

## POLICIES and PROCEDURES MANUAL:

Subject: **SUBPOENAS**INTRODUCTION

This procedure is intended to outline the department policy on the acceptance of subpoenas, the availability of officers, on-call status, and the recording of subpoenas served.

SUBPOENA ACCEPTANCE

In accordance with Section 1328 of the California Penal Code, subpoenas will normally be accepted by a designated Police Service Assistant, however, the on duty Watch Commander, or other person designated by proper authority, may be assigned to receive subpoenas as needed. The person receiving subpoenas will accept all subpoenas regardless of the hearing date with the following exceptions:

1. If service cannot be completed within such time as will allow the officer to comply with the subpoena, it may be refused, i.e., days off, vacation, extended sick leave, etc.
2. If the subpoena hearing date is less than five working days, and the person receiving the subpoena is reasonably certain service cannot be completed, acceptance may be refused.
3. If the subpoena has been issued in a civil matter, the employee receiving the subpoena must insure there is proof all necessary fees have been paid at City Hall. If the fees have not been paid, then the subpoena should be returned with instructions to contact the Finance Director to pay the necessary fees before the subpoena can be served.
4. If an employee is served a civil subpoena by US Mail, as provided in Section 415.30 of the California Code of Civil Procedures, the subpoena should be immediately delivered to the Police Services Manager. The Police Services Manager will insure that fees have been paid. If the fees have not been paid, then subpoena will be returned to the issuer as provided in paragraph 3 above.

OFFICER AVAILABILITY

1. Watch commanders shall notify the Police Services Manager when the officer is unavailable, i.e., vacation, sickness, injury, or any other reason that would prevent the officer from appearing in court.
2. The employee responsible for patrol scheduling shall provide the Police Services Manager with a copy of each change to the work schedule to assist in determining the availability of each officer.
3. Watch Commanders shall provide the Police Services Manager with a monthly list of officers who are scheduled for vacation, training, or other planned absences.
4. Once a subpoena has been served, it will be the responsibility of the subpoenaed officer(s) to contact the D.A.'s Office (or issuing agency) in case of illness, other subpoena(s) on the same date of hearing, or for any reason the officer will not be available for appearance.

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**ON-CALL STATUS**

1. All officers who receive a subpoena will telephone the issuing authority at the telephone number provided on the subpoena or as otherwise directed on the subpoena.
2. If notified the case is going, the officer will respond to the court as directed on the subpoena or as directed by the DA handling the case.
3. Officers placed on standby are directed to contact and make proper arrangements with the Deputy District Attorney handling the matter in question.

**SUBPOENA LOG**

The Records Division will maintain a database of all subpoenas received. Each subpoena entry will contain the officer's name, defendant's name, date subpoena was received, court issued for, case number, appearance date, service date, and who it was served by.

**SUBPOENA SERVICE**

Watch Commanders shall be responsible to serve the subpoenas on the affected employees, and to notify the Police Services Manager of any subpoenas that could not be served in a timely manner, with an explanation why the subpoena could not be served. The Police Services Manager will return any subpoena that could not be served, and notify the issuing authority of all served subpoenas.

**COPY OF REPORT**

It will be the responsibility of the subpoenaed officer to obtain a copy of the report from Records. To accomplish this, officers shall provide a memorandum to the Police Services Manager a minimum of one business day before a scheduled court appearance. The Police Services Manager shall cause the report(s) to be copied and placed in the officer's mailbox. The officer shall shred the copy of the report, in the department shredder, when it is no longer needed for the court appearance.

**REIMBURSEMENT**

Reimbursement for officer appearance in civil cases will be handled by Finance. In order for Finance to properly recover actual costs associated with appearance on civil matters, the officer will indicate on the time card the hours associated with the court appearance and attach a copy of the civil subpoena. If an officer receives witness fees directly from the court or issuing agency, those fees must be turned over to Finance.

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SUBPOENA DUCES TECUM

Officers will not respond to Subpoena Duces Tecum for Police Department records and documents. Only the Custodian of Records (Police Services Manager) can respond to this type of subpoena. All subpoenas Duces Tecum must be delivered to the Police Services Manager to insure the records requested can be released and to insure that the release complies with all applicable laws.

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1/24/2002

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