

**SAN DIEGO POLICE DEPARTMENT  
PROCEDURE**

**DATE:** SEPTEMBER 11, 2020  
**NUMBER:** 1.11 - ADMINISTRATION  
**SUBJECT:** COURT PROCEDURES AND SUBPOENAS  
**RELATED POLICY:** [1.11](#)  
**ORIGINATING DIVISION:** OPERATIONAL SUPPORT  
**NEW PROCEDURE:**   
**PROCEDURAL CHANGE:**  **MINOR CHANGES**  
**SUPERSEDES:** DP 1.11 – 06/21/2018

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**I. PURPOSE**

This Department procedure establishes guidelines for members to follow when receiving subpoenas, being excused from subpoenas, and when testifying in court.

**II. SCOPE**

This procedure applies to all members of the Department.

**III. SERVICE PROCEDURES**

NEW

- A. All work-related criminal, civil, and Civil Service Commission subpoenas will be accepted for service by the command/unit subpoena clerk, if received a minimum of five court days prior to the court appearance date, not including the issue date, court date, weekends and holidays. This includes subpoenas from the Sheriff's Office, process servers, and other agencies (DMV, Parole, etc.).

B. Subpoenas submitted to the Department fewer than five days before the scheduled court appearance will not be accepted. The agency copy of the subpoena is to be stamped "REFUSED TO ACCEPT, SHORT NOTICE SUBPOENA." The unit subpoena clerk will record on the DA27 screen an "N" for not served, with the appropriate comment. An entry will also be made in the computerized Subpoena Log located on the LAN. The stamped agency copy will be sent to the Court Liaison Unit and a copy of the subpoena will be faxed to the Court Liaison Unit immediately.

C. The Subpoena Log is a database used by the Department to track and retrieve subpoena information. This database is located on the LAN at I:\DB Apps\Batches\subpoenas.bat. This log is used by the entire Department to track subpoenas. It allows officers, commands, and the Court Liaison Unit to research subpoena information. It is imperative that information entered into this log be timely, accurate, and includes all relevant information regarding the subpoena.

1. The Subpoena Log will be used when an automated subpoena is printed or when a subpoena is received by the Department for a member. Once the subpoena is served, entries will be made without delay. If a subpoena will not be served prior to the court date, the comments shall indicate the reason. Only command subpoena clerks have access to make entries into the Subpoena Log.

2. Anyone with LAN access has "Read Only" access to the Subpoena Log. Launch the database by double-clicking on "subpoenas.bat." Once the program launches, a message box will pop-up with the message, "You have read only permissions." Click OK. To view individual subpoenas; Click the "Set Filter" button, enter the number 4, click OK, enter individual ID number, and then click OK. To page through the subpoenas use the arrow buttons at the bottom of the page next to "Record."

NEW

D. Individual members may be served in person by process servers, other agencies (DMV, parole, etc.), or representatives from the District Attorney's Office or City Attorney's Office up to the date of appearance and shall not refuse service with less than five days' notice.

NEW

E. Subpoenas received in Records Division will be forwarded immediately by FAX to the concerned command or supervisor for service. Subpoenas received via Teletype will be forwarded from the Records Division subpoena clerk to the unit subpoena clerks.

1. Division captains or their designees are responsible for ensuring timely service, logging, and return of subpoenas for employees assigned to their command. Subpoenas received for employees no longer assigned to the command will be forwarded directly to their new assignments. If the new assignment is not known, call the Human Resources Division at **(Deleted**

- **records of security**). for the current assignment. Short notice subpoenas should be faxed or hand-delivered to the new command.
2. All subpoenas received by a command will be date stamped, then entered into the Department's Subpoena Log. They will be entered by: command, issue date, officer ID, officer name, defendant name, prosecutor case number, court date, court time, and court department. Supervisors serving subpoenas will legibly sign them, and include their rank, ID number, and date of service. Employees will sign and date the subpoena, acknowledging receipt. Supervisors will return the signed subpoena on the day of service to the subpoena clerk. Upon receipt of the served subpoena, the subpoena clerk will enter service information into the Subpoena Log indicating: served by, served date and supervisor serving. This will complete the Subpoena Log entries. The comments field will be used by subpoena clerks to enter additional information such as: call-off information, subpoena not served (stating reason) and any other information that would be relevant to a specific subpoena. Without delay, the subpoena will be returned to the Court Liaison Unit (MS 721B) or Kearny Mesa Court Liaison (MS 36), as appropriate.
  3. Command subpoena clerks are responsible for continued monitoring of the subpoena log for non-served subpoenas. Daily inquiries should be made when a court date is near and the subpoena has not been returned as served.
- F. Members are responsible for recording appearance dates and preventing loss of subpoenas. Should a subpoena become lost, members should check with their division or unit subpoena clerk for subpoena information. Officers may also locate the subpoena information via the Department's Subpoena Log on the LAN.
- G. Members are required to comply with any special instructions listed on subpoenas such as calls to attorneys or calling the recording for call off information. Calls to attorneys are to be made the first business day following receipt of the subpoena to determine whether to appear at the time specified on the subpoena or at a future date that is agreed upon. Members unable to reach attorneys are to appear as instructed by the subpoena. Unless mitigating circumstances exist, members who appear in court, off-duty, on cases listed on the call off recording are not eligible for overtime.
- H. Subpoenas issued by criminal defense attorneys shall be handled in the same manner as subpoenas issued by the prosecution. Such subpoenas deserve the same high standard of response, including preparation, unbiased testimony and courtesy, in all respects. Members subpoenaed by the defense in criminal cases are to immediately contact and advise the prosecutor of the subpoena. The fact that a member is subpoenaed by the defense does not mean that the member must discuss the case with the defense attorney prior to trial. Members subpoenaed by the defense may only be released or called-off by the defense attorney.

- I. A telegraphic or faxed copy of a subpoena for a witness in a criminal proceeding is as effectual as the original subpoena.

#### IV. **AUTOMATED SUBPOENA SYSTEM**

- A. Electronic subpoenas are received at all locations set up with a destination code. Those subpoenas should be called up by the unit subpoena clerk on the DA37 screen at least once daily, Monday through Friday.
- B. If an electronic subpoena is received in error by a unit (e.g., employee has been transferred to another division), or the person is no longer a member of the Department, the Records Division Subpoena Clerk shall be notified immediately. The Records Subpoena Clerk will make appropriate corrections in the computer system and, if necessary, FAX and interoffice the subpoena to the correct division.
- C. After the unit subpoena clerk prints the subpoenas, both agency and member copies will be sent to the appropriate supervisor for service. Upon their return, the unit subpoena clerk will acknowledge service or non-service on the DA27 screen. The original subpoenas for Kearny Mesa Court will be mailed to the Traffic Court Liaison Officer at MS 36. All others will be mailed to the Court Liaison Unit at MS 721B.

NEW

#### V. **EXCUSE FOR NON-APPEARANCE**

- A. As a result of a June 2005 court decision, *Baustert v. Superior Court*, 129 Cal. App. 4th 1269 (2005), a Declaration is needed from any sworn officer or civilian employee requesting an excusal from a subpoena in criminal cases only. This form titled "Officer Declaration for Continuance" will be used for all requests for subpoena excusals. This form is on the LAN, at F:\Templates\Administrative\SubpoenaContinuanceRequestFormdoc.
  1. The Officer Declaration for Continuance will be used if an employee is requesting to be excused from a court appearance due to vacation, military leave, scheduled training class outside of San Diego County, conflicting court appearance, family emergency, or any other reason where the employee needs to be excused from court.
  2. This form is required for all employees who will not be served a subpoena including subpoenas issued via the Automated Subpoena System. This includes employees on industrial leave. If the command receives a subpoena for an employee that will not be served, the employee's supervisor must submit this form for the person.

- B. Subpoenas arriving prior to an employee's scheduled vacation, compensatory leave, or Department authorized training will be served. None of the above types of leave shall be sought or granted, once a subpoena has been served, that would conflict with the member's court appearance. In order for a member to be excused from a court appearance, the member must first obtain their supervisor's approval, and then follow the procedures listed below:
1. Misdemeanor and traffic cases to include South Bay Traffic Court – Prepare an Officer Declaration for Continuance Form, have it approved by a supervisor and mail it to the Court Liaison Unit (MS 721B) or Traffic Court Liaison (MS 36), as appropriate. If the appearance date is less than ten working days from date of service, immediately fax a copy of the served subpoena and the Officer Declaration for Continuance Form to the appropriate Court Liaison Unit. Mail the original Officer Declaration for Continuance Form and the signed subpoena to the Court Liaison Unit. If the officer is not available, the immediate supervisor shall submit the Officer Declaration for Continuance Form.
  2. In all cases with an assigned prosecutor (e.g., District Attorney, City Attorney), defense attorney, or hearing officer the member will personally contact (a phone message does not constitute personal contact) the assigned prosecutor, defense attorney, or hearing officer a minimum of ten days prior to the appearance date. If an agreement is reached, the member will complete an Officer Declaration for Continuance Form, have it approved by a supervisor and mail it to the Court Liaison Unit at MS 721B. If the member is not available (vacation, training, sick leave, etc.) a supervisor shall make the necessary contacts and submit a Declaration for Continuance Form.
  3. Subpoenas for members on extended industrial, maternity, or sick leave, who have been administratively transferred to the Human Resources Division, shall be forwarded to the Medical Assistance Unit (MS 778). If the member is able to attend court, a Medical Assistance Supervisor will arrange to have him/her served in person or by telephone. If the member is not able to attend court, the Medical Assistance Unit will submit the Officer Declaration for Continuance Form. Upon request, it is the member's responsibility to provide the court with a physician's excuse from attending court.
  4. Only the subpoenaing party or agency can excuse a member from an appearance. The prosecution cannot excuse an appearance on a defense subpoena.

5. The court will consider prior commitments of member witnesses in the same manner as it would consider prior commitments of lay witnesses when deciding whether or not a good cause for continuance exists. If problems or questions arise concerning the above procedures, contact the Court Liaison Unit between 0600 and 1600 hours at **(Deleted – records of security)** or the 24 hour message line at (619) 533-5561.
- C. Members required to appear on separate cases on the same date and time shall contact the Court Liaison Unit at **(Deleted – records of security)**. This call should be made upon receipt of the second, conflicting subpoena. Depending on circumstances an Officer Declaration for Continuance Form may be required.
- D. Members who are ill, or for any other reason cannot appear in court on the day of the trial, are responsible for contacting the Court Liaison Unit at **(Deleted – records of security)**, if it is a City Attorney/Misdemeanor Case, or for Kearny Mesa or South Bay Traffic Court cases contact the Traffic Court Liaison Officer at **(Deleted – records of security)**, or the assigned District Attorney.
- E. Members delayed while traveling to court shall immediately notify the Court Liaison Unit at **(Deleted – records of security)**, Downtown Court Waiting Room at **(Deleted – records of security)**, or for Kearny Mesa or South Bay Traffic Court the Traffic Court Liaison at **(Deleted – records of security)**. Court Liaison personnel will notify the court and the case may be trailed until the member arrives.

## VI. COURT STAND-BY

- A. Members subpoenaed for City Attorney cases at 1100 Union Street are to report to the officers' waiting room at the time indicated on the subpoena. Members subpoenaed to attend Kearny Mesa Court are to report to the officers' waiting room at the Traffic Court, 8950 Clairemont Mesa Boulevard. Members subpoenaed to attend South Bay Traffic Court at 500 3<sup>rd</sup> Avenue Chula Vista Department 5, are to report at the time indicated on your subpoena. Members shall report to the location indicated on all other subpoenas.
- B. There are situations where, by mutual agreement between the prosecutor and the member, the member can assume stand-by status while on or off-duty. These arrangements must be coordinated through the Court Liaison Unit, as they have accountability for the member's presence in court.
- C. Members are not eligible for overtime pay while off-duty and on voluntary stand-by status away from the court. Stand-by status away from the court while off-duty cannot be required of a member without compensation.

## **VII. PRE-TRIAL CONFERENCE**

- A. A pre-trial conference with an attorney is not required by law. At the member's discretion, arrangements via the member's commanding officer may be made for an interview at the area station with any attorney or attorney's representative, either before or after shift, not to exceed 30 minutes.
- B. The prosecutor must be advised in advance of any such interview involving a criminal case. In any other case in which the City might possibly be a party to any civil action, the members should advise a Police Legal Advisor at **(Deleted – records of security)**.
- C. Members may receive up to 30 minutes of overtime for this conference.
- D. Members will extend the courtesy of telephoning an attorney or his or her representative when requested to do so. Time spent in this manner is not compensatory.
- E. Members attending pre-trial conferences with any prosecuting agency representative should maintain case confidentiality. Persons not involved in the matter may not sit in on such meetings.

## **VIII. TESTIFYING IN COURT, DEPOSITIONS, AND HEARINGS**

- A. Members shall not negotiate, directly or indirectly, any compromise or arrangement for the purpose of permitting any person to escape the penalty of the law; nor shall any member interfere with the courts of justice.
  - 1. It is inappropriate for Department members to have contact with members of a jury. Department members should not attempt to contact jurors.
  - 2. In the event that a juror attempts to converse with a Department member, the member should explain the conflict and politely excuse himself or herself from the conversation. Department members may respond to simple greetings and queries such as requests for directions within the Courthouse.
- B. Members must review all reports relating to the case prior to appearance in court. In some cases, it is advisable to revisit the scene of the incident. Any errors noted on the reports or citations must be brought to the attention of the prosecutor prior to the trial.

- C. Physical evidence is to be transported by the arresting officer who must maintain custody of the property until it is entered into evidence. Items not entered into evidence or property not retained by the court shall be returned to Department custody by the officer.
- D. Vehicles with “exempt” license plates may park at metered spaces without having to pay the meter. Exempt license plates DO NOT allow vehicles to be parked in red zones, or areas designated for passenger drop off or loading.
- E. Members on Department business or attending court off-duty are permitted to park unmarked Department vehicles or their private vehicles at the Community Concourse Parkade. Upon exiting, members shall sign the log maintained by the attendant. Department vehicles are to be parked legally unless an emergency exists or situations require it. For additional information refer to Department Procedure 1.12, Operations of Police Department Vehicles and Department Procedure 7.07, Parking Enforcement Procedures.
- F. Members may park at any San Diego Trolley parking lot and ride the Trolley to Court. Members should exit the Trolley at the 300 West C Street, and walk to the Courthouse. Be sure to board the Trolley for the Court House Trolley Stop. Members will not be required to buy tickets for the Trolley, but must show their Department identification card to Trolley security officers if asked to show their ticket. Department ID cards may be used in place of Trolley tickets by members on official business only. Members shall not use their Department ID when riding the Trolley on personal business. Members who become involved in enforcement actions while riding the Trolley shall send a copy of the arrest/incident report to the Court Liaison Unit at MS 721B.
- G. Members shall attend court in full uniform (including leather gear) or in civilian clothes, as outlined in Department Procedure 5.10, Uniforms, Equipment, and Weapons. No person other than a Peace Officer on OFFICIAL business, within courthouse facilities, shall possess a firearm, knife, taser, teargas, stun gun, or similar device listed in Penal Code sections 171b, 244.5, 17240 and 17250. On-duty police officers who are appearing in court as a requirement of their duties are an exception to this order. Members who are appearing in court as litigants in personal matters are not exempt and must not bring firearms or any of the above listed items into any courthouse facility. Jury duty is considered personal business for the application of this procedure. Violators may be prosecuted for a violation of Section 171b of the Penal Code.
- H. It is every member’s responsibility to be punctual and available at all times during court proceedings. Absences must be coordinated with the prosecuting attorney assigned to the case and the Court Liaison Unit.



- I. Members are expected to closely monitor court proceedings and know the status of their case (whether it has been continued, dismissed, transferred to another courtroom, etc.).
- J. Parking for members attending Kearny Mesa Traffic Court will be on the east or west side parking lots. The north side is reserved for court staff.

**IX. SERVICES PROVIDED ON EMPLOYEE'S OWN TIME**

Police Department members, who have become experts in their fields and are called upon to do work or testify for outside or private agencies on their own time, may receive direct payment for such services, provided:

- A. Such service is not connected with any matter that was perceived or investigated in the course of the member's duties with the Police Department; and,
- B. The member has permission to engage in outside employment as specified in Department Procedure 5.12, Outside Employment.

**X. OUT-OF-COUNTY SUBPOENAS**

- A. Members must respond to any out-of-county criminal subpoena regarding an event or transaction that was perceived or investigated in the course of their duties if it meets the following conditions:
  - 1. The subpoena meets all the legal requirements as to form and content;
  - 2. The subpoena is served as prescribed by law within a reasonable time prior to the court appearance; and,
  - 3. The place of the trial is within 150 miles of the member's place of residence, or the judge has endorsed on the subpoena an order for the attendance of the witness.
- B. Members required to appear in court on their regularly scheduled work day will be excused from their normal work assignment. They will be carried on the payroll as working a "Special Detail" and will receive their normal salary from the City. Members may receive overtime if their total hours are in excess of ten hours based on actual time in court and reasonable travel time. Members assigned to late night shifts may, at their own discretion, request to have their days off changed or working hours adjusted so they will have sufficient rest.

NOTE: Subpoenaed members must notify their supervisors at least 72 hours in advance of the out-of-county court appearance for scheduling purposes.

- C. Members appearing on their days off will submit the subpoena to their immediate supervisor and enter the appropriate time information on their bi-weekly labor card. Time entered should include actual hours in court and reasonable travel time.
- D. Transportation to and from the court of appearance is the responsibility of the member subpoenaed. Department vehicles will not be utilized for any out-of-county appearances.
- E. Upon written order of the court, members subpoenaed for an out-of-county criminal court appearance are entitled to a reasonable sum for necessary expenses. These expenses shall include transportation to and from court, measured from the member's place of residence, with meals and lodging, if required. At the time of the court appearance, the member must obtain the necessary forms required for the reimbursement of funds from the Court Clerk. It will be the member's responsibility to request such payment for expenses. Members are not entitled to receive witness fees since their salary is paid by the Department (P.C. § 1329(b).)
- F. Members must have the Court Clerk stamp their subpoenas with the court "file stamp" verifying appearance for each day in court.
- G. Members who have questions regarding subpoenas are directed to call the Court Liaison Unit at (619) 533-5561.

## **XI. OUT-OF-STATE CRIMINAL SUBPOENAS**

California has adopted the Uniform Act to Secure the Attendance of Witnesses from without the State in Criminal Cases (P.C. §§ 1334 – 1334.6). Any member receiving such a subpoena should contact the Police Legal Advisor's Office at **(Deleted – records of security)**.

## **XII. CIVIL SUBPOENAS**

- A. Service may be made statewide. The only limitation is one requiring that the witness be a resident within the state at the time of service.
- B. Members subpoenaed for a civil trial or deposition appearance shall receive their normal salary (and expenses, if any) from the City for time at court, including travel time. In accordance with California Government Code section 68097.7, it is a misdemeanor for any person to pay or offer any additional consideration for a member's services, with regard to any matter which he or she witnessed or investigated in the course of his or her duties, or for any member to ask or receive any other payment other than reimbursement through the City for salary and out-of-pocket expenses.

- C. These provisions shall also apply to subpoenas issued for arbitration board hearings and/or depositions.
- D. Subpoenas issued by the Department of Motor Vehicles on license revocation hearings which call for the member's appearance outside San Diego County, will not be honored. Neither the City nor the Department of Motor Vehicles will pay any mileage or other expenses. Members receiving these subpoenas shall forward them to the Court Liaison Unit (MS 721B).
- E. Copies of subpoenas involving traffic accident cases, for which a member did investigative work, must be sent by the member along with a copy of the accident report, **without delay**, to the Chief Deputy City Attorney, Civil Litigation Department, 1200 Third Avenue, Suite 1100, MS 59, San Diego, CA 92101, for review to determine whether or not there is a possibility of City involvement. Members can contact the City Attorney's Civil Litigation Department at (619) 533-5800.
- F. A Police Department supervisor subpoenaed to testify about Department policy and procedures must send a copy of the subpoena to a Police Legal Advisor for review.
- G. When a civil subpoena duces tecum (request for appearance and to bring documents, reports, etc.) is received by Fiscal Management, a copy of that subpoena will be forwarded by the Fiscal Management Subpoena Clerk to the Records Unit for review. Members who are served with a subpoena duces tecum should refer to Department Procedure 1.26, Access and Release of Criminal Records.
- H. Any Police Department member who is subpoenaed to appear in civil court, or at a deposition as a percipient or investigative witness because of a work-related matter, will use the following procedures, whether on-duty or off-duty at the time of appearance:
  - 1. The service of a civil subpoena to a member of the San Diego Police Department must include a \$ \$275.00 witness fee deposit check, pursuant to Government Code sections 68096.01 (non-sworn) and 68097.2 (sworn). A civil subpoena will not be accepted without the deposit unless there is a court order with the subpoena that waives the witness fees, or a determination by the Department has been made that the fees are to be waived. Fiscal Management is responsible for receiving and processing civil subpoenas and will stamp the subpoenas "RECEIVED" in the upper right-hand corner to confirm that the witness fee deposit is received or waived;

2. After the service is made, Fiscal Management will make the appropriate copies and attach a "Cost Recovery Form" to the member's copy of the subpoena. This form must not be removed from the subpoena. A second copy of the subpoena will also be provided as a control copy for the Unit Subpoena Clerk;
3. If a Cost Recovery Form is not attached to the subpoena or no "RECEIVED" stamp appears in the upper right-hand corner of the subpoena, then the employee named on the civil subpoena must verify with their Division Subpoena Clerk that the witness fee has been made;
4. If the employee's appearance is canceled, indicate on the Cost Recovery Form by circling "NO" specify the reason why (i.e., "the case settled, call-off", etc.), and go directly to the signature lines.
5. After attending court or a deposition appearance, the member will complete the Cost Recovery Form. The completed Cost Recovery Form must be received by Fiscal Management within 5 working days of scheduled appearance, continuation or call-off.
  - a. Day and date of appearance.
  - b. Rank (Use "acting" rank at the time of the appearance, if applicable).
  - c. Shift – Shift hours and days off, at the time of the appearance. Also, indicate whether or not the appearance was on overtime. (Cross Reference for Court overtime: Memorandum of Understanding/SD Police Association, Article 30; Police Department Procedure 1.20/ Page 9-11).
  - d. Hours (Military time) – Include the time in court or deposition and travel time to and from home or work location.
  - e. Miles traveled by Department vehicle.
  - f. Miles traveled by personal vehicle – If the employee appeared for civil court or deposition when off-duty or off-shift and used their personal vehicle, mileage will be reimbursed only if the employee completes a "Mileage Report" (AC-1145), and submits it with the completed cost recovery form. Reimbursement will be made directly through the payroll process. (Reference City of San Diego Administrative Regulations 45.10)

- g. Expenses for parking (Receipts are required) – A “Petty Cash Certification Slip” (COM-5) for parking must be completed and returned along with any receipts at the time the completed Cost Recovery Form is returned to Fiscal Management. Reimbursement will be made by petty cash (Reference Police Department Procedure 1.22/Page2).
  - h. Expenses for meals (Receipts are required) – A “Meeting and Promotional Expense Report” (AC-1516) and “Petty Cash Certification Slip” (COM-5) must be completed and returned along with any receipts at the time the completed Cost Recovery Form is returned to Fiscal Management. Reimbursement will be made by petty cash (Reference Police Department Procedure 1.22/Page 2; City of San Diego Administrative Regulation 95.40).
  - i. Parkade (1<sup>st</sup> Avenue and B Street) Parking- Include the number of stamps used (This number is told to the employee when they sign out of the Parkade). (Police Department Procedure 1.11/Page7)
  - j. Employee’s Signature and Date
  - k. Supervisor’s Signature and Date
6. Return the completed Cost Recovery Form, Mileage Record, and any receipts (if applicable), as well as the attached subpoena to the Division Subpoena Clerk. If there is no Division Subpoena Clerk, return the form(s) and attached subpoena directly to Fiscal Management, MS 715.

I. Subpoena Clerk’s Signature and Date

- 1. The Unit Subpoena Clerk will check the form(s) to ensure they are complete and accurate, and sign the Cost Recovery Form in the space provided. The Cost Recovery Form and subpoena, along with any other applicable documentation (Copy of Overtime Slip, Mileage Report, Meeting and Promotional Expense Report, Petty Cash Certification Slip, and receipts) are then returned to Fiscal Management, MS 715.
- 2. The subpoenaed member will make the appropriate court time entries on their bi-weekly labor card. Time entered on the card will include actual time in court or at the deposition plus the travel time, and must equal the total time that appeared on the Cost Recovery Form.

### **XIII. FEDERAL SUBPOENAS**

- A. Members shall obtain a signed certificate of attendance form from the United States Attorney.
- B. Members shall submit the completed form to the United States Marshal, who will issue a check in the member's name. (In San Diego, the U.S. Marshal's Office is on the lower level of the Federal Courthouse.)
- C. If court attendance occurred while the member was on-duty, the check is to be endorsed and given, along with the subpoena, to the member's immediate supervisor. The supervisor will then forward them to Fiscal Management, MS 715. If, for some reason, a member's personal vehicle is driven to court, the member is entitled to mileage and will be reimbursed by Fiscal Management.
- D. Members attending court while off-duty may retain any expense money, but must submit the witness fees with the subpoena to their immediate supervisor, who will then forward them to Fiscal Management, MS 715. The member will complete an overtime slip for actual court time per Department Procedure 1.20, Overtime Compensation.
- E. It is not necessary to complete the "Police Department Cost Data Form" as required for civil subpoenas.

### **XIV. SERVICE OF CIVIL SUMMONS (JOB-RELATED)**

- A. A summons is a legal document notifying the person summoned that an action has been initiated against that person in the court where the summons was issued. A person who has been served with a summons in a civil action is a defendant in that case and an answer must be filed in court on that person's behalf within 20 days from the date of the service of the summons if it is a civil rights action in Federal Court, or 30 days if it is an action brought in State Court. If an answer is not filed within the 20-30 day period, the court may render a default judgment against the defendant.
- B. Members of the Department are required to accept personal service of summons on themselves in civil cases related to the performance of their duties. The Code of Civil Procedure section 415.30 authorizes service by mail. With the sole exception of Internal Affairs, members of the Department shall not receive personal service of a summons in a civil suit for any other member unless specifically authorized to do so by the member in writing.
- C. Internal Affairs shall receive service of summonses directed to any member of the Department in civil actions related to the performance of their duties, unless a member has directed Internal Affairs in writing not to receive summons.

- D. Members personally served with a summons in a civil suit shall immediately read the summons and complaint carefully.
  - 1. Members shall note their name, date, and time when served in the upper right hand corner and forward the paper immediately to Internal Affairs.
  - 2. It is imperative that this procedure be followed if the member intends to be defended by the City so that the City Attorney can prepare and file the proper pleading on behalf of the member.
  - 3. The member will be contacted by the Deputy City Attorney assigned to the case and any questions the member may have can be discussed with the Deputy City Attorney.

**XV. SERVICE OF CIVIL SUMMONS (NON-JOB RELATED)**

- A. These actions stem from personal matters unrelated to employment, such as debt/contractual disputes, divorce, small claims court, and other civil actions.
- B. Process servers will be directed to the member's command or work unit should they initially contact the Subpoena Clerk or any other member. The process server shall be informed that their access to Police Department property is limited to the areas normally open to the public.
- C. Personnel at this level are ordinarily under no obligation to accept or assist with the service, but shall provide accurate information as to when and where the member reports and leaves from work. If the process server cannot "with reasonable diligence" serve the summons directly upon the member, the summons may be left in the presence of a person apparently in charge of the member's office or place of business. See California Code of Civil Procedure § 415.20(b). The process server must inform the person in charge of the contents of the summons at that time.
- D. If a summons is left by a process server, then personnel shall note in the upper right hand corner of the summons their name, date, and time when the summons was left and forward the papers immediately to the member.
- E. The process server must, thereafter, mail a copy of the summons and complaint to the member at the address at which the summons was left. Service of a summons in this manner is complete on the tenth day after the mailing
- F. Upon receipt of a mailed summons, personnel shall note in the upper right hand corner of the summons their name, date, and time when the summons was received and forward the papers immediately to the member.

G. Any questions regarding this section should be referred to a Police Legal Advisor.

**XVI. COURT LIAISON RESOURCE NUMBERS**

Court Liaison Sergeant	(619) 533-5587
District Attorney's Court Liaison Officer	<b>(Deleted – records of security).</b>
District Attorney's Court Liaison FAX	(619) 685-6057
District Attorney's Court Liaison Mail Station	721A
City Attorney's Court Liaison Officer	<b>(Deleted – records of security).</b>
City Attorney Court Liaison Msg Line	(619) 533-5561
City Attorney's Court Liaison FAX	(619) 533-5505
City Attorney's Court Liaison Mail Station	721B
Downtown Officer's Waiting Room	<b>(Deleted – records of security).</b>
Traffic Court Liaison Officer	<b>(Deleted – records of security).</b>
Traffic Court Liaison FAX	(858) 634-1888
Traffic Court Liaison Mail Station	36