

Christian Congregation of Jehovah's Witnesses



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April 9, 2012

TO ALL BODIES OF ELDERS

Re: Procedures when legal issues are involved

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Dear Brothers:

1. This letter replaces the letters dated July 1, 1989, November 20, 1996, March 24, 2000, September 27, 2004, November 1, 2005, March 1, 2007, and December 12, 2008, to all bodies of elders. Those letters should be removed from the congregation permanent file of policy letters and be destroyed. *No one should keep originals or copies of any of those letters.*

2. Elders carry a heavy responsibility in these “critical times.” (2 Tim. 3:1) You must teach and shepherd the flock, set a good example in field service, maintain good spiritual habits, and care for your families’ spiritual, emotional, and physical needs. We very much appreciate and commend you for your sincere efforts to care for each of these responsibilities.

3. Your task is made more challenging by the fact that we live in a complex society in which people have become increasingly proud, greedy, and litigious. (2 Tim. 3:2-4) Further, in response to growing social problems, governments at times enact laws that impose additional responsibilities on the ministers of all religions. As Christians, we recognize Jehovah’s supreme authority and obey laws of the land that do not conflict with God’s law. (Matt. 22:21; Rom. 13:1, 2) It is therefore important that as elders you act wisely and with discernment and always follow the organization’s procedures and directions for handling congregation matters that involve legal issues.—Prov. 2:6-9.

4. Direction on handling child abuse matters can be found in separate correspondence. However, we are now pleased to provide consolidated direction on handling other congregation matters involving legal issues. Please give this information your prayerful consideration.

CONFIDENTIALITY

5. As overseers, you are often entrusted with knowledge of sensitive and confidential information. Elders must be careful **never to divulge confidential information to persons who are not authorized to receive it.** There is “a time to keep quiet” and a time when “your words should prove to be few.” (Eccl. 3:7; 5:2) Proverbs 10:19 warns: “In the abundance of words there does not fail to be transgression, but the one keeping his lips in check is acting discreetly.” Unnecessary spir-

itual and legal problems result when elders unwisely reveal matters that should be kept confidential. You must therefore give special heed to the counsel: “Do not reveal the confidential talk of another.” (Prov. 25:9) When elders disregard this counsel, trust in the elder body is threatened.—w96 3/15 p. 18 par. 12; w91 11/15 p. 23 par. 19; w87 9/1 pp. 12-15.

6. If an elder were to breach confidentiality, he could subject himself and the organization to civil liability. In addition, an elder’s breach of confidentiality could result in a legal waiver of the minister-communicant privilege or the attorney-client privilege. The minister-communicant privilege generally prevents an elder, under specific circumstances, from having to disclose confidential communications between the elder and a member of the congregation, and the attorney-client privilege generally protects an elder from having to disclose confidential communications between the elders and his attorney, including the Legal Department.

7. **Wireless communication:** It is also important to avoid *inadvertently* revealing confidential information. While what is presented at our meetings and assemblies is generally not confidential, on occasion meetings are held that are of a confidential nature. For example, the branch office may sponsor schools for congregation elders and ministerial servants held at a Kingdom Hall. On such occasions, cordless microphones should not be used.

8. When calling the branch office or when otherwise discussing confidential matters by phone with persons entitled to such information, make sure that no one—including family members—can overhear the conversation. For such conversations, it is permissible to use a cordless *digital* telephone. Cordless *analog* telephones do not provide adequate privacy and should not be used. If you are not certain whether you have a *digital* cordless telephone, it may be best to use a landline telephone. Therefore, please make sure that your telephone is not a cordless *analog* telephone.

9. Most cellular telephone providers today have replaced older analog networks with more secure digital networks. These signals are encrypted and considered to be secure from people seeking to monitor conversations. Therefore, cellular telephones may be used when calling the branch office or when discussing confidential matters with fellow elders.

10. **When someone seeks confidential information:** You should never reveal confidential information to anyone unless theocratic procedure requires it or the branch office has instructed you to do so. (Persons seeking confidential information may include an investigator, an attorney, a policeman, a detective, other law enforcement officers or government officials, school personnel, parties to a lawsuit, family members [whether they are Jehovah’s Witnesses or not], and even other elders or other persons who may not be entitled to the information.) This applies to written materials and unwritten knowledge possessed by the elders. It applies to records pertaining to a particular case and general materials, such as letters from the organization, the *Shepherding* textbook, and the *Organized* book. Even when secular authorities request confidential information, you are not obligated to answer questions before consulting the branch office. (*ks10* chap. 6 par. 19) You should then ask to speak to the Legal Department. Oftentimes secular authorities request confidential information to which they are not legally entitled. Thus, you could subject yourself and the organization to civil liability if you reveal such confidential information.

11. If any unauthorized person seeks confidential information from you, simply state: “As a minister I have a duty to keep certain matters confidential and must consult my attorney before answering any questions.” There is no need to state that you will be contacting the Legal Department. If the inquiring party presses for more information about a confidential matter or for the identity of your attorney, do not be intimidated by threats and do not make any other statements. Simply ask for the person’s name, telephone number, title, and the office he represents, and tell him that you

will need to talk to your attorney before you respond to his request. Then, call the Legal Department immediately for legal direction.

12. **Subpoenas:** A subpoena or subpoena duces tecum is an official written demand for oral testimony or records. If you receive a subpoena, or if you hear that one may be issued seeking oral or written information from someone concerning a congregation matter, call the Legal Department immediately. If possible, have the subpoena that has been served on hand when you make the call, and be prepared to fax a copy of it. **Never turn over records, notes, or other documents or reveal any confidential matter** sought by subpoena without first receiving legal direction from the Legal Department. Many documents and records in congregation files may be protected from disclosure based on the minister-communicant privilege or the attorney-client privilege. If you receive a subpoena intended for someone else, call the Legal Department immediately, even before you contact the party for whom the subpoena was intended. If someone threatens to get a subpoena for congregation-related records or testimony, call the Legal Department immediately, even if no actual subpoena has yet been served.

CRIMES AND CRIMINAL INVESTIGATIONS

13. **Handling reports of the abuse of elderly and disabled persons:** At times, the law may require ministers to report the abuse of elderly and disabled persons to the authorities. Elders should therefore call the Legal Department for legal advice whenever they receive an allegation that an elderly or disabled person has been abused. The types of adult abuse that are reportable to authorities differ from state to state. Adult abuse can be physical, sexual, or emotional and can include neglect or abandonment by a caretaker, self-neglect, forced labor, and financial or other types of exploitation. Some states define “elderly” as anyone 60 years of age and older; others specify over 65. In some states adult abuse reporting statutes apply to disabled persons who are 18 years old or older. In any event, we want to do all we can to protect elderly and disabled persons from harm, in harmony with the principles of God’s Word that direct us to have tender compassion for disadvantaged ones.—Ps. 72:13, 14.

14. **Handling reports of other crimes:** When the elders learn of alleged criminal activity on the part of one of Jehovah’s Witnesses or someone associated with the congregation as the accused or the victim, they should immediately call the Legal Department. In some cases, the elders will form a judicial committee to handle alleged wrongdoing that may also constitute a violation of criminal law (e.g., murder, rape, child abuse, fraud, theft, assault). Generally, the elders should not delay the judicial committee process, but strict confidentiality must be maintained to avoid unnecessary entanglement with secular authorities who may be conducting a criminal investigation of the matter. For example, even the fact that a judicial committee has been formed should not be disclosed to persons not entitled to know. (*ks10* chap. 6 par. 18) In addition, the Legal Department should be contacted for legal advice on how to protect confidentiality that is specific to the circumstances of the case.

15. **Search warrants:** Elders should never give consent for anyone to search a Kingdom Hall or any other place where confidential records are stored. Conscientious elders do all they reasonably and peaceably can to preserve the confidentiality of the congregation in harmony with the principle set out in Acts 5:29. However, law enforcement officers do not need your consent if they have a search warrant. A search warrant is a court order authorizing the authorities to search certain premises to locate evidence that may be used in a criminal prosecution.

16. If a law enforcement officer claims to have a search warrant, ask to see and read it. If your request is denied, tell the officer that you do not consent to the search, but do not try to physically stop him. Then, whether you have been allowed to read the search warrant or not, call the Le-

gal Department immediately for legal advice. If for some reason you are not allowed to call or you are unable to contact the Legal Department at that moment, call as soon as possible. If the authorities threaten to get a search warrant to look for congregation records or other confidential information, call the Legal Department immediately, even if the warrant has not yet been issued.—*ks10* chap. 6 par. 19.

17. **Restraining orders or orders of protection:** At times an individual will obtain a restraining order or order of protection against someone else. The elders should not try to read, understand, or enforce a restraining order between private parties, and neither should an elder try to provide legal advice. If anyone asks the elders any questions about the restraining order, politely tell the person that a restraining order is a personal legal matter that does not involve the congregation. Thereafter, the elders should call the Legal Department immediately for direction.

DISRUPTIVE INDIVIDUALS AT CONGREGATION MEETINGS

18. It is best to ignore trivial or minor disturbances created by individuals at congregation meetings. But if an individual persists in this course of action and is distracting others, two elders should ask him to leave. If a second elder is not readily available, a mature ministerial servant can be asked by an elder to join him. If the disruptive individual refuses to leave, you should inform him that if he does not leave and continues to distract others, you will contact the police to have them deal with him. If the individual does not cooperate, you should telephone the police. When the police arrive, you may inform them that the individual is causing a disturbance and that his implied invitation to attend the meeting has been revoked. You may also inform the police that you are willing to file trespassing charges if it seems prudent and necessary under the circumstances. If you feel the need for further direction, please contact the Service Department.

19. Elders wisely avoid being provoked into physically removing a disruptive person from the premises, as the individual may be attempting to create a basis for legal action. Thus, the elders should generally not try to forcibly remove a disruptive individual from the Kingdom Hall. If an individual is violent from the outset, the police can be called immediately. There is no need to warn him. In the event that a person is physically attacked, that person has the right to defend himself from harm, and the elders should do what they reasonably can to help protect the individual. If those who are being physically attacked are unable to flee from an assailant who appears determined to cause injury, a Christian may try to ward off such attacks and even strike out in defense if necessary. Of course, any such defensive action would be solely to protect oneself or others from the attacker until the police arrive.—*g91* 7/8 p. 13; *g87* 11/22 p. 28.

SUICIDES AND ATTEMPTED OR THREATENED SUICIDES

20. At times, judicial committees may deal with someone who is so distraught that he attempts or threatens to commit suicide. In such cases it may be best for the committee to suspend the hearing and focus on helping the person to regain his balance. In any event, the elders should treat the person with extreme thoughtfulness and kindness.—*ks10* chap. 5 par. 4; chap. 6 par. 16.

21. In addition, elders should immediately call the Legal Department for legal direction whenever they learn of an actual suicide, a threatened suicide, or an attempted suicide, since legally this is also defined as self-murder or *felo-de-se*. Whether a family member or close friend with knowledge of the suicide threat or suicide attempt reports it to authorities is a personal decision for him to make. (Gal. 6:5) Elders should not discourage anyone from reporting the matter. Family members who are aware of the suicide threat or attempt should be encouraged to take positive steps to prevent the person from harming himself.

WHEN LAWSUITS ARE THREATENED

22. Elders should call the Legal Department immediately when they learn of any threatened legal action or actual lawsuit against the organization, congregation, or elders. If you are contacted by an attorney or the media regarding a threatened or actual lawsuit before you have had an opportunity to call the Legal Department, get the caller's name, law office name, telephone numbers, deadline, and cause of action, and let the caller know you will try to call them back before that deadline. Then call the Legal Department immediately for assistance. No elder should make any statement about the merits or validity of an actual or threatened lawsuit before calling the Legal Department.—*ks10* chap. 6 par. 18.

CHILD CUSTODY

23. A packet of legal material is available to assist publishers who are involved in lawsuits over child custody and visitation matters in which our religion is under attack. The packet should be requested by the *body of elders only* in a case in which it is evident that the publisher's religious beliefs will be at issue. For those facing secular issues on child custody or visitation, helpful information can be found in the October 2009 *Awake!*, pages 21 and 27; the December 8, 1997, *Awake!*, pages 3-12; the chart found in the April 22, 1991, *Awake!*, page 9; and the October 22, 1988, *Awake!*, pages 2-14.

24. Elders should not make any promises to publishers about the organization's involvement. If a publisher requests the packet, please determine the following before calling the Legal Department to request a packet:

- **Is there litigation?** In other words, has someone been served with papers to appear in court? If litigation has not begun, the Legal Department will not send the packet. It is better if the parties can settle the issue between themselves without going to court. Sending the packet prematurely may give the impression that we are encouraging litigation.
- **Is the litigation between the two biological parents?** Sometimes the litigation involves a parent and grandparent, two sets of grandparents, parent and step-parent, and so forth. The packet is specifically crafted to address *only* the law that applies to biological parents. It will not apply to any other situation and will not be sent in such cases. Nevertheless, if it appears one party is actively using a religious issue against the other, you may write to the Legal Department to explain the extenuating circumstances and inquire whether any type of assistance would be available.
- **Is the publisher requesting the packet one of Jehovah's Witnesses in good standing?** Unbaptized publishers, advanced Bible students, or baptized persons on judicial restrictions will be considered on a case-by-case basis. In the judgment of the elders, would it shock or upset the congregation if they learned that the organization was helping this person? If so, a packet will not be sent.
- **Is the other party to the litigation not one of Jehovah's Witnesses?** This includes those who were never in the truth as well as disfellowshipped and disassociated persons. However, the packet will not be sent if both parties are Witnesses, even if the other party is currently inactive and not leading a Christian life. Nevertheless, if it appears one parent is actively using a religious issue against the other, you may write to the Legal Department to explain the extenuating circumstances and inquire whether any type of assistance would be available.
- **Is there a religious issue?** Does the non-Witness party allege that the Witness is not a fit parent because she will not allow the children to celebrate holidays, get a college education, receive a blood transfusion, participate in school sports, or associate with anyone outside of the congregation? Does he allege that exposure to two religions will confuse

the child or that Jehovah's Witnesses are a cult? If disfellowshipped, does he allege that he will be alienated from his children because of being "shunned?" If these or similar religious issues are not present in the litigation, the packet is not appropriate and will not be sent.

25. If the answer to all five questions is yes, a packet may be requested. Please be prepared to provide the names of the parents and their attorneys; the number of children involved and their respective ages; the spiritual condition of the Christian parent; a brief description of the facts, including any apostate involvement; and the status of the litigation. If the answer to all five questions is not yes, please explain to the publisher why a packet will not be requested at this time. If circumstances change, this matter can be revisited. The *Awake!* issues listed previously may still be helpful to an individual who does not qualify to receive a packet.

VEHICLE ACCIDENTS

26. When elders become aware that a publisher driving a vehicle in the ministry, traveling to or from a meeting, or engaging in any other theocratic activity was involved in a vehicle accident resulting in a death or serious injury, the elders should immediately call the Legal Department. If you are contacted by anyone (attorney, other driver, passenger, investigator, or policeman) who requests a statement, you should not discuss the accident or publishers involved. You should simply ask for the caller's name, telephone number, title, and the office he represents and tell him that you will need to talk to your attorney before responding to any questions or inquiries. There is no need to state that you will be contacting the Legal Department. You should then call the Legal Department immediately for further direction on how to proceed.

WHEN A PUBLISHER HAS A PERSONAL LEGAL QUESTION

27. At times, publishers may approach elders with personal legal questions. Elders should not give legal advice to publishers. Kindly tell the publisher that you are not qualified to give legal advice and suggest that he consult his own legal counsel. Of course, if an elder happens to be a lawyer, he may have clients who are Jehovah's Witnesses. In such cases, it is the elder's professional qualifications, and not his position as an elder in the congregation, that enable him to provide legal advice in his professional capacity to a fellow Witness. Any professional services that he renders would not be sponsored by the congregation but would be a private arrangement between a legal professional and his client. *Additionally, elders should never direct or suggest that publishers call or write the Legal Department to receive legal advice and direction regarding personal matters.*

NONNEUTRAL ACTIVITY

28. When reporting to the branch office that an individual has disassociated himself by engaging in nonneutral activity, the wording on the report should be in harmony with Scriptural guidelines. Please use such expressions as "violated neutrality" or "took a nonneutral course." Isaiah 2:4 and John 15:17-19 support these descriptions. Other expressions should not be used. The same caution is to be exercised in all correspondence with the branch office or with other congregations.—Each elder should make the following notation next to the last bullet in paragraph 3 of chapter 9 in the *Shepherding* textbook: "See letter dated April 9, 2012, regarding procedures when legal issues are involved."

WITNESSING DIFFICULTIES

29. **Courtesy telephone notifications before working in the door-to-door ministry:** Prior to engaging in the public ministry, publishers (1) should not obtain a permit or register with police or municipal officials; (2) should not physically go to any police station or government office; and (3) should not provide the police or municipal officials, whether in person, by fax, or by mail, any

papers, forms, lists, or other documents. Of course, if your congregation has received previous direction from the Legal Department regarding courtesy telephone notifications, you should continue to abide by that direction.

30. In the unlikely event that a publisher is stopped by the police while engaged in the door-to-door ministry and is directed to obtain a permit, to provide prior notification in person or by telephone to police or any other municipal official, or to respond to demands for any other information, the publisher should not get involved in a discussion of his legal rights in an attempt to resolve the matter. Rather, he should promptly and politely leave the territory if directed to do so. (Rom. 12:18) The publisher should then inform the body of elders of any such incident. Thereafter, please immediately contact the Legal Department for further direction rather than trying to resolve the matter on your own.

31. **“No Trespassing” signs at individual dwellings:** As a general rule, householders have a right to privacy and the right to prohibit anyone, including publishers, from entering their property by posting a “No Trespassing” sign. Publishers need to be aware of the possible consequences of ignoring a “No Trespassing” sign. If publishers call at a home or enter the grounds around a home where a “No Trespassing” sign is posted, they may be subject to criminal prosecution and resulting monetary sanctions and/or incarceration. Fines in some states are very high, and incarceration for any length of time can be extremely traumatic. To be prosecuted for such conduct is a real possibility and a serious matter. In addition, we are living in litigious times. Publishers ignoring a posted directive to stay away may also face civil liability if sued by an irate householder. (Matt. 10:16) Publishers should keep in mind that if they decide not to go to a particular door because of a posted “No Trespassing” sign, other means of contacting the homeowner are available, such as telephone witnessing and letter writing.—*km* 1/10 pp. 4-6; *km* 5/02 p. 7.

32. **“No Trespassing” signs in communities and apartment complexes:** It is important to note that a “No Trespassing” sign posted on a *home* may be viewed differently from a “No Trespassing” sign placed on a *public street* or at the entrance to a *community* or *apartment complex*. With that in mind, we have no legal objection to publishers preaching in subdivisions and apartment complexes in which they have not experienced difficulties with the authorities or the management, even if there is a sign posted at the entrance.

33. If you experience difficulties with the management of any subdivision or apartment complex, immediately comply with any demands to leave the territory and then write to the Legal Department providing the name and address of the subdivision or apartment complex, the name of the on-site manager (if applicable), a description of the difficulty, and the date(s) of the incident(s). On the other hand, if a *resident* of a subdivision or apartment complex, rather than the *management*, applies a posted sign to our ministry or insists that we cannot preach in the complex, you may wish to mark the individual as a do-not-call and return to preach at another time.

34. **“No Soliciting,” “No Peddling,” or “No Canvassing” signs:** “No Trespassing” signs are different from signs such as “No Soliciting,” “No Peddling,” or “No Canvassing.” If a *municipality* endeavors to enforce the application of such signs to our preaching activity, please contact the Legal Department. However, if a *householder* at any time informs a publisher that such a sign posted on his property applies to our ministry, the publisher should assure the householder that future calls at his home will cease.

35. **“Do-not-calls”:** If a householder insists that no further visits be made by Jehovah’s Witnesses, the home should be listed in a special telephone territory for the elders to call annually to

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determine if there has been any change in the occupant's attitude toward our ministry. Such direction would apply whether or not the householder has posted a sign indicating his wishes.

36. Elders bear a heavy responsibility in ministering to the needs of the Christian congregation while observing confidentiality and complying with Caesar's laws. (Rom. 13:1-4) We trust that the information in this letter will help you carry out this responsibility. Please be assured of our love and prayers, and may Jehovah continue to bless you as you shepherd his flock.—1 Pet. 5:1-3.

Your brothers,

*Christian Congregation
of Jehovah's Witnesses*

cc: Traveling overseers

PS to secretary:

This letter should be retained in the congregation permanent file of policy letters. You may wish to update the congregation copy of *Index to Letters for Bodies of Elders* (S-22) at this time as well.