

TESTIGOS CRISTIANOS DE JEHOVÁ

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September 21, 2012

TO ALL BODIES OF ELDERS

Re: Procedures when legal issues are involved

Table of Contents	
Confidentiality	Pars. 5-12
Crimes and criminal investigations	Pars. 13-17
Disruptive individuals at congregation meetings	Pars. 18-19
Suicides and attempted or threatened suicides	Pars. 20-21
When lawsuits are threatened	Par. 22
Child custody	Pars. 23-25
Vehicle accidents	Par. 26
When a publisher has a personal legal question.....	Par. 27
Nonneutral activity.....	Pars. 28
Witnessing difficulties	Pars. 29-35

Dear Brothers:

1. This letter replaces the letters dated November 1, 2005, and April 12, 2011, 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 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 (in this letter, the term “ministers” refers to elders or overseers). 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 spiritual 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 to civil liability. In addition, an elder’s breach of confidentiality could result in a legal waiver of the minister-communicant privilege. The minister-communicant privilege (also known as religious privilege) generally prevents an elder from having to disclose confidential communications between the elder and a member of the congregation.

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 mobile 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, mobile 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 attorney, a policeman, a detective, 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. (*ks10* chap. 6 par. 19) You could subject yourself to civil liability if you reveal such confidential information.

11. If any person seeks confidential information from you, simply state: “As a minister of a religious denomination, I have the right to religious privilege that exists between its members and ministers.” If the inquiring party presses for more information about a confidential matter, do not be intimidated by threats and do not make any other statements. Simply ask for the person’s name and telephone number. Then, call the Legal Department immediately for direction.

12. **Subpoenas:** A subpoena or subpoena duces tecum is a judicial 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 religious privilege.

CRIMES AND CRIMINAL INVESTIGATIONS

13. Handling reports of the abuse of elderly and disabled persons: Adult abuse can be physical, sexual, or emotional and can include neglect or abandonment by a caretaker, forced labor, and financial or other types of exploitation. In Spain, all crimes must be reported, including the abuses just mentioned. Elders should promptly seek direction from the Service Department whenever they learn that an elderly or disabled person who is a member of the congregation (or regularly associates with the congregation) is a victim of abuse. 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 Service 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 an order issued by a judge 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, he should hand you a copy. 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 given a copy of the search warrant or a threat is made to obtain one, call the Legal 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.—*ks10* chap. 6 par. 19.

17. Restraining orders: 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.

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 he has been asked to leave the hall. You may also inform the police that you are willing to file charges if it seems prudent and necessary under the circumstances. If you feel the need for further direction, please contact the Legal 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. 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 Service Department for direction whenever they learn of an actual suicide, a threatened suicide, or an attempted suicide. 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 LEGAL ACTION OR 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 or elders. No elder should make any statement to third parties about any threatened legal action or lawsuit.—*ks10* chap. 6 par. 18.

CHILD CUSTODY

23. Helpful information to assist publishers who are involved in lawsuits over child custody and visitation matters 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. In a case where it is evident that the publisher's religion is under attack, elders may contact the Legal Department for further assistance. Elders should not make any promises to publishers about the organization's involvement. In most cases, the branch office will supply information and jurisprudence that can be used by a Christian parent's lawyer to defend his client.

In exceptional situations, the branch office can provide the Christian parent with legal advice. If a publisher requests assistance, please determine the following before calling the Legal Department:

- **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 provide assistance to initiate a lawsuit. It is better if the parties can settle the issue between themselves without going to court.
- **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. Generally, the Legal Department will address *only* the law that applies to biological parents. 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 circumstances. In some cases, the branch office may be able to offer legal advice.
- **Is the publisher requesting assistance 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, no further assistance will be provided.
- **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, assistance will not be offered 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 circumstances. The branch office may be able to offer legal advice.
- **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 university education, receive a blood transfusion, participate in extra-curricular activities, 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 involvement of the Legal Department would not be appropriate.

25. If the answer to all five questions is yes, the elders may contact the Legal Department to request further direction. Please be prepared to provide a brief description of the facts, including any apostate involvement, the status of the litigation, the number of children involved and their respective ages, and the spiritual condition of the Christian parent. If the answer to all five questions is not yes, please explain to the publisher why assistance from the branch 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 assistance.

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 Service 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.

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 it is not your responsibility 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 September 21, 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 Town Hall; 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 branch office 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 (1) to obtain a permit; (2) to provide prior notification in person or by telephone to police or any other municipal official; or (3) to respond to demands for any other information, the publisher should not get involved in a discussion of his 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:** Householders have a right to privacy and the right to prohibit anyone, including Jehovah's Witnesses, 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 a publisher calls at a home or enters the grounds around a home where a "No Trespassing" sign is posted, the householder may take legal action. Publishers ignoring a posted directive to stay away will have to respond personally for any legal action taken against them. (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 apartment complexes and private urbanizations:** 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, there is no legal objection to publishers preaching in subdivisions and apartment complexes, even if there is a sign posted at the entrance.

33. If you experience difficulties with the porter, security staff, chairman of an apartment complex or management, immediately comply with any demands to leave the territory in order to avoid any confrontation. Call at another time or use alternative methods to contact householders, such as the intercom, the telephone or letter writing. If a representative of the apartment complex or community threatens to call the police or take legal action for preaching publicly inside the building or urbanization, the publisher should leave the territory immediately and the elders should write to the branch office with an explanation of the facts. On the other hand, if a *resident* 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:** 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 address should be clearly marked on the back of the map. The householder’s name or any other form of identification should not be included, but just the address. The elders will call annually to determine if the address should remain on the back of the map. 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,

Testigos Cristianos de Jehová

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.