

SAN DIEGO POLICE DEPARTMENT ORDER

DATE/TIME: FEBRUARY 24, 2026 2100 HOURS
NUMBER: 26-08
SUBJECT: REQUEST FOR EXCUSAL FROM CRIMINAL SUBPOENAS
SCOPE: ALL MEMBERS OF THE DEPARTMENT

DEPARTMENT PROCEDURE AFFECTED: DP 1.11

Portions of this document are deemed by the San Diego Police Department to be exempt from public disclosure because the public interest served by not disclosing the information clearly outweighs the public interest served by disclosure, pursuant to California Government Code section 7922.000.

The San Diego Police Department requires employees to comply with subpoenas and attend scheduled court appearances. However, planned vacations or unforeseen circumstances may cause an employee to be unavailable. This Department Order outlines the procedure for requesting a continuance or excusal from a court appearance.

PROCEDURE

- A. The process to be excused from a subpoena varies between felony and misdemeanor cases with an assigned District or City Attorney and infraction cases without an assigned prosecutor.
- B. For felony and misdemeanor offenses, employees being subpoenaed by an attorney (prosecution or defense) must directly contact the attorney who subpoenaed them to request being excused from the appearance. After contacting the subpoenaing attorney, the subpoenaed employee shall complete a **Declaration for Continuance** form. The attorney will then use the completed form to request a continuance from the court. Ultimately, the decision to excuse the subpoenaed employee will depend on the court's decision to grant the continuance.
- C. Court continuances are not granted for infraction offenses. The case is dismissed if the employee is unable to attend. In such instance, the subpoenaed employee shall complete an **Excusal for Infraction Cases** form.
- D. Request for Continuance for Felony or Misdemeanor Cases
 - 1. As a result of a June 2005 court decision, *Baustert v. Superior Court*, 129 Cal. App. 4th 1269 (2005), a written Declaration for Continuance is needed from any

sworn or civilian employee requesting an excusal from a subpoena in a criminal case for felony or misdemeanor offenses.

2. To be excused from a felony or misdemeanor court case, the following shall be adhered to:
 - a. Upon receipt of the subpoena, or once it is known that the subpoenaed employee cannot attend the court appearance, the subpoenaed employee shall contact (voicemail or an email without a reply does not constitute contact) the attorney who issued the subpoena (prosecution or defense) to request to be excused from the subpoena. If the subpoenaed employee is unable to reach the attorney, the employee should call the Court Liaison Unit (**Redacted – record exempt**) for assistance.
 - b. After contacting the attorney, the subpoenaed employee shall be responsible for the thorough and accurate completion of the designated **Declaration for Continuance- Officer Form**.
 - c. Upon completion, the **Declaration for Continuance- Officer Form** shall be promptly emailed to the Court Liaison Unit at (**Redacted – record exempt**). The original copy of the completed form will be retained by the subpoena clerk at the command for a period of 60 days after the scheduled court appearance. The original copy no longer needs to be sent via interoffice mail to the Court Liaison Unit.
 - d. If a command receives a subpoena for an employee that will not be served (due to the employee being on vacation, military leave, industrial leave, etc.), the employee's immediate supervisor shall contact the attorney who issued the subpoena, notify them of the subpoenaed employees' unavailability, and complete the designated **Declaration for Continuance- Supervisor Form**.
 - e. Once completed, the **Declaration for Continuance- Supervisor Form**, shall be promptly emailed to the Court Liaison Unit at (**Redacted – record exempt**). The original copy of the completed form will be retained by the subpoena clerk at the command for a period of 60 days after the scheduled court appearance.

Note: The attorney will use the completed Declaration for Continuance form to request a continuance from the court. The decision to excuse the subpoenaed employee will depend on the court's decision to grant the continuance.
 - f. If an employee becomes ill, is running late, or for any other reason cannot appear in court on the day of the scheduled appearance, the employee or

their immediate supervisor, if the employee is unable to call, shall contact the Court Liaison Unit (**Redacted – record exempt**) and the assigned attorney as soon as possible to make appropriate arrangements.

E. Excusal for Infraction Cases:

1. The process to be excused from a subpoenaed court appearance at Kearny Mesa Traffic Court or Superior Court (South Bay, East County, and North County) for infraction cases differs from requesting a continuance from a District Attorney or City Attorney case for misdemeanor or felony offenses. This procedure is only for the excusal of an officer subpoenaed to appear before Traffic Court or a Superior Court for infraction offenses.
2. Unlike misdemeanors or felonies, infraction offenses do not have an assigned prosecutor. Therefore, subpoenaed employees are not required to contact an issuing attorney to be excused from the court appearance. If an employee is unable to attend the court appearance, the case is dismissed rather than continued.
3. To be excused for an infraction court case, the following shall be adhered to:
 - a. The subpoenaed employee shall be responsible for the thorough and accurate completion of the designated Excusal for Infraction Cases- Officer Form.
 - b. The employee's immediate supervisor will review the completed form and approve the excusal from the court appearance.
 - c. Upon completion, the Excusal for Infraction Cases- Officer Form shall be promptly emailed to the Court Liaison Unit at (**Redacted – record exempt**). The original copy of the completed form will be retained by the subpoena clerk at the command for a period of 60 days after the scheduled court appearance. The original copy no longer needs to be sent via interoffice mail to the Court Liaison Unit.
 - d. If a command receives a subpoena for an employee that will not be served (due to the employee being on vacation, military leave, industrial leave, etc.), the employee's immediate supervisor shall complete the designated Excusal for Infraction Cases- Supervisor Form.
 - e. Once completed, the Excusal for Infraction Cases- Supervisor Form, shall be promptly emailed to the Court Liaison Unit at (**Redacted – record exempt**). The original copy of the completed form will be retained by the subpoena clerk at the command for a period of 60 days after the scheduled court appearance.

- f. If an employee cannot attend an infraction court appearance (Illness, emergency, etc.), the employee, or their immediate supervisor, if the employee is unable to call, shall contact the Traffic Court Liaison Officer **(Redacted – record exempt)** and inform them of the absence. The Traffic Court Liaison Officer will inform the court of the absence and document the excusal on the daily court calendar.

F. Subpoenas for Employees Administratively Assigned to Human Resources Division/Medical Assistance Unit:

- 1. Subpoenas for employees on approved leave (extended industrial, parental, medical leave, etc.), who have been administratively transferred to the Human Resources Division, shall be forwarded to the Medical Assistance Unit and handled in the following manner:
- 2. A Medical Assistance Unit Supervisor will complete the applicable supervisor Declaration for Continuance/Excusal Form.
- 3. The completed form will be emailed to **(Redacted – record exempt)** for felony and misdemeanor cases and to **(Redacted – record exempt)** for infractions offenses.
- 4. The original copy will be retained by the unit for 60 days. The original copy no longer needs to be sent via interoffice mail to the Court Liaison Unit.

All previous versions of the Declaration for Continuance Form shall no longer be used.

The following new forms can be located on the **(Redacted – record exempt)**.

((Redacted – record exempt))

Felony and Misdemeanor Cases	Email Completed Form To:
Declaration for Continuance Form- Officer Form	(Redacted – record exempt)
Declaration for Continuance Form- Supervisor Form	(Redacted – record exempt)

Traffic Court- Infraction Cases	Email Completed Form To:
Excusal for Infraction Cases- Officer Form	(Redacted – record exempt)
Excusal for Infraction Cases- Supervisor Form	(Redacted – record exempt)

If you have any questions, please contact the Court Liaison Unit, **(Redacted – record exempt)**

Department Procedure 1.11 will be updated to reflect these changes.

Please read at squad conferences and give a copy to all personnel.