same day is not feasible, then an email should be sent no later than the next working day.

b. Service of process of initial complaint, petition or other civil action and subpoenas for deposition or trial on all other employees

For the safety of all our employees, attempts on service of process of the initial complaint, petition or other civil action against any other employee in the employee's official capacity, who is not regularly stationed at City Hall or a law enforcement officer, such as an employee of the fire department, public works, libraries, streets, fleet or any other department housed at another government building or complex other than City Hall or the Police Department, shall be made by mail pursuant to State Rule of Civil Procedure 1.070(i) or by requesting a waiver of service of process pursuant to Federal Rule of Civil Procedure 4(d) addressed to the employee in care of the City Attorney. For the service of subpoenas for deposition or trial on all other employees, the process server must call the City Attorney to coordinate service.

c. Service of process of subpoenas for records of any department (except Police Department)

These subpoenas will generally be address to the records custodian of a specific department or to the City Clerk as Official Custodian of Records for the City. Process servers attempting to serve a subpoena for records with or without testimony or to a records custodian should be directed to City Hall where the officer on duty will contact the Office of the City Clerk at (305) 883-5820. The Office of the City Clerk will coordinate acceptance and respond to these subpoenas.

d. Service of process of subpoenas for records of the Police Department

These subpoenas will continue to be accepted by Francisco Corrales at the main station. The process server should be directed to serve Francisco Corrales at 5555 East 8 Avenue. Francisco can be reached through the Department's non-emergency number (305) 687-2500.

e. Service of process of witness subpoena in criminal cases only

Florida Statutes §48.031(4)(a) provides that a criminal witness subpoena upon a law enforcement officer of any municipal employee called to testify in an official capacity in a criminal case may be delivered to a designated supervisory or administrative employee designated to accept service. In the case of sworn law enforcement officers, the Court Liaison Office is hereby designated to accept service of all criminal witness subpoenas for testimony by sworn law enforcement in the officer's official capacity.

The Court Liaison Office must not accept service of the criminal witness subpoena if the law enforcement officer-witness is no longer employed by the City, if the law enforcement officer-witness is not scheduled to work prior to the date he/she is required to appear (e.g. the officer is scheduled to be on vacation or leave from work immediately preceding the date he or she is required to appear), or the law enforcement officer-witness is required to appear less than five days from the date of service.

All private attorneys representing a defendant in a criminal matter must email a copy of the criminal witness subpoena to policecourtliaison2@hiialeah.fl.gov. Court Liaison must immediately transmit the criminal witness subpoena to the officer's email account. If the private attorney representing a defendant in a criminal matter is requesting a video conference deposition, the private attorney must send a notification to the Court Liaison Office which includes the link to the scheduled video deposition no less than 48 hours in advance of scheduled date and time of deposition. The Court Liaison Office must immediately forward the email containing the link to the law enforcement officer under subpoena.

For all general employees, the Human Resources Department is hereby designated to accept service of all criminal witness subpoenas for testimony. Please note that for civil or criminal traffic cases, misdemeanors, and certain felony cases, the subpoena may be mailed to the employee-witness at their regular place of employment directly. Staff available in each Department during reduced working hours as a result of the pandemic should be mindful of any witness subpoena received by mail and forward the document expeditiously to the Office of the City Attorney.

IV. Service of process on official or employee when sued individually

No one should accept a summons or subpoena addressed to an officer or employee if it is not in that officer's or employee's official capacity. When in doubt, please contact the Office of the City Attorney at (305) 883-5926 who shall coordinate with the Human Resources Department to contact the employee-defendant and/or provide the employee's address (subject to protections from disclosure as provided by F.S. Ch 119) to facilitate service of process.

Finally, all summonses, subpoenas or documents served upon the City, its officers or employees in an official capacity, should be stamped when received with the date, time and name of the person receiving them. A copy should be delivered expeditiously to the person identified on the subpoena and to the Office of the City Attorney. If delivering the documents to the Office of the City Attorney on the same day is not feasible, then no later than the next working day. If you have any question or doubt about the subject of this memorandum at any time, please contact the Office of the City Attorney.

V. Other information

The contact information for the Office of the City Attorney is:

Address: City of Hialeah, Florida – Office of the City Attorney
City Hall - 501 Palm Avenue – 4th Floor
Hialeah, Florida 33010
Phone No.: (305) 883-5926
Fax No.: (305) 883-5896
E-mail: lbravo@hialeahfl.gov