

**SUMMARY PLAN DESCRIPTION**

**FOR THE**

**PEACE OFFICERS' LEGAL DEFENSE FUND PLAN AND TRUST**

**SPONSORED BY**

**TMPA LEGAL, INC.**

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## INTRODUCTION

TMPA Legal, Inc., (“TMPA Legal”) has established and maintains a prepaid legal services plan known as the Police Officers’ Legal Defense Fund Plan and Trust (the “Legal Defense Plan”). This document is only a summary (this “Summary”) of the key parts of the Legal Defense Plan, and a brief description of your rights as a participant. It is not a part of the official Legal Defense Plan documents. If there is a conflict between this Summary and the official Legal Defense Plan documents, the Legal Defense Plan documents will govern.

## GENERAL INFORMATION

### What is the purpose of the Legal Defense Plan?

The purpose of the Legal Defense Plan is to provide qualifying participants prepaid legal services to qualifying participants.

### When did the Legal Defense Plan take effect?

The Legal Defense Plan was effective April, 26, 2003.

## ELIGIBILITY; ENROLLMENT

### Who can receive the benefits of the Legal Defense Plan?

Any Peace Officer, Reserve Peace Officer, Retired Peace Officer or Public Safety Employee who is a member in good standing of TMPA Legal or any Adopting Association can participate in the Legal Defense Plan upon:

- (a) filing with the Plan Administrator a properly completed application (The Plan Administrator is identified on page 8 of this Summary.)
- (b) making the required initial contribution to the Legal Defense Plan; and
- (c) approval of the application by the Legal Defense Plan.

The following definitions apply to this Summary and to the Legal Defense Plan:

You are a “**Peace Officer**” if you are an Active Peace Officer, who has completed basic training as required by Texas Commission on Law Enforcement Official Standards and Education or other state-mandated basic training and are regularly employed on a full-time basis of at least 32 hours a week, earning at least minimum wage, by a public or private employer that is statutorily authorized to employ Peace Officers.

You are a “**Public Safety Employee**” if your are: (a) an unlicensed employee who is currently employed by an agency that employs Peace Officers or Fire Fighters, or (b) a special investigator employed by federal law enforcement agencies as defined by the Texas Code of Criminal Procedure, Article 2.122.

You are a “**Reserve Peace Officer**” if you are a Peace Officer who serves in a part-time or volunteer basis for a police or public safety agency and receive the basic training necessary for licensing as such.

You are a “**Retired Peace Officer**” if you are a Peace Officer who is honorably retired from a law enforcement agency and retain the right to carry a concealed weapon as a retired peace officer after meeting all applicable standards, as provided by state law.

“**Adopting Association**” means a non-profit association of Peace Officers and Public Safety Employees who has agreed to provide prepaid legal services through the Legal Defense Plan.

### **How do I apply to receive the benefits of the Legal Defense Plan?**

If you are a member of TMPA Legal, you can apply to participate in the Legal Defense Plan on forms provided by the Legal Defense Plan Administrator. If you are not a member of TMPA Legal, you may only apply through your Adopting Association. The Plan Administrator shall determine your eligibility (subject to the review procedure described for denied claims).

## **CONTRIBUTIONS**

### **How is the Legal Defense Plan funded? How much do I have to pay to receive the benefits of the Legal Defense Plan?**

The Legal Defense Plan is funded by participant contributions, and in some cases, contributions by the Adopting Associations. Your contribution amounts are based on the Benefit Election and any co-payment options you or your Adopting Association chooses. Specific information about your required contributions will be provided before enrollment in the Legal Defense Plan, whether you are a member of TMPA Legal or an Adopting Association.

## **COMMENCEMENT/TERMINATION OF BENEFITS**

### **When does my coverage begin?**

Legal Defense Plan benefits are available to you upon the Plan Administrator’s approval of your application, and payment of required contributions.

### **When does my coverage end?**

Your benefits will automatically terminate when one or more of the following situations occur:

- (a) you fail to pay required contributions;
- (b) you cease to be a member of TMPA Legal or an Adopting Association;

- (c) your employment terminates (subject to an extension of benefits described below);
- (d) an Adopting Association of which you are a member terminates sponsorship of the Legal Defense Plan;
- (e) less than fifty percent (50%) of the members of an Adopting Association of which you are a member, excluding Reserve Officers and Retired Officers, participate in the Legal Defense Plan, unless waived by the Plan Administrator;
- (f) membership of an Adopting Association of which you are a member falls below 500, unless waived by the Plan Administrator; or
- (g) the Adopting Association of which you are a member changes from one Benefit Election (as defined in this Summary) to another, to the extent the latter Benefit Election does not provide benefits that are provided by the former.

### **EXTENDED COVERAGE**

#### **Under what circumstances can I extend my benefits?**

You will be entitled to continued benefits under limited circumstances when participation would otherwise be terminated, upon satisfying all notice requirements and only to the extent permitted by your Benefit Election.

#### **What if my employment is involuntarily terminated?**

If your employment is involuntarily terminated, you will be entitled to benefits for actions arising from events involving the involuntary termination of your employment and actions involving events covered under your Benefit Election that preceded and are unrelated to the events involving the termination of your employment. Further, you will be entitled to benefits for events that result in your resignation or for other good cause determined by the Plan Administrator, only if the Plan Administrator determines that your resignation was a constructive discharge.

#### **What happens if I am transferred laterally from one agency to another?**

If you transfer from one agency to another within a period not to exceed ninety (90) days, and otherwise satisfy all prerequisites, you may upon proper application continue to participate in the Legal Defense Plan.

#### **What happens upon my retirement?**

If you retire pursuant to the retirement rules of your employer, you will be entitled to benefits for any event that occurred before your retirement.

#### **What happens if I am laid off?**

If you are involuntarily laid off from employment, you will be entitled to benefits for any event that occurred during your employment provided you were a Participant at the time of the event.

**What happens if I am promoted, demoted or transferred within an agency?**

If you are promoted, demoted or transferred within an agency, you are entitled to benefits for events occurring prior to your promotion, demotion or transfer, in accordance with the then applicable Benefit Election. For events occurring after a promotion, demotion or transfer, you are entitled to benefits in accordance with any newly applicable Benefit Election if different benefits apply. Otherwise, you will continue to receive the same benefits.

**What happens if I take a leave of absence for military service?**

If you take a leave of absence for military service, voluntarily or involuntarily, and (i) if you continue to pay contributions, and (ii) an event giving rise to benefits is related to your service as a Peace Officer or Public Safety Employee and not related to military service, you will be entitled to the same benefits applicable immediately prior to such leave for events occurring during such leave.

**LEGAL DEFENSE PLAN BENEFITS**

**What are the “Benefit Elections” that may be selected by TMPA Legal or my Adopting Association?**

Each “Benefit Election” described below describes the benefits to which you may be entitled under the Legal Defense Plan depending on the election made by you or your Adopting Association. If you are a member of TMPA Legal, you will receive the benefits described in Benefit Election I (a)(i) described below, unless you are a Reserve Peace Officer or Retired Peace Officer, in which event you will receive the benefits described in the Benefit Election IV or V that apply to you.

**BENEFIT ELECTION I – CIVIL, CRIMINAL, AND DISCIPLINARY ACTIONS**

If you are a Peace Officer or Public Safety Employee eligible for Benefit Election I, subject to the exclusions and limitations set forth in the Legal Defense Plan, the Legal Defense Plan will pay on your behalf the following:

- (a) all legal fees and expenses incurred in connection with any civil, criminal, or disciplinary action arising from acts in the course and scope of your employment;
  - i. Expanded non-scope administrative coverage option – Every Adopting Association that has applied for Benefit Election I is entitled to elect additional benefits to supplement Benefit Election I. The additional coverage shall pay for all legal fees and expenses of a Plan Attorney to represent you for any administrative action taken against you that occurred outside the course and scope of employment. Such appeals are limited to the normal administrative reviews that are available in your jurisdiction.

All members of TMPA Legal have this expanded non-scope coverage as part of their benefits.

- (b) legal fees and expenses incurred by a Legal Defense Plan attorney responding to the scene of a critical incident;
- (c) legal fees and expenses incurred in preparation and defense of a referendum petition, up to \$10,000, unless a higher amount is approved;
- (d) legal fees and expenses for research, review and advice to a collective bargaining unit of an agency, if more than half of all eligible bargaining unit members are participants;
- (e) all necessary expert witness, professional service, and hearing examiner fees incurred in covered civil, criminal and disciplinary actions, subject to the prior written approval of the Legal Defense Plan Trustee;
- (f) legal fees and expenses incurred in the pursuit of an affirmative civil action, as approved by the Legal Defense Plan Administrator; and
- (g) legal fees and expenses for 3.5 hours of consultation with a Legal Defense Plan attorney prior to the commencement of a likely civil, criminal or disciplinary action.
- (h) The appeal of any adverse action taken against the Participant's professional license provided that:
  - (i) the adverse action is the result of an otherwise covered event under this plan; and,
  - (ii) it appears reasonably likely that the information used to justify the adverse action is false.

## BENEFIT ELECTION II – CIVIL AND CRIMINAL ACTIONS

If you are a Peace Officer or a Public Safety Employee eligible for Benefit Election II, subject to the exclusions and limitations set forth in the Legal Defense Plan, the Legal Defense Plan will pay on your behalf the following:

- (a) all legal fees and expenses incurred in connection with any civil or criminal action arising from acts within the course and scope of your employment, excluding civil actions resulting from concerted labor activity unless approved by the Legal Defense Plan Administrator;
- (b) legal fees and expenses incurred by a Legal Defense Plan attorney responding to the scene of a critical incident;

- (c) legal fees and expenses incurred in preparation and defense of a referendum petition, up to \$10,000, unless a higher amount is approved;
- (d) legal fees and expenses for research, review and advice to a collective bargaining unit of an agency, if more than half of all eligible bargaining unit members are participants;
- (e) all necessary expert witness, professional service, and hearing examiner fees incurred in covered civil or criminal actions subject to the prior written approval of the Legal Defense Plan Administrator;
- (f) legal fees and expenses for 3.5 hours of consultation with a Legal Defense Plan attorney prior to the commencement of a likely civil or criminal action.

### BENEFIT ELECTION III – CIVIL, CRIMINAL AND LIMITED DISCIPLINARY ACTIONS

If you are a Peace Officer or a Public Safety Employee eligible for benefits under Benefit Election III, subject to the exclusions and limitations set forth in the Legal Defense Plan, the Legal Defense Plan will pay on your behalf the following:

- (a) all legal fees and expenses incurred in connection with any civil, criminal, or Limited Disciplinary Actions arising from acts within the course and scope of your employment, excluding civil actions resulting from concerted labor activity. In this benefit election, covered disciplinary actions are limited to:
  - i. Disciplinary actions that arise out of a critical incident.
  - ii. Administrative suspension of pay for forty (40) hours or more, excluding promotional pass over.
- (b) legal fees and expenses incurred by a Legal Defense Plan attorney responding to the scene of a critical incident;
- (c) legal fees and expenses incurred in preparation and defense of a referendum petition, up to \$10,000, unless a higher amount is approved;
- (d) legal fees and expenses for research, review and advice to a collective bargaining unit of an agency, if more than half of all eligible bargaining unit members are participants;
- (e) all necessary expert witness, professional service, and hearing examiner fees incurred in covered civil, criminal and limited disciplinary actions, subject to the prior written approval of the Legal Defense Plan Administrator;
- (f) legal fees and expenses incurred in the pursuit of an affirmative civil action, as approved by the Legal Defense Plan Administrator; and

- (g) legal fees and expenses for 3.5 hours of consultation with a Legal Defense Plan attorney prior to the commencement of a likely civil, criminal or limited disciplinary action.

#### BENEFIT ELECTION IV – RESERVE OFFICERS – CIVIL AND CRIMINAL ACTIONS

If you are a Reserve Officer eligible for the benefits under Benefit Election IV, subject to the exclusions and limitations set forth in the Legal Defense Plan, the Legal Defense Plan will pay on your behalf the following:

- (a) all legal fees and expenses incurred in connection with any civil or criminal action arising from acts within the course and scope of your employment as a Reserve Officer, excluding civil actions resulting from concerted labor activity unless approved by the Legal Defense Plan Administrator;
- (b) legal fees and expenses incurred by a Legal Defense Plan attorney responding to the scene of a critical incident;
- (c) all necessary expert witness, professional service, and hearing examiner fees incurred in covered civil or criminal actions, subject to the prior written approval of the Legal Defense Plan Administrator;
- (d) legal fees and expenses for 3.5 hours of consultation with a Legal Defense Plan attorney prior to the commencement of a likely civil or criminal action.

#### BENEFIT ELECTION V – RETIRED OFFICERS – CIVIL AND CRIMINAL ACTIONS

If you are a Retired Officer eligible for the benefits provided under Benefit Election V, subject to the exclusions and limitations set forth in the Legal Defense Plan, the Legal Defense Plan will pay on your behalf the following:

- (a) all legal fees and expenses incurred in connection with any civil or criminal actions arising from your acts or omissions in a critical incident;
- (b) legal fees and expenses incurred by a Legal Defense Plan attorney responding to the scene of a critical incident;
- (c) all necessary expert witness, professional service, and hearing examiner fees incurred in covered civil or criminal actions, subject to the prior written approval of the Legal Defense Plan Administrator;
- (d) legal fees and expenses for 3.5 hours of consultation with a Legal Defense Plan attorney prior to the commencement of a likely civil or criminal action.

### **What is an Event for which I may be entitled to benefits?**

An “Event” is an act or omission, or series of acts or omissions that gives rise to civil, criminal, or administrative action.

### **What if I am a chief of police, sheriff, marshal, or other chief administrative officer?**

If you are an otherwise eligible participant of the Legal Defense Plan who is a chief of police, sheriff, marshal or other chief administrative officer, you are entitled to representation in accordance with the Benefit Election chosen by your Adopting Association only in relation to civil, criminal or administrative actions taken against you because of performance of active law enforcement duties. You will not be entitled to benefits for actions arising from any act, omission or performance of activities performed in your capacity as administrative or department head.

### **Am I entitled to representation for concerted labor activity?**

You are eligible for representation, in accordance with your applicable Benefit Election, for concerted labor activity arising out of a dispute over wages, hours, terms or conditions of employment if such activities are legal, the Plan Administrator approves the benefits before any concerted labor activity and your Adopting Association has been covered under the Legal Defense Plan for at least twelve (12) previous months.

### **What if I desire to seek affirmative relief?**

You may receive legal representation and seek legal or equitable relief for acts or omissions arising in the course and scope of your employment if the Plan Administrator determines that the relief sought is in the best interests of law enforcement and other participants of TMPA Legal or the Adopting Associations and that it is likely that any recovery will cover the costs of such action.

## **EXCLUSIONS AND LIMITATIONS**

### **What exclusions and limitations exist as to benefits provided by the Legal Defense Plan?**

Exclusions and limitations are detailed in Article VI and elsewhere in the Legal Defense Plan, but generally include claims for employment discrimination, retirement benefits, workers’ compensation benefits, civil service claims, claims related to a participant’s health condition, and unemployment benefit claims. The plan also excludes coverage for any event that occurred prior to meeting all requirements for participation in the plan and it excludes coverage during the first sixty days of participation in the Plan for terminations that do not result from a covered Event or Critical Incident. See Plan Document for “No Cause” termination provisions.

## **PLAN ADMINISTRATION**

### **Who is the Legal Defense Plan Administrator?**

Texas Municipal Police Association Legal, Inc. (the “Plan Administrator”)

6200 La Calma Drive, Suite 200  
Austin, Texas 78752  
or  
P.O. Box 2294  
Austin, Texas 78768  
(512) 454-8900  
(800) 848-2088 (24-hour emergency hotline)  
Federal ID Number: 74-2903646

**Who is the Legal Defense Plan Sponsor?**

The Plan Administrator is also the Plan Sponsor.

**Who are the Plan Trustees?**

Chris Heaton  
TMPA Legal, Inc.  
6200 La Calma Drive, Suite 200  
Austin, Texas 78752

Kevin Lawrence  
TMPA Legal, Inc.  
6200 La Calma Drive, Suite 200  
Austin, Texas 78752

**How is the Legal Defense Plan Funded?**

The Legal Defense Plan is financed through individual participant contributions to TMPA Legal, an Adopting Association or other member organization, the co-payments made (if applicable) by participants, and earnings on these funds.

**What is the Legal Defense Plan number?**

The Legal Defense Plan number assigned by the Plan Administrator is 501.

**When does the Legal Defense Plan year end?**

The Legal Defense Plan year is a 12-month period that commences on November 1 and ends on October 31 of each year.

**Who is the agent designated for service of process?**

Chris Heaton or Kevin Lawrence  
6200 La Calma Drive, Suite 200  
Austin, Texas 78752  
(512) 454-8900

Service of process may also be made on a Plan Trustee or the Plan Administrator.

## **MAKING CLAIMS**

### **How do I make a claim for benefits under the Legal Defense Plan?**

You may file claims for benefits under the Legal Defense Plan with the Plan Administrator through the Plan Trustee. Notification to any party other than the Plan Administrator will not be an effective claim for benefits. You must document your written or verbal notification of a claim. You will receive a claim tracking number from the Plan Trustee when you call or write for a claim of a covered event. Your failure to notify the Plan Administrator of a claim for benefits will relieve the Legal Defense Plan of any obligation to provide benefits to you.

You may call 1-800-848-2088 for 24-hour-a-day telephone service with questions regarding the Legal Defense Plan and benefits under the Legal Defense Plan.

### **How will I know if I will receive benefits from the Legal Defense Plan after making a claim?**

The Plan Administrator will provide written notice to you of the disposition of your application within five (5) days after your application is filed, unless the Plan Administrator requests additional information. In no event will the Plan Administrator give notice to you of the disposition of your application for benefits more than ninety (90) days after your application is filed.

If your application for benefits is denied, the Plan Administrator shall provide to you in writing a notice of denial of benefits advising you:

- (a) the specific reason(s) for the denial;
- (b) the specific provisions of the Legal Defense Plan on which the denial is based;
- (c) any additional information necessary for you to perfect a claim, including an explanation of the necessity of such information; and
- (d) the steps that you must take to have your claim for benefits reviewed.

### **Can I dispute denial of a claim?**

Yes. By written request filed with the Plan Administrator no later than sixty (60) days following the denial of an application for benefits under the Legal Defense Plan, you are entitled to a hearing for reconsideration of such denial.

### **Can I have an attorney represent me at a hearing to dispute a denial of a claim?**

You may be represented by an attorney at the reconsideration hearing, which must be held within sixty (60) days of applicant's request. Procedural details regarding a hearing for reconsideration are set forth in detail in the Legal Defense Plan.

### **If I am entitled to benefits under the Legal Defense Plan, how do I get an attorney?**

If you are entitled to benefits, the Plan Administrator will refer you to a Legal Defense Plan attorney. If more than one Legal Defense Plan attorney is available in your geographic area, then you may choose your Legal Defense Plan attorney from a list provided by the Plan Administrator.

### **What if I am not happy with an attorney referred to me by the Plan Administrator?**

The Plan Trustee will make every effort to afford you the opportunity to seek advice from another attorney. However, subject to your appeal rights, if you unreasonably refuse representation by a Legal Defense Plan attorney or refuse to accept the advice of a Legal Defense Plan attorney, the Legal Defense Plan will no longer be obligated to provide you with benefits. You may employ counsel at your own expense.

### **Can I use arbitration to settle claim disputes?**

Yes. After you have exhausted the plan procedures outlined above, you may settle a dispute regarding a claim for benefits through arbitration in accordance with the rules for arbitration of employment disputes of the American Arbitration Association.

## **AMENDMENT OR TERMINATION OF LEGAL DEFENSE PLAN**

### **Can the Legal Defense Plan be amended or terminated?**

Yes. The Plan Administrator reserves the right to amend or terminate the plan at any time. In addition, an Adopting Association may discontinue or revoke its participation in the Plan. If an Adopting Association discontinues its participation in the Plan, Plan Trustees will transfer any contracts and other Trust Fund assets allocable to the participants who are members of the Adopting Association to new trustees designated by the Adopting Association. If no successor trustees are designated, the Plan Trustees shall retain such Plan assets for the participating members of the Adopting Association, as described in Article VII of the Plan document.

## **ERISA RIGHTS**

### **What are my ERISA rights?**

As a participant in the Legal Defense Plan, you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all plan participants shall be entitled to:

1. Examine without charge all plan documents and copies of all documents filed with the U.S. Department of Labor, such as detailed annual reports and plan descriptions of the Legal Defense Plan, at the Plan Administrator's office and at other specified locations.

2. Obtain copies of all plan documents and other plan information upon written request to the Plan Administrator. The Plan Administrator may make a reasonable charge for the copies.

3. Receive a summary of the plan's annual financial report. The Plan Administrator is required by law to furnish each participant with a copy of this summary annual report.

In addition to creating rights for plan participants, ERISA imposes duties upon the people who are responsible for the operation of the Legal Defense Plan.

1. The Plan Administrator is a "fiduciary" of the Legal Defense Plan, and has a duty to administer the Legal Defense Plan prudently and in the interest of you and other plan participants and beneficiaries.

2. No one, including your employer or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a benefit or exercising your rights under ERISA.

3. If your claim for a benefit is denied in whole or in part, you must receive a written explanation of the reason for the denial. You have the right to have the Legal Defense Plan review and reconsider your claim.

**UNDER ERISA, THERE ARE STEPS YOU CAN TAKE TO ENFORCE THE ABOVE RIGHTS.**

1. For instance, if you request materials from the Legal Defense Plan and do not receive them within 30 days, you may file suit in Federal Court. In such a case, the court may require the Plan Administrator to provide the materials and pay up to \$100 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Plan Administrator.

2. If you have a claim for benefits that is denied or ignored, in whole or in part, you may file a suit in State or Federal Court.

3. If it should happen that any fiduciaries of the Legal Defense Plan insure the Legal Defense Plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U. S. Department of Labor, or you may file suit in a Federal Court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. If you lose, the court may order you to pay these costs and fees if, for example, it finds your claim is frivolous or brought in bad faith.

If you have any questions about the Legal Defense Plan, you should contact the Plan Administrator. If you have any questions about this statement or about your rights under ERISA, you should contact the nearest office of the Pension and Welfare Benefits Administration, U.S. Department of Labor, listed in your telephone directory or the Division of Technical Assistance and Injuries, Pension and Welfare Benefits Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, DC 20210.

