

## Subpoenas and Court Appearances

### 324.1 PURPOSE AND SCOPE

This policy establishes the guidelines for department members who must appear in court. It will allow the Redding Police Department to cover any related work absences and keep the Department informed about relevant legal matters.

### 324.2 POLICY

Redding Police Department members will respond appropriately to all subpoenas and any other court-ordered appearances.

The Warrant/Subpoena Technician shall process all subpoenas promptly and ensure they are routed to the appropriate division for service on the employee. A Police Records Technician will be assigned to check the website for the District Attorney each business day after 1700 hours to obtain information regarding canceled subpoenas.

### 324.3 SUBPOENAS

Only Department members authorized to receive a subpoena on behalf of this Department or any of its members may do so. This may be accomplished by personal service to the officer or by delivery of two copies of the subpoena to the officer's supervisor or other authorized departmental agent (Government Code § 68097.1; Penal Code § 1328(c)).

The party that issues a civil subpoena to an officer to testify as a witness must tender the statutory fee of \$275 with the subpoena for each day that an appearance is required before service is accepted of the subpoena (Government Code § 68097.2).

An immediate supervisor or authorized individual may refuse to accept service for a criminal subpoena if (Penal Code § 1328(d)(e)):

- (a) He/she knows that he/she will be unable to deliver a copy of the subpoena to the named officer within sufficient time for the named officer to comply with the subpoena.
- (b) It is less than five working days prior to the date listed for an appearance and he/she is not reasonably certain that service can be completed.

If, after initially accepting service of a criminal subpoena, a supervisor or other authorized individual determines that he/she is unable to deliver a copy of the subpoena to the named officer within sufficient time for the named officer to comply with the subpoena, the supervisor or the subpoena clerk shall notify the server or the attorney named on the subpoena of such not less than 48 hours prior to the date listed for the appearance (Penal Code § 1328(f)).

Members will receive subpoenas via the PlanIt Police system utilized by the Redding Police Department. Department members subpoenas will be entered into PlanIt by the subpoena clerk.

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The member will receive email (and text, if selected) notification of the subpoena. The member shall accept the subpoena service prompt when notified.

Subpoena cancellation and/or changes will be updated by the subpoena clerk. Members will be updated by email (and text, if selected) for cancellation and/or changes.

#### 324.3.1 SPECIAL NOTIFICATION REQUIREMENTS

Any member who is subpoenaed to testify, agrees to testify or provides information on behalf of or at the request of any party other than the City Attorney or the prosecutor shall notify his/her immediate supervisor without delay regarding:

- (a) Any civil case where the City or one of its members, as a result of his/her official capacity, is a party.
- (b) Any civil case where any other city, county, state or federal unit of government or a member of any such unit of government, as a result of his/her official capacity, is a party.
- (c) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.
- (d) Any civil action stemming from the member's on-duty activity or because of his/her association with the Redding Police Department.
- (e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Redding Police Department.

The supervisor will then notify the Chief of Police and the appropriate prosecuting attorney as may be indicated by the case. The Chief of Police should determine if additional legal support is necessary.

No member shall be retaliated against for testifying in any matter.

#### 324.3.2 CIVIL SUBPOENAS

Civil subpoenas from private attorneys will be accepted by Services personnel at the front counter. Received subpoenas will be given to the Warrant/Subpoena technician for processing.

Civil subpoenas for Department personnel must have a receipt from the Treasurer's Office showing a deposit has been posted prior to acceptance by the front counter personnel. The civil subpoena will then be given to the Warrant/Subpoena Technician for processing.

If the employee is eligible for overtime from a civil court appearance, the employee must fill out an overtime card with the words "Civil Subpoena" written at the top of the card.

Employees who are unable or cannot appear on civil subpoena shall contact the issuer to make arrangements for a continuance. If an employee is on industrial injury status and cannot attend, the employee shall submit a doctor's note to their immediate supervisor in addition to contacting the issuer of the subpoena.

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#### 324.3.3 OFF-DUTY RELATED SUBPOENAS

Members receiving valid subpoenas for off-duty actions not related to their employment or appointment will not be compensated for their appearance. Arrangements for time off shall be coordinated through their immediate supervisors.

#### 324.3.4 DEPARTMENT OF MOTOR VEHICLE HEARINGS

The DMV may subpoena officers and witnesses for a telephone hearing in the form of a conference call or to appear in person. If an officer's testimony is needed, the DMV will subpoena the officer and provide the date and time for the officer to appear. If the subpoena is for a telephonic response, a phone number will be provided on the subpoena. If the hearing is by phone, the designated DMV Hearing Officer will conduct the conference so that the defendant, the officer, and any witness may testify.

If at the time of the hearing the DMV is unable to contact the defendant and/or the telephone hearing is canceled, the DMV Hearing Officer will notify the officer of the cancellation by telephone. If the officer is not notified by the DMV of the cancellation within 30 minutes, the hearing is considered canceled and the officer may leave.

#### 324.3.5 INFRACTION VIOLATION HEARINGS

When a civilian witness is needed for testimony in a non-traffic accident infraction case, the officer requesting the witness should contact the misdemeanor secretary at the District Attorney's Office to obtain a subpoena. If the District Attorney is not present at the hearing, the officer should introduce the witness for the Judge's examination. To avoid the appearance of practicing law without a license, the officer should not ask questions of the defendant or any witnesses.

### **324.4 SUBPOENAS ISSUED BY THE DISTRICT ATTORNEY**

The court officer or assigned designee will pick up criminal subpoenas from the District Attorney's Office and deliver them to the Services Warrant/Subpoena Technician for processing.

To determine whether or not the employee is still needed for the court appearance, the employee should view the District Attorney's website. If the case on which the officer subpoenaed is listed on the website, the officer need not appear and the subpoena is canceled. The employee may also call the subpoena telephone line after 1700 hours the day prior to the appearance. If the case on which the officer is subpoenaed is not listed, the officer should call the telephone for the attorney issuing the subpoena for further instructions. The website address and subpoena telephone number will be stamped on the subpoena.

Employees who are unable to appear on a subpoena issued by the District Attorney may request a continuance of a court case when good cause can be shown. To request a continuance, employees shall file a written declaration with the District Attorney's Office using a Shasta County D.A. Declaration. The declaration shall include the specific reasons and facts of why the continuance is needed. The declaration and original subpoena shall be routed to the Warrant/Subpoena Technician to be delivered to the District Attorney's Office for review and filing.

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After filing the continuance declaration, it is the subpoenaed employee's responsibility to contact the specific Deputy D.A. handling the case and obtain authorization to be released from the subpoena.

#### **324.4.1 SUBPOENAS ISSUED BY DEFENSE ATTORNEYS**

Subpoenas from defense attorneys will be accepted by Services personnel at the front counter. Received subpoenas will be given to the Warrant/Subpoena Technician for processing.

Employees who are unable or cannot appear on a defense subpoena shall contact the issuing agency to make arrangements for a continuance. If an employee is on industrial injury status and cannot attend, the employee shall submit a doctor's note to their immediate supervisor in addition to contacting the issuer of the subpoena.

#### **324.5 FAILURE TO APPEAR**

Any member who fails to comply with the terms of any properly served subpoena or court-ordered appearance may be subject to discipline. This includes properly served orders to appear that were issued by a state administrative agency.

#### **324.6 STANDBY**

Any employee who is placed on "court standby" by the District Attorney's office, a defense attorney or any other attorney in conjunction with an issued subpoena shall immediately contact the on-duty supervisor with the attorney's name and contact phone number when the request will result in overtime. The supervisor shall then contact the attorney to discuss the court standby request when the standby would result in overtime. The supervisor shall notify the affected employee of any change to the court appearance date or time.

To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the Department.

If a member on standby changes his/her location during the day, the member shall notify the designated Department member of how he/she can be reached. Members are required to remain on standby until released by the court or the party that issued the subpoena.

#### **324.7 COURTROOM PROTOCOL**

When appearing in court, members shall:

- (a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.
- (b) Dress in the department uniform or business attire.
- (c) Observe all rules of the court in which they are appearing and remain alert to changes in the assigned courtroom where their matter is to be heard.

#### **324.7.1 TESTIMONY**

Before the date of testifying, the subpoenaed member should request a copy of relevant reports and become familiar with the content in order to be prepared for court.

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### **324.8 OVERTIME APPEARANCES**

When a member appears in court on his/her off-duty time, he/she will be compensated in accordance with the current memorandum of understanding or collective bargaining agreement.