



Subpoenas

Reference Sheriff's Policy and Procedure section F.13 Subpoena Duces Tecum

There are several types of subpoenas that are received at the facilities. Each type of subpoena is to be served to a designated person. The Detentions Information Assistant (DIA) is not to accept a subpoena unless the subpoena is to be served to them directly.

SUBPOENA DUCES TECUM

Subpoena Duces Tecum is an order from a judge directing the Sheriff to comply with a certain task for an incarcerated individual. A Subpoena Duces Tecum reads as follows:

YOU ARE COMMANDED, *within five (5) days after receipt of this subpoena, to deliver by mail or otherwise a true, durable and legible copy of the records described below (or such described as are in your possession or control) to the Clerk of the Court or to the Court, together with the declaration set forth below.*

GOODS/RECORDS DESCRIBED: *Description of what is needed.*

PROCEDURE: *The custodian shall complete and sign the declaration below. The copy of the records shall be separately enclosed in an inner envelope or other suitable container, and then sealed. The case name and court number, the name of custodian (Which would be the Watch Commander) and the date of subpoena shall be clearly written on the outside of the inner envelope or container. This subpoena shall then be attached to the inner sealed envelope or container and both shall then be enclosed in an outer envelope or container, sealed, and sent to: The Clerk or Court.*

DECLARATION OF CUSTODIAN: *Responsibility of the Watch Commander.*

The Watch Commander is responsible for accepting and processing Subpoena Duces Tecums. All Subpoenas Duces Tecum will be directed to the Watch Commander immediately. This includes subpoenas for Support Bureau Personnel i.e., Medical, Kitchen, Laundry, etc. at the facility. The Detention Information Assistant will not accept the Subpoena. It must be served to the Watch Commander only. Prior to acceptance, the Watch Commander will complete a search to ensure the incarcerated individual is in custody. (If the incarcerated individual is not in custody, refer the person serving the subpoena to the Sheriff's Records Division).

- If the Subpoena is for an incarcerated individual's custody record, the Watch Commander will give the Subpoena to the Detention Processing Supervisor.



The Detention Processing Supervisor will make copies of the requested records and enclose them in an inner envelope or other suitable container and give to the Watch Commander. The Watch Commander will complete the procedure and return the items to the court.

SERVICE SUBPOENA

Traditionally, subpoenas had to be served upon the individual being subpoenaed and had to be served by any adult person except a party to the action. While it is preferable to serve all civil and criminal subpoenas personally, it is legally acceptable to serve civil and criminal subpoenas on peace officers by delivering a copy to that person's immediate supervisor. (Government Code 68097.1). With the implementation of the peace officer automated subpoena system in July 1986, both sworn and professional staff Sheriff's personnel may be subpoenaed electronically by computer. This subpoena prints out on a laser printer. The training coordinator deputy is assigned to track these subpoenas in a logbook. The designated deputy will hand the subpoena out to the designated employee or their supervisor and each person will sign the logbook stating that the subpoena was received. The subpoena will inform the employee of where and when they are to report. The subpoena will also inform the employee with the name of the individual the subpoena is in regard to. The employee served with this type of subpoena has several different responsibilities pertaining to them. The responsibilities are as follows:

- Arrange directly with the Deputy District Attorney handling the case any excuse for non-appearance.
- Contact the call-off service (District Attorney's Status Recording) prior to appearance date.
- Maintain direct contact with the District Attorney's Office during case proceedings for further appearance information.
- Have the Subpoena time-stamped by the reception desk clerk at the District Attorney's Office. The subpoena must be stamped at the beginning and end of the court day.

It is the policy of this department to make every effort to obey the conditions of a subpoena. Without the conscientious participation of the involved personnel, successful prosecution is impossible. Non-Appearance on a subpoena shall **only** be excusable under the following conditions:

- When directly excused by the court or the Deputy District Attorney responsible for the case.
- When called off by the District Attorney's Status recording on the day prior to scheduled appearance.



SUBPOENA

A subpoena which an employee receives as a private citizen, unrelated to ~~their~~ duties. This subpoena is named to a specific employee who will be served directly to that employee. This subpoena is generated due to an outstanding lawsuit or civil matter. The legal advisor's office is not to be contacted regarding these types of subpoenas. It is the employee responsibility to take care of this subpoena.