

## Chapter 7 - Judicial Process

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### • 5-07/010.05 - Time of Admonition

#### Adults

An adult suspect(s) need not be advised of his/her constitutional rights (Miranda advisement) unless a deputy intends to question him/her.

#### Juveniles

**Juveniles 15 years of age or younger:** Welfare and Institutions Code (WIC) section 625.6 states that a juvenile 15 years of age or younger **shall** consult with legal counsel in person, by telephone, or by video conference prior to a custodial interrogation **and** before the waiver of any Miranda rights. The consultation may not be waived.

Exceptions to the law regarding providing immediate legal counsel are:

- When the juvenile makes a spontaneous statement;
- The juvenile is 16 or older;
- The juvenile is not in custody;
- The juvenile is not being interrogated; or
- If both of the following criteria are met;
  - When a juvenile is questioned by a deputy who reasonably believes the information sought was necessary to protect life or property from an imminent threat; **and**
  - The deputy's questions were limited to those questions that are reasonably necessary to obtain that information.

**Juveniles (16 and 17 years of age)** In accordance with section 625 WIC, the arresting deputy shall advise a juvenile of his/her constitutional rights immediately upon taking him/her into custody even if the arresting deputy does not intend to question the juvenile; however, after a Miranda advisement has been given, deputies shall refrain from requesting the juvenile waive his/her constitutional rights unless they are handling the case to conclusion or when those circumstances outlined in section 5-07/010.15 apply. The juvenile must intelligently, knowingly, and voluntarily relinquish his/her rights before any questioning by deputies.

No Miranda Advisement is required under the following circumstances:

- An ordinary traffic citation is issued;
- When a deputy is conducting a field sobriety test;
- A person approaches a deputy in the field or at a station and tells the deputy that he/she wants to confess to a crime;
- A deputy is engaged in general on-the-scene questioning for facts surrounding a crime or other general questioning of civilians in the fact-finding process;

- Without being questioned, a suspect offers a confession or any other statement;
  - When there is an immediate threat to officer/public safety (e.g., interrogation about the presence of weapons and accomplices, explosives, discarded narcotics, or the whereabouts of kidnap victims);
  - A suspect's attorney is present; or
  - A suspect doesn't know he/she is being questioned (e.g., questioning by an undercover officer). The deputy shall advise a suspect of his/her rights and solicit a waiver of those rights before any interrogation. The deputy shall ensure that the suspect's waiver of rights has been made intelligently, knowingly, and voluntarily.
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## • 5-07/010.10 - Admonition Procedures

When a suspect is in custody and the deputy intends to question the suspect about a crime being investigated, he/she shall first advise the suspect of his/her constitutional rights (Miranda advisement) using the Admonition and Waiver of Rights card (SH-AD-477 card) as follows:

- “You have the right to remain silent. Do you understand?”
- “Anything you say may be used against you in court. Do you understand?”
- “You have the right to talk to an attorney during questioning. Do you understand?”
- “If you cannot afford an attorney, one will be appointed for you, before any questioning. Do you understand?”

**NOTE:** If you desire an expressed waiver, ask a “yes” or “no” question, such as, “Do you want to talk about what happened?”

When taking **any** juvenile into custody **and** prior to initiating a custodial interrogation with a juvenile who is 15 years of age or younger, sworn personnel shall adhere to section 5-07/010.05.

The SH-AD-477 card is double sided and provides the Miranda advisement in both English and Spanish. The English version of the SH-AD-477 card shall be used when reading the Miranda advisement to English-speaking suspects. The Spanish translation shall be used only by Spanish-speaking sworn personnel for reading the Miranda advisement to Spanish-speaking suspects who do not speak or understand English. All line deputies shall have a SH-AD-477 card in their possession while on duty.

The deputy shall read the exact wording from the SH-AD-477 card to the suspect, and shall show in his/her report that he/she did advise the suspect of his/her constitutional rights as enumerated, and shall indicate whether or not the suspect waived his/her rights. A Miranda waiver may be either expressed (preferable), or implied (acceptable).

If a suspect should elect to talk, he/she may exercise his/her right to remain silent or to request an attorney at any time during the questioning. Questioning shall stop until the suspect/juvenile makes it known to the investigator(s) that he/she would like to reinitiate contact. If during interrogation the suspect exercises his/her right to speak to an attorney, questioning shall stop until the suspect/juvenile has conferred with his/her attorney, or the suspect/juvenile initiates a request to resume the interrogation.

When an attorney is summoned, questioning may be conducted in his/her presence with the consent of both

the suspect and the attorney.

If, after a Miranda advisement, the suspect does not request an attorney and elects to remain silent, questioning may resume at the voluntary request of the suspect.

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### • **5-07/010.15 - Admonition by Field Personnel**

Field personnel may admonish a suspect in cases assigned to the Detective Division and/or Station/Unit Detectives when a detective is not available and one of the following situations apply:

- The suspect is seriously ill and the Deputy has reasonable cause to believe that his condition may deteriorate;
- The suspect will not be available for questioning later, as he plans to post a Writ of Release or Certificate of Bailment; or
- The Deputy has reasonable cause to believe that immediate questioning of the suspect is necessary. (Examples: When the suspect can supply information to avert danger to life or property or to prevent a serious crime, or in fresh pursuit when delay might cause the escape of accomplices.)

In patrol assigned misdemeanor cases, when it appears the suspect will be released on a citation (promise to appear) as in cases of petty theft or vandalism, field personnel should consider admonishing the suspect and attempting to get a statement.

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### • **5-07/020.00 - Obtaining of Felony and Misdemeanor Complaints**

Branch and area offices of the District Attorney are provided for the purpose of filing felony and misdemeanor complaints initiated by the Sheriff. The District Attorney has the responsibility for determining the type of complaint to be issued.

Specialized deputy district attorneys are also available to designated investigators for the filing of cases that are particularly complex, or that involve specialized subject matter.

Deputy personnel seeking a felony and/or misdemeanor complaint shall supply the concerned Deputy District Attorney with a complaint filing package which shall have full and complete information, including:

- Sufficient copies of the original Incident Report (SH-R-49) for filing and one copy of all arrest and crime reports for each defendant;
- Two copies of the Countywide Warrant System Initial Case Filing form for each defendant;
- Sufficient copies of all supplemental reports;
- Results of all record checks; and
- Information about existing additional evidence (e.g., recordings or statements, videos, photos, latent fingerprints, names, addresses and attitudes of witnesses, blood-alcohol test results, etc.).

When necessary to contact a Deputy District Attorney prior to completion of the supplemental report, the investigating officer shall arrange to supply copies of the report to the District Attorney's Office as soon as

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possible.

If an investigating officer disagrees with a filing deputy's charging decision, the investigator may appeal the decision to the Assistant Head Deputy of the branch office or to the Deputy-in-Charge of the area office or Section/Unit. If that action fails to resolve the issue, the Unit Commander of the investigating unit may submit a written request, fully documenting the rationale for reconsideration, to the District Attorney's Head Deputy.

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### • 5-07/030.00 - Proof of Prior Conviction

When proof of a prior conviction of a prisoner is desired, and such prisoner served time on said prior in any state or federal prison, the Deputy requesting the proof shall:

- Contact the District Attorney's Prior Section and furnish:
  - Prisoner's name;
  - LASD booking number;
  - Specific prior charge to be certified;
  - Date sentenced; and
  - Name and location of the institution where time was served;
- Obtain a fingerprint card of the prisoner, the rolling of which should be witnessed by the investigating officer, who should then initial, date, and time stamp this fingerprint card in the upper portion; and
- Subpoena the fingerprint Deputy who will compare the witnessed fingerprints of the prisoner against the fingerprints obtained at the time of prior conviction and testify as to his findings.

For proof of a prior conviction in instances wherein time was served in the County Jail, contact the Records and Identification Bureau (RIB), Information Retrieval Unit, then follow the above procedure.

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### • 5-07/040.00 - Writ of Habeas Corpus

A Writ of Habeas Corpus directed to the Sheriff commands him to bring a prisoner before a designated court at a specified time. To be valid, a Writ of Habeas Corpus must:

- Be issued by a court of competent jurisdiction;
- Be dated;
- Be directed to the Sheriff;
- Name the prisoner; and
- Specify the date, time and court or judge for appearance of the prisoner.

A Writ of Habeas Corpus may be used as a release document if the bail specified is tendered (P.C. Section 1490).

When a Writ is served, a copy of the petition should also be provided. This is not a legal requirement, but is desirable because the petition contains information useful in making the return.

A Writ of Habeas Corpus not directed to the Sheriff shall be referred to the Court Services Division for service on the person to whom it is directed.

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### • **5-07/040.05 - Procedure When Served At a Custody Division Facility**

When a Custody Division Unit is served with any form of Habeas Corpus, it shall be accepted. The Deputy accepting shall initial the process and indicate the date and time received. It shall then be forwarded to the Watch Commander, Inmate Reception Center (IRC).

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### • **5-07/040.10 - Procedure When Served At Stations**

Station personnel shall accept Writs of Habeas Corpus and forward them to the appropriate Watch Commander (IRC, CRDF or in the case of juveniles, to the Safe Streets Bureau).

If a Writ of Habeas Corpus is received for a prisoner previously released, accept the Writ and forward it to the IRC Watch Commander.

The Station Deputy accepting a Writ of Habeas Corpus shall:

- Initial the process and stamp it with the date and time received; and
  - Forward the Writ of Habeas Corpus to IRC immediately.
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### • **5-07/040.15 - Order to Show Cause Regarding Writ of Habeas Corpus**

Handle the same as a Writ of Habeas Corpus and forward to the appropriate Watch Commander (IRC, CRDF or in the case of juveniles to the Safe Streets Bureau).

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### • **5-07/040.20 - Inmate Reception Center (IRC) Procedure**

Upon receipt of a Writ of Habeas Corpus, IRC shall:

- Time stamp the document(s);
  - Update the Automated Justice Information System (AJIS) if the Writ authorizes bail;
  - Arrange for release if the Writ authorizes "Own Recognizance" (OR) release;
  - Notify proper legal department (e.g., District Attorney, County Counsel, etc.) regarding the Writ and its return date, time and location;
  - Notify the Transportation Bureau, if necessary; and
  - Make the return on the Writ as required, making distribution as follows:
    - Original to the issuing court;
    - First copy to District Attorney, City Attorney or County Counsel as applicable;
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- Second copy to appellant or his counsel; and
- Third copy to IRC files.

IRC will make the return on all Writs of Habeas Corpus for criminal cases including sentenced and unsentenced prisoners. Returns on Writs of Habeas Corpus involving civil cases will be made by the County Counsel.

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## • 5-07/050.00 - Superior Court Warrants

The Superior Court issues only two types of warrants:

- Bench warrants as a result of information, indictment or a violation of probation; and
- Body attachments for defaulters.

All bench warrants and body attachments for defaulters, including Juvenile Court warrants originating from the Superior Court or its departments, are placed into the Countywide Warrant System (CWS) by the courts or the CWS Operations Unit of the Records and Identification Bureau. Entering a warrant into CWS causes an automatic entry into the California Department of Justice Wanted Persons System (WPS) when the criteria is consistent with those of the filing agency. Adult Superior Court Warrants are assigned to Fugitive/Warrant Detail for service.

The responsibility for service of Adult Authority Orders for Apprehension of both males and females lies with the state parole officer. If assistance is rendered by Department personnel, a log entry shall be completed.

If a warrant is received by a Unit other than CWS Operations directly from the County Superior Court which cannot be served and/or there is no information as to the whereabouts of the defendant, it shall be forwarded to RIB for CWS input.

For Superior Court warrants applicable to juveniles, see the Juvenile chapter of this Manual.

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## • 5-07/060.00 - Consolidated Superior Court Warrants

Consolidated Superior Court warrants are entered into the Countywide Warrant System. Warrant service is programmably assigned to the appropriate agency (See section 5-07/130.00 - Assigned Agency for how the warrant is assigned).

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## • 5-07/060.05 - Warrant Service for Out-Of-County Agencies

When out-of-County warrants are received by a Station, an attempt to serve the warrant shall be made. If an arrest is made, normal booking procedures shall apply. If an arrest is not made, the details of the attempted service (to prove due diligence) shall be sent to the requesting law enforcement agency, and the warrant returned to that agency.

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## • **5-07/060.10 - Warrant Service for Health and Safety Violations**

When a warrant charging a violation of the Health and Safety Code is received by a Station, particularly the code sections concerning contagious diseases and the defendant is in the Station area, the warrant shall be served immediately. If no Station detectives are available, Field Deputies shall serve the warrant.

When the defendant is held at a Sheriff's Station, responsibility for ordering him to court shall rest with the Station detectives.

When the defendant is housed at Men's Central Jail, responsibility for ordering him to court shall be with the Warrants and Detainers Unit of IRC.

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## • **5-07/060.15 - Responsibility of Arresting Unit**

When a warrant charging a violation of the Health and Safety Code is received by a Station, particularly the code sections concerning contagious diseases and the defendant is in the Station area, the warrant shall be served immediately. If no Station detectives are available, Field Deputies shall serve the warrant.

When the defendant is held at a Sheriff's Station, responsibility for ordering him to court shall rest with the Station detectives.

When the defendant is housed at Men's Central Jail, responsibility for ordering him to court shall be with the Warrants and Detainers Unit of IRC.

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## • **5-07/060.20 - Warrant Abstracts**

A warrant abstract is either:

- A carbon copy of an original warrant ("Abstract" in bold letters on its face);
- A JDIC message sent by the agency which holds the original warrant; or
- A JDIC message from CWS.

Warrant abstracts are authorized by Penal Code section 850, and shall contain the following information:

- Warrant type (felony, misdemeanor, civil, etc.);
  - Defendant's name;
  - Description of defendant;
  - Address (if known);
  - Warrant number;
  - Charge(s);
  - Issuing court or agency;
  - Name of issuing magistrate;
  - Amount of bail; and
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- Any restrictions on service.

An arrest may be made on the authority of a warrant abstract as though the arresting officer holds the original warrant.

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### • **5-07/060.25 - Requesting Duplicate Warrant Abstracts**

When Sheriff's personnel require a duplicate abstract they shall:

- Ensure an entry is made in the investigative information segment of the CWS warrant record explaining the need for a duplicate warrant abstract;
  - Call RIB and give the warrant and booking numbers; and
  - Advise RIB of the location to send the abstract.
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### • **5-07/060.30 - Placement of Holds on Warrants**

The following procedure should be followed after a document to person comparison has been performed with a Warrant Information Sheet. For persons held at a Sheriff's Station or facility (other than a Custody Division facility), the arresting officer or jailer shall place a hold for any warrants or abstracts received while the person is at that Station or facility. Prior approval shall be obtained from the Watch Sergeant before any such holds are placed.

For persons detained in a Custody Division facility, the Warrants and Detainers Unit of the Inmate Reception Center shall place all holds on male and female prisoners. Prior approval shall be obtained from a Unit supervisor before any warrants/holds are placed against prisoners.

If additional holds are placed against a prisoner, the Additional Charges/Holds Report (SH-CR-435) shall be completed. The prisoner's copy shall be given to him as soon as possible.

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### • **5-07/060.35 - Notification of Arrest to Other Agencies**

In the course of an investigation, a Warrant Information Sheet (WIS) may be sent to out-of-County and other in-County agencies to assist in the arrest of a defendant. When the assigned Unit or the CWS Operations Unit is notified of the defendant's arrest, it shall be that Unit's responsibility to send the abstract to an out-of-County agency; in-County agencies may obtain an abstract directly from CWS. The assigned Unit shall also notify those previously contacted agencies (except the one that actually made the arrest) that the warrant has been served.

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### • **5-07/060.40 - Arraignment Responsibility**

If the defendant is arrested and it is possible to detain the defendant at a Sheriff's Station or facility for transportation directly to a court served by the arresting Unit, it shall be that Unit's responsibility to set the

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defendant's arraignment date on the next day court is in session.

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### • **5-07/070.00 - Telephone Search Warrant**

Whenever a Deputy believes that a situation requires a telephonic search warrant, the following procedures shall apply:

- Complete the Search Warrant Checklist to ensure against critical information omissions;
- Have the search warrant forms available before calling the District Attorney;
- Call the District Attorney's office where the case will be filed. Before or after regular business hours, weekends and holidays, call the District Attorney's Command Post for the name and telephone number of the on-duty prosecutor;
- Discuss the facts with the prosecutor which support the telephonic warrant and the reason for the urgency. If he concurs with both the warrant and the urgency, he will seek a judge's approval for the oral warrant. Stand-by for the return call from the prosecutor;
- If the judge agrees that an oral search warrant is justified, the prosecutor will then arrange a "conference call." The officer, the judge, the prosecutor and a tape recording device will be connected. The prosecutor will provide the tape recording device and the tape;
- The prosecutor will state for the record the names of the parties participating, the name of the case and the date and time the conference starts;
- The judge will administer the oath to the officer who will then be questioned by the prosecutor regarding the facts supporting the warrant. The prosecutor and judge may question the officer further, if necessary;
- When the statement by the officer is concluded, the judge will decide whether the warrant should be issued. The judge may ask that the tape be played back to ensure that the statements are properly recorded. The judge will then complete the original warrant in writing and sign it. He will dictate the contents to the officer, who should complete his copy exactly as dictated. The judge will authorize the officer to sign his (the judge's) name to the officer's warrant. The judge will designate the officer's warrant as the duplicate original;
- The prosecutor will close the conference call by stating for the record the concluding time;
- The officer will make the authorized search using the warrant form, completed and signed at the authorization of the judge and shall enter on the face of the warrant the exact time of its execution. A Receipt for Seized Property (SH-CR-624) shall be completed, particularly noting the condition of the property and listing any damages which shall be left in a conspicuous area at the place searched;
- The officer will be notified when the transcript of the tape is complete. He will then pick up the transcript and tape and deliver them to the clerk of the court wherein the complaint is to be filed; and
- The officer shall file the return of the search warrant with the clerk of the court where the case arising from the search warrant will be filed.

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### • **5-07/075.00 - Taking of Photographs During Service of Search Warrants**

Whenever any member or members of this Department are involved in the service of a search warrant, whether or not this Department is the primary, concurrent or assisting agency in the service of such search warrant, it shall be the responsibility of the ranking Department member at the scene to photograph, or cause

to be photographed, the location, vehicle or area to be searched both before and after the search. Photographs taken shall be of 35 mm or larger only, or recording may be done on videocassette.

Members of the Department who engage in the service of a search warrant shall use caution when searching the property of another. Members shall not cause unnecessary damage to the property.

"Before search" photographs shall be taken as soon as practical after the location, vehicle or area to be searched is contained. "After search" photographs shall be taken after the search is completed and just prior to leaving the location. "After search" photographs shall duplicate the location, vehicle or area photographed prior to conducting the search, paying particular attention to any damage or areas of substantial disruption as a result of the service of the search warrant.

Undeveloped film shall be handled as evidence and forwarded with a completed SH-R-258 to Scientific Services Bureau, Photographic Laboratory, with instructions to return prints and/or file negatives for further reference. Photographs will be printed and sent to the investigating Unit only if requested.

Following the execution of a search warrant, a report shall be written indicating the number of "before search" and the number of "after search" photographs taken, or the number of videocassettes used. The disposition of the film rolls or videocassettes shall be indicated in the report.

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### • **5-07/080.00 - Warrantless Arrests in Dwellings**

Warrantless arrests in a dwelling are unreasonable and shall not be effected without consent to enter except in exigent circumstances.

Exigent circumstances means an emergency situation requiring swift action to prevent imminent danger to life or serious damage to property, to forestall the imminent escape of a suspect, or destruction of evidence.

The consent necessary to enter a dwelling need not be expressed, but may be that of the reasonable expectation of the Deputy derived from the words used and other actions on the part of the occupant giving consent.

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### • **5-07/090.00 - Misdemeanor Warrant Arrests - Warrant Not in Immediate Possession of Arresting Officer**

There are a number of factors to consider in making misdemeanor warrant arrests without the warrant being in the officer's possession. The officer making such an arrest must have reasonable cause to believe the person he is arresting and the person named in the warrant are the same. If the subject disputes being the warrant subject, the Disputed Warrant Verification Form shall be completed prior to booking.

When identity is established, consideration shall be given as to where the warrant is in order that an abstract copy, via JDIC, can be sent to the defendant's booking location. This is necessary because:

- The Warrant Information Sheet (WIS) must be compared to the warrant subject prior to obtaining the warrant abstract;

- The defendant may demand that the warrant information be shown to him. (If the defendant demands to see the warrant and the original is not available, a JDIC copy/abstract will suffice);
  - The defendant may wish to post bail;
  - Magistrate(s) may be immediately available and a delay in taking the defendant before same may be deemed unnecessary delay;
  - The defendant will be accepted by IRC only if accompanied by:
    - The original warrant; or
    - An abstract of the warrant;
  - When the defendant is accepted by IRC, the original warrant or an abstract of the warrant shall remain in the defendant's booking jacket pending his court appearance or other disposition, along with the Disputed Warrant Verification Form, if applicable.
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### • **5-07/100.00 - Misdemeanor Warrant Arrests - Time Restrictions**

Misdemeanor warrant arrests shall not be made between 2200 hours and 0600 hours unless one of the following conditions exists:

- The arrest is made pursuant to a warrant, whether endorsed for nighttime service or not, if the defendant is in a public place. Public place includes those locations currently interpreted for 647(f) PC situations (front yards are included, if open);
  - The arrest is made pursuant to a warrant, whether endorsed for nighttime service or not, and the defendant is in custody pursuant to another lawful arrest. Any hold so placed is binding;
  - The arrest is made pursuant to a warrant at places other than those defined as public places, if the warrant is endorsed for unrestricted day or nighttime service. A warrant endorsed for nighttime service, public place, would not meet this requirement; or
  - You make the arrest for violation of a domestic violence protective order, even though it did not occur in your presence (Penal Code, 836, 840.).
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### • **5-07/110.00 - Countywide Warrant System (CWS)**

CWS is a computerized information system designed for efficient and rapid retrieval of warrants, wanted persons information, and conditions of probation for juvenile probationers. Adult Probation Revocation Warrants are included in the system.

A detailed procedural guide concerning this system may be found in the CWS Policy and Procedures manual in the library of the Sheriff's Intranet site.

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### • **5-07/110.05 - User's Responsibilities**

All warrant inquiries shall be made via the Countywide Warrant System (CWS).

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In order to utilize the system to its fullest, jailers or JDIC operators shall:

- Perform a name inquiry of the Countywide Warrant System (CWS), Wanted Persons System (WPS) and National Crime Information Center (NCIC), including all also known as (AKAs); and
- Any hits on AKAs that match the suspect shall be listed on the Additional Charges and Holds Record (SHâ€™CRâ€™435).

The Records and Identification Bureau shall:

- Process all hard copy Superior Court warrants received that contain adequate information into the CWS;
- Process bail posted messages received from out-of-county agencies;
- Transmit LASD abstracts to agencies outside the County that indicate RIB, Fugitive Detail, or any Sheriff's Station/Unit/Bureau as the filing agency;
- Forward unassigned warrant notices to assigned Sheriff's Stations or other law enforcement entities for service; and
- Perform necessary functions for all warrants recalled by courts.

A manual search of Superior Court Warrants will not be initiated unless specific information is received from the requestor that a subject has an outstanding warrant that is not entered into CWS.

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## • **5-07/110.10 - Use of the CWS**

To obtain maximum benefits from the system, certain procedures must be followed by the requesting Deputy when running a subject via radio:

- Obtain a clear frequency by using current procedures;
- Speak slowly and distinctly; the communications operator is typing the inquiry directly into the system;
- Run only one subject and/or vehicle at a time;
- Accurately spell out all names;
- Indicate any omissions in the format (i.e., no driver's license, etc.);
- Indicate an available vehicle license number to assist in tying the subject into any wants/warrants;
- When a communications operator receives a possible want/warrant return, the Sheriff's Dispatcher shall read all identifying information, including full name, date of birth and any physical descriptors from the warrant information to the Field Deputy. If the information is an "exact match" to the information originally given by the Deputy, the Sheriff's Dispatcher may simply advise the Deputy of an "exact match;"
- The following procedures shall apply to all Sheriff's personnel whether the subject is run via voice, JDIC terminal, or MDT/MDC;
- In addition to the above requested information, the communications operator will immediately advise the requesting Deputy of any officer hazards;
- If any exonerations are associated with the warrant, the communications operator will query the investigative information/exoneration segment of the warrant and relay this information to the requesting Deputy;
- After having received information indicating that an outstanding warrant exists and the

arresting/requesting officer wishes to transport the subject to the Station for further investigation, he can request SCC to route a Warrant Information Sheet (WIS) to the Station or obtain a WIS from the JDIC terminal at the Station;

- A Deputy shall compare an arrestee, in person, with the description on the WIS prior to booking;
- Subjects who are arrested on a warrant or have additional charges placed against them pursuant to a warrant shall be given a copy of the WIS prior to booking;
- If a subject claims he is not the person named on a WIS, he shall not be booked until a thorough records search has been performed and a Disputed Warrant Verification Form completed. Any person claiming to be erroneously arrested on a warrant shall be allowed access to his property if such property contains evidence that he has been erroneously arrested;
- A Disputed Warrant Verification Form shall be initiated immediately upon the subject's claim that he is not the person named on the WIS. The Deputy seeking the booking shall compare all available records which relate to, or contain information about, the subject or the person named on the WIS;
- The decision to book an arrestee on the strength of the want/warrant will normally be made at the Station/custody facility by the Watch Sergeant or a Custody Division supervisor after comparing the arrestee's description with the information on the WIS and/or information obtained during the record search;
- The approving supervisor shall indicate approval of the arrest or authorization for release by noting "booked" or "released" followed by his initials on the WIS. If not booked and there are no other charges and/or wants on which to hold the subject, release the subject per section 849(b)(1) PC, issue the person detained a "Certificate of Release" (form SH-AD-516) and complete an Incident Report (form SH-R-49) using the classification "Warrant, one detention, one release;"
- The Deputy shall cause an entry to be made in the investigative information/exoneration segment (JDIC WANT5 format) of the warrant describing the circumstances of the exoneration. The detaining Deputy/agency shall give a copy of this entered information to the erroneously detained person. If an abstract was obtained, the Deputy shall also cause the warrant repository to be notified to reactivate the warrant. These procedures are outlined in the Countywide Warrant System Policy and Procedures manual (Refer to Manual of Policy and Procedures section 3-09/120.00, Sealing and Destroying of Arrest Records - Factually Innocent Subjects Only);
- If there is a decision not to place the additional warrant/hold against a prisoner being detained at a Custody Division facility for other charges, an SH-R-49 is not required; and
- When the Deputy obtains the abstract he shall attach a copy of the Disputed Warrant Verification Form and he shall obtain the approval of the Watch Sergeant/supervisor on the space provided on the form.

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### • 5-07/110.15 - Warrant Check Format

The format below shall be followed when running a subject by radio or telephone inquiry directed to the CWS Section, Records and Identification Bureau.

- Unit number - repeat for each subject;
- Operator's license number - if other than California, give state of issuance;
- Subject's last name/first name/middle name/suffix (Jr., Sr., III, etc.);
- Subject's address - if subject is a transient, so indicate;
- Sex;

- Racial descent;
  - Hair – color;
  - Eyes – color;
  - Height of subject - give only one height;
  - Weight of subject - give only one weight;
  - Date of birth - when birthdate is unknown, indicate approximate age;
  - Vehicle license number, if known;
  - Any additional addresses used by subject, run separately; and
  - Any additional aliases or names used by subject, run separately.
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### • **5-07/110.20 - Vehicle License Plate Want/Warrant Information**

CWS furnishes information if a license plate number is included in the warrant record. A want/warrant check on a license plate is not the same as a Stolen Vehicle System (SVS) check on a license plate.

The format for running a license plate is:

- Unit designation;
- Want/warrant check; and
- Vehicle license number.

A want/warrant return on a license plate indicates that there are wants or warrants listed to that plate, the type of warrant and the person named on the warrant.

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### • **5-07/110.25 - Bail Posted - Not Booked**

Persons arrested for one or two traffic warrants for failure to appear for a parking offense or traffic infraction shall be given three hours to post bail prior to being issued a booking number, fingerprinted and photographed. Persons with three or more traffic warrants shall be booked immediately. If a person taken into custody posts bail within three hours, the warrant will be served via CWS utilizing the non-AJIS booking format (WANT3). After the abstract has been received it shall be attached with all other information and forwarded to the court. An entry into the miscellaneous segment of investigative information shall be made, noting the date and court in which the defendant is to appear.

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### • **5-07/110.30 - Want Entries**

All want entries are to be approved by the detective Bureau Commander, or in his absence the Watch Commander, before entry into CWS. A want entry shall not be created when a warrant has been issued. The convention for creating want numbers shall be as follows:

- The first four characters shall be "WANT;"
  - The next three characters shall be the first three characters of the CLETS mnemonic of the Station/Unit,
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e.g., "TEM" for Temple Station; and

- The last six characters are available for the continuous sequencing of wants created by the entering Station/Unit. It is suggested that the URN sequential be used, followed by a number from 0-9 to indicate multiple suspects.

The following is the minimal information required to enter a want into CWS:

- Want Number;
- Issue date;
- Suspect's name;
- Sex;
- Date of birth;
- Charge and type (at least one charge must be a felony);
- Contact person and phone number; and
- Purge date (programmably entered for 30 days if not manually entered).

The following information is required in addition to the above if the want is to be entered into the Wanted Persons System (WPS):

- Race code;
- Height; and
- Weight.

WPS want entries are purged after 48-72 hours.

The originating agency case (OCA) number (truncated URN) is required in addition to the CWS and WPS entry criteria if the want is to be entered into the National Crime Information Center (NCIC).

NCIC want entries are purged after 48 hours.

Want information is held in CWS for 90 days, unless the investigating officer extends the purge date with the approval of the detective Bureau Commander, or in his absence, the Watch Commander.

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### • **5-07/110.35 - Want Only Superseded by Warrant**

When a Unit has entered a want into CWS and a warrant is later obtained for the same person under the same file number, it shall be the responsibility of the investigating Deputy to cancel the want.

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### • **5-07/110.40 - Local or Statewide Broadcast**

If a broadcast is sent via JDIC and it is desired that the subject of the broadcast also be input into CWS as wanted, it is the responsibility of the investigating Deputy to enter the want by following the guidelines and including the minimum information listed in section 5-07/110.30 Want Entries.



### • **5-07/110.45 - Cancellation of Wants**

When the investigating Deputy desires the cancellation of a want that has been input into CWS for any reason including arrest, it shall be his responsibility to cancel the want.

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### • **5-07/110.50 - Warrant Recalls**

The Superior Court bailiff shall, in a timely manner, telephone the Records and Identification Bureau (RIB) CWS Operations Staff to report all recalls received from the court clerk on hard copy warrants entered into CWS by RIB personnel. The bailiff shall then fill out a Warrant Recall form (76W270), noting the date of birth of the warrant suspect, the date, time and person with whom the bailiff spoke when phoning in the recall to RIB. This form shall then be forwarded to RIB.

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### • **5-07/110.55 - Warrant Service Procedure**

When a warrant is issued, CWS sends a notice to the filing agency, the assigned and the geocoded agency. (Refer to section 5-07/130.00.)

Units that are designated as the filing/assigned agency shall:

- Provide a copy of the notice to the investigating Deputy, who will add officer hazards and AKAs, if applicable;
- Ensure that the warrant is entered into NCIC, if applicable;
- Carry out warrant service; and
- Maintain the case for prosecution (i.e., evidence, availability of victims, witnesses, etc.).

The investigating Unit is responsible for maintaining a file of the active warrants until each warrant is served or recalled. The Unit shall:

- Designate a member of the Unit the responsibility for maintaining the warrant file system;
- Audit each active warrant case file every six months. If the case is no longer prosecutable, the investigator or another Unit member shall contact the concerned court for the warrant's recall;
- Attempt service at least once every ninety days to ensure due diligence. The Unit may request the assistance of the Major Crimes Bureau to assist them with the service of a warrant; however, this does not relieve the Unit of due diligence responsibilities; and
- Update the investigative information segment (JDIC WANT5 format) after each attempt at service.

It is the responsibility of the Unit's Division to audit each Unit's warrant file during the Unit's yearly Bureau inspection.

Warrants can be recalled at any time; therefore, service should not be attempted from a warrant notice alone. Its validity shall be checked in CWS just prior to service.

Units designated only as the geocoded agency shall:

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- Post a copy of the Warrant Notice for officer safety/information, when applicable; and
- Update investigative information segment (JDIC WANT5 format) after each attempt at service.

Warrant service is optional for the geocoded agency, unless they are also the filing or assigned agency.

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## • **5-07/110.56 - Consolidated Superior (Formerly Municipal) Court Felony Bench Warrants**

The assigned/filing Unit shall have the following responsibilities:

- Ensuring case preparedness and maintaining a file of all active felony bench warrants;
  - Providing a copy of the Warrant Notice to the investigating officer, who shall be responsible for adding officer hazard information, AKAs and ensuring that the warrant is entered into NCIC, if applicable; and
  - Auditing the case files every six months for case preparedness. If the case is no longer prosecutable, a member of the Unit shall contact the concerned court for the warrant's recall.

The concerned Unit is responsible for a minimum of one attempt at service within the first thirty (30) days of receipt of the Warrant Notice. The attempt at service will be entered into the Investigative Information Segment of the warrant record (JDIC WANT5 format).

In addition, every Detective Bureau or detail within a Division with field duties or Detective Division shall maintain an automated tracking program to ensure NCIC updates and due diligence. The following will be tracked in this system:

- Arrest warrants;
- Bench warrants; and
- NCIC entries.

The CWS Warrant Notices and Warrant Serving Notices will provide most of the necessary data for the entries.

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## • **5-07/110.60 - Procedure When Subject Not Person Named in Warrant**

When a person is booked by Sheriff's personnel on a warrant issued from outside Los Angeles County and it is subsequently determined that the arrestee is not the person named on the warrant, Sheriff's personnel shall complete the Disputed Warrant Verification Form and release the subject per existing policies, if no other charges are pending. Sheriff's personnel shall also advise the concerned outside Los Angeles County agency that their warrant was not placed on the subject.

When a person has been booked into a Sheriff's facility by an outside agency (e.g., El Monte Police Department, Sierra Madre Police Department, etc.) on any CWS warrant or warrant issued from outside Los Angeles County, and it is subsequently determined by Sheriff's personnel, after the outside agency's departure, that the arrestee is not the person named on the warrant, both pages of the Disputed Warrant Verification Form shall be completed and the instructions on the form followed. After completing the Disputed

Warrant Verification Form, notice shall then be made to the outside booking agency that it is their responsibility to have CWS updated, or advise the outside Los Angeles County agency their warrant was not placed, if applicable.

When a person is booked on a CWS warrant by Sheriff's personnel and it is subsequently determined that the arrestee is not the person named on the warrant, the jailer shall cause an exoneration to be entered into CWS. The following information shall be included:

- Informant's Name - The person who made the determination that the arrestee is the wrong defendant;
- The name of the arrestee;
- Date of birth of the arrestee;
- An identifying number, i.e., driver's license or social security number of the exonerated arrestee; and
- How it was determined the arrestee was the wrong defendant. A Disputed Warrant Verification Form shall be completed and included in the booking jacket.

A printout of this information must be given to the exonerated arrestee and a copy will be placed in the booking jacket.

The Records and Identification Bureau (RIB) shall be telephoned immediately thereafter so the warrant can be reactivated and made available for service.

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### • **5-07/120.00 - Warrant Disposition After Bail Posted**

When bail is accepted on any warrant or warrant abstract, the following information shall be listed on the Bail Receipt form:

- Name of defendant;
- Amount of bail posted;
- Date posted;
- Name of court for which payment is accepted;
- Court case number;
- Date and time of court appearance;
- URN;
- Booking number, if applicable;
- Unit where bail was posted; and
- Name of officer receiving the bail.

When bail is accepted on a warrant or warrant abstract previously booked out of CWS, the following subsections shall apply.

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### • **5-07/120.05 - Bail Posted At Station**

When bail has been posted at a Station, disposition of the warrant is as follows:

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- Original Warrant or Abstract

Fill in the bail information outlined in section 5-07/120.00, return the warrant to the court along with both portions of the original of the bail/fine formset or the surety bond.

If the warrant was booked prior to accepting bail or bond, the Station is responsible to update CWS by changing the warrant from booked status to booked/bailed status (JDIC WANT2 format).

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- **5-07/120.10 - Bail Posted At IRC/CRDF**

Procedures for warrant disposition when bail is posted at IRC or at Century Regional Detention Facility are the same as procedures at the Stations, with the exception that abstracts shall be filed in release jackets.

When an URN file is involved, the necessary supplemental reports shall also be prepared by the Unit of assignment.

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- **5-07/120.15 - Bail Accepted on Abstracts Received From Out-Of-County Police Agencies**

When bail is accepted on abstracts received directly from an out-of-county agency, the Station accepting the bail shall complete the bail information, send a JDIC message to the concerned agency and send the abstract and other necessary paperwork to the court.

When IRC/CRDF receives a direct abstract from an out-of-county police agency, the bail information shall be completed, a JDIC message sent to the concerned agency, the abstracts and papers sent to the concerned court and AJIS updated, if appropriate.

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- **5-07/130.00 - Warrant Notices**

The Countywide Warrant System (CWS) automatically generates a variety of notices to the following:

- Filing agency - The agency that filed the case with the Court;
- Assigned agency - The agency to which the service of the warrant has been assigned and programmed accordingly. Superior Court arrest warrants will be assigned to the agency reflected as the filing agency. As needed, Records and Identification Bureau (RIB) will manually assign dependency and delinquency juvenile Superior Court warrants; and
- Geocoded agency - The agency that has police jurisdiction over the warrant subject's home address or the warrant subject's business address. If the warrant contains no address, or if the address cannot be geocoded, the filing agency will be reflected as the geocoded agency.

Filing, assigned and geocoded agencies are designed by ORI.

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Types of Notices:

- Warrant Notice - Notice advising that a warrant has been issued and is an essential part of the Master Case Record (MCR) per the Department of Justice (DOJ);
- Warrant Change Notice - Notice advising of an officer hazard;
- Warrant Serving Notice - Notice advising that a warrant is no longer serviceable;
- Warrant Reactivation Notice - Notice advising that a warrant has been reactivated;
- Warrant Recall Notice - Notice advising that a warrant has been recalled, these notices have been discontinued, but could be re-activated at a later date;
- Warrant Previously Issued - Notice advising that a warrant has been reissued and is once again available for service; and
- Automated Justice Information System (AJIS) Hit Notice - notice advising the AJIS housing facility that a warrant has been issued, possibly for a subject in their custody.

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• **5-07/130.05 - NCIC Entries - Arrest Warrants**

It is the investigating deputy's responsibility to obtain extradition approval from the head deputy district attorney of the issuing court for arrest warrants they have caused to be issued. If extradition is approved, the investigating deputy shall:

- Ensure that the warrant is entered into the National Crime Information Center (NCIC); and
- Send a certified copy of the warrant, the NCIC printout, the Extradition Approval Form, and the investigating deputy's business card to: NCIC Coordinator, Major Crimes Bureau, and Fugitive Detail.

A file shall be maintained in the station or unit detective lieutenant's office where it can be accessed twenty-four hours a day.

NCIC Entries

When a Consolidated Superior Court bench warrant is issued, it is the investigating deputy's responsibility, or in their absence, the investigating unit's responsibility to determine if the warrant will be placed into NCIC for extradition purposes. Consideration for NCIC entry shall be based on the charge, any prior convictions and if, upon conviction, there will be an estimated minimum nine month jail sentence. It should be noted that the California Department of Justice (DOJ) programmatically enters all felony warrants received into NCIC as non-extraditable. The investigating deputy must modify the warrant, if extradition is desired.

## • 5-07/130.10 - NCIC Validation

The Federal Bureau of Investigation (FBI) requires that all wanted person entries in National Crime Information Center (NCIC) be validated by the originating agency for accuracy and completeness (all information available shall be entered into the record) and that they are still worthy of prosecution, i.e., witness and victims are still available, etc.

Every month the Department of Justice (DOJ) electronically sends a list of all warrants that must be validated to the issuing station/bureau detective lieutenant. It is the detective lieutenant's responsibility to ensure that the warrants contained on the list are validated as described above. If it is determined that the warrant should no longer reside in NCIC as extraditable, the detective lieutenant shall ensure the warrant's recall or if it is a felony warrant, have its status changed to non-extraditable in NCIC.

Adult Superior Court warrants shall be validated in the following manner:

- An inquiry into the District Attorney's Prosecutor's Information Management System (PIMS) shall be made;
- If the case is not found in PIMS, a letter to the court manager of the issuing Superior Court shall be written inquiring as to the status of the warrant; and
- All correspondence shall be maintained for three (3) years.

### DOJ Guidelines for Validation

Validation is accomplished by reviewing the entry and current supporting documents and by recent consultation with any appropriate complainant, victim, prosecutor, court, nonterminal agency, or other appropriate source of individual. In the event the ORI agency is unsuccessful in its attempts to contact the victim, complainant, etc., the entering authority must make a determination based on the best information and knowledge available whether or not to retain then the entry in the file. Contributors have 30 days from the date of notification to complete their NCIC record validations.

Effective February 2020, the DOJ implemented a process to assist agencies with their monthly NCIC Validation requirement. The following steps will take place if an agency fails to validate their records within the scheduled timeframes:

- 30<sup>th</sup> day Validation must be completed upon notification;
- 31<sup>st</sup> day Telephone call to your agency California Law Enforcement Telecommunications System (CLETS) coordinator (ACC);
- 31<sup>st</sup> day Email to your validation contact, ACC and agency head (Sheriff); and
- 39<sup>th</sup> day Letter sent to your agency head (Sheriff).

Letter to the Sheriff will include:

- Previous efforts to notify your agency;
  - Notification that your agency has been placed on the non-compliant list located on California Law Enforcement Web (CLEW) as a reminder;
  - Advisement that your agency may be required to appear before the CLETS Advisory Committee (COC) if more than three letters are received within a calendar year.
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### • **5-07/130.15 - FBI NCIC Audit**

The Federal Bureau of Investigation (FBI) audits National Crime Information Center (NCIC) records every two years. It is the NCIC coordinator's responsibility to ensure that all records entered into NCIC are complete and accurate. This includes the addition of AKAs and numeric identifiers.

The NCIC coordinator is responsible for distributing the monthly validation list (received from the Department of Justice) to the respective detective lieutenants and for maintaining a file of these lists for three years.

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### • **5-07/140.00 - Arrests with Citable Violations**

Citations shall not be issued to suspects who are being taken into custody.

When a suspect is arrested on a felony or misdemeanor charge and placed in custody and there are additional citable violations, the procedures for booking and reporting, outlined below, shall be observed.

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### • **5-07/140.05 - Booking and Property Record (Form SH-J-293)**

The arresting officer or jailer shall:

- Obtain booking number for the arrestable charge(s) only;
  - Indicate arrest charge(s) only; and
  - Do not indicate citable offenses on the booking slip.
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### • **5-07/140.10 - Incident Report (Form SH-R-49)**

The arresting officer shall complete the following:

- On the Classification line, indicate all chargeable violations along with level and statistical code (both citable and arrestable);
  - In Action Taken line, indicate an arrest was made; and
  - In the Charge Classification line, indicate arrest violations only.
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- **5-07/140.15 - Disposition of Citable Offenses**

When investigation reveals insufficient evidence to seek a complaint on the arrestable offenses, the investigating Deputy may request the court Deputy to seek a complaint on the citable offenses. In those cases normally handled by a court Deputy, the court Deputy may automatically seek a complaint for the citable offenses.

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- **5-07/150.00 - Citation Control Procedure**

Central Supply shall be responsible for the supply and distribution of the Notice to Appear (SH-CR-66) and the Notice of Parking Violation (SH-CR-67) to all Stations and Units upon request.

Each Station or Unit shall maintain a record of the citation numbers issued to them. In addition, each Station or Unit shall maintain a method of tracking each citation from acquisition to disposition.

Each Station or Unit shall provide a secure receptacle for completed citations. Personnel shall place completed citations inside the receptacle at the end of each shift. The receptacle shall remain locked and its contents accessible only to the Unit Commander, Watch Commander, Watch Sergeant, traffic supervisor or traffic secretary.

Citations issued in conjunction with a report shall be attached to, and submitted with, the report.

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- **5-07/150.05 - Distribution, Filing, and Destruction of Citation Copies**

The original (green) of the Notice to Appear (SH-CR-66) and the original (white) of the Notice of Parking Violation (SH-CR-67) shall be forwarded to the court of jurisdiction. The citation originals shall be attached to the Traffic Citation Transmittal and Control Register (76T547-TR-12) or a computer-generated printout, acceptable to the court, which contains the same information as form 76T547-TR-12. Citation numbers shall be listed in ascending numerical order. The transmittal shall be prepared in duplicate. The court clerk will sign the form upon receipt of the citations. A copy of the signed form shall be returned to the issuing Station or Unit and retained for a period of two years, then destroyed by the Station or Unit.

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- **5-07/150.10 - Destruction of Unusable Citations**

When unusable citations are to be destroyed, the Station/Unit supervisor responsible for citation control shall indicate on the Guides Citation Book (SH-R-169), the citation sequence number(s) destroyed, the date of destruction and his name. The SH-R-169 shall be retained in the Station/Unit citation file for two years after the destruction date.

Destruction of the citations shall be performed at the Station/Unit by cutting or shredding.

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- **5-07/150.15 - Citation Void/Dismissal Procedures**

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Station/Unit Commanders and Watch Commanders with the permanent rank of Lieutenant or above, are the only personnel authorized to void a citation.

A citation may be voided only when either of the following circumstances exist:

- The violator has not signed the Notice to Appear and has not received a copy; or
- The Notice of Parking Violation has not been placed on the vehicle.

#### Voiding of Citations

An officer requesting that a citation be voided shall submit all copies of the citation to his supervisor with an explanation of why the citation is to be voided.

The officer authorized to void the citation shall mark all copies "Void," write the reason for voiding the citation in the "Description of Violation" section and sign and date the citation. All copies of the voided citations shall be placed in the appropriate citation file.

A citation shall not be voided, but shall be dismissed, when either of the following circumstances exist:

- The violator has signed the Notice to Appear (SH-CR-66) and has received a copy; or
- The violator's copy of the Notice of Parking Violation (SH-CR-67) has been placed on the vehicle.

#### Dismissal of Citations

The officer requesting that a citation be dismissed shall submit all copies of the citation, with an explanation of the dismissal, to the Station/Unit Commander.

The Station/Unit Commander shall forward the original (court) copy of the Notice to Appear (SH-CR-66), along with a written request for dismissal, to the magistrate having jurisdiction. The original copy of the Notice of Parking Violation (SH-CR-67), along with a written request for dismissal, shall be forwarded to the agency processing the citations. All requests for dismissal shall contain the reason for dismissal of the citation. A copy of the request for dismissal shall be attached to the Station/Unit copy of the citation and placed in the appropriate citation file.

The dismissal procedures do not apply to those citations issued in traffic and/or criminal cases wherein the prosecuting attorney rejected the case.

Each Station/Unit Commander shall maintain a log of voided/dismissed citations. The Unit Commander or Lieutenant effecting the void or dismissal, as appropriate, shall enter the following information in the log:

- Date of entry;
- Citation number;
- Action (i.e., voided or dismissed);
- Reason action taken; and
- Name, rank, employee number of Commander or Lieutenant effecting the void/dismissal of the citation.

The log shall be retained for two years from the date of the last entry and then may be destroyed.

### • 5-07/150.20 - Lost/Stolen Citations

The officer responsible for a lost or stolen citation, citation copy or book of citations shall submit a memorandum to the Station/Unit Commander providing the citation number(s) and explaining the circumstances of the loss. The Station/Unit Commander shall notify Central Supply of the loss by memorandum.

The concerned Superior Court which has been receiving that series of citation numbers shall be sent a copy of the Station/Unit Commander's notification memorandum.

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### • 5-07/160.00 - Extradition Procedures

The arrest and return by extradition or after waiver of extradition of fugitives wanted by this Department from outside California will, in all cases, be coordinated by Fugitive/Warrant Detail. The Fugitive/Warrant Detail Commander, through his Extradition Unit, shall be the liaison agent of this Department with the District Attorney concerning extradition matters and shall be responsible for:

- Informing the investigating Deputy, to whom the case is assigned, regarding extradition procedures;
- Supervising preparation of an extradition request from information provided by the investigating Deputy;
- Accompanying investigating officer to District Attorney's Extradition Section for processing of request and obtaining approval or denial of extradition;
- Recommending an agent or agents to the District Attorney and submitting authorization on the Departmental Nomination of State Agent form (76A749);
- Coordinating with the investigating Deputy, the securing of all necessary documents needed for the location, apprehension and extradition of the wanted person in addition to supervising the correct correspondence and forwarding of documents, as required by circumstances of the case;
- Assisting the investigating Deputy or other persons named as extradition agent in obtaining necessary expense money through the District Attorney's Extradition section for return of the wanted person to this jurisdiction;
- Informing the agency which has custody of the person wanted by this Department of complete travel plans of our agents, including mode of travel and estimated arrival time; and
- Recording by supplemental report all actions taken in reference to the extradition and the return of the wanted person to this jurisdiction. The investigating Deputy will retain the responsibility for all other investigative reporting.

In emergency cases when the investigating Deputy desires an immediate out-of-state arrest of a wanted person and it is not possible to obtain extradition approval from the County District Attorney's Office prior to the arrest the investigating Deputy shall obtain the approval of the Fugitive/Warrant Detail Commander or his designee before requesting or authorizing the arrest.

Should the request for immediate out-of-state arrest meet with the approval of the ranking Deputy contacted, the District Attorney's Office will be so advised by the Fugitive/Warrant Detail Commander and extradition approval requested from that office as soon as possible after the arrest. In the event extradition is not approved by the District Attorney's Office, the agency holding the wanted person shall immediately be notified

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by Fugitive/Warrant Detail to release the person in custody.

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### • **5-07/170.00 - Deputy Personnel Subpoenaed As Witness in Civil Cases**

A Deputy who is subpoenaed as a witness before any court or other tribunal (hereafter referred to as "court") in any civil action or proceeding within and out of the County within 500 miles from home to the court shall receive his normal salary (regular salary and overtime, if applicable) during the time he travels to and from the court and while required to remain at such court. He will be reimbursed the actual necessary and reasonable traveling expenses incurred in complying with such subpoena provided that the subpoena is in connection with a matter regarding an event or transaction which the Deputy has perceived or investigated in the course of his duties. When subpoenaed by a court outside the 500 mile limit, arrangements for necessary transportation, food and lodging should be discussed with the concerned attorney of record prior to responding.

Tribunal is any person or body before whom or which attendance of witnesses may be required by subpoena.

All time spent and traveling expenses incurred by Deputies of this Department and all witness fees deposited with the clerk of the court shall be reported to Fiscal Services, Special Accounts Section, as outlined in the following subsections.

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### • **5-07/170.05 - Salary Provisions**

Provisions for receiving salary are as follows:

- Employees making such appearances during duty hours shall receive their regular County salary; and
  - Employees making an off-duty appearance shall be compensated with appropriate overtime credit.
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### • **5-07/170.10 - Reporting Procedures - Witness and Mileage Fees**

Deputies shall file a report indicating each day's court time, travel time and mileage and the deposit of the required daily fee by submitting a Report of Witness and Mileage Fees (SH-R-376) to Fiscal Services, Special Accounts Section, Attention: Witness Fees.

Such report shall be made in all cases when a Deputy responds to and from court, while remaining at said court and when a Deputy responds to a court and is then informed that his attendance is not required.

Based upon the information contained in the SH-R-376, Fiscal Services shall calculate the actual expenses incurred by the Deputy in complying with a subpoena under this section. If the actual expenses incurred are less than the witness fee deposited, Fiscal Services shall process a refund to the depositor. If the actual expenses incurred are more than the witness fee deposited, Fiscal Services shall collect the difference from the depositor.

Deputies shall report to their Unit Commander any overtime earned in response to such subpoenas through regular overtime reporting procedures.

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If a Deputy is subpoenaed and is subsequently informed that he need not appear, and thus does not go to court, he shall immediately submit the original of the SH-R-376, with sections 1 through 8 completed, to Fiscal Services, Special Accounts Section, Attention: Witness Fees.

Service of a subpoena under this section shall be made to the Deputy personally or to his immediate superior.

Deputies who are subpoenaed as witnesses for the opposition in any civil action or proceeding, or for the taking of depositions to which the County is a party, shall also adhere to the procedures outlined under section 5-07/220.00 of this chapter.

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### • **5-07/170.15 - Reporting Mileage - Witness Fee Deposited**

The following procedure shall apply in all cases wherein the per diem witness fee is required to be deposited with the clerk of the court, whether or not such fee is in fact deposited.

Deputies shall include the court mileage reported on the SH-R-376 on a Mileage Claim (76M395). Under the column headed "Purpose of Trips," Deputies shall show the court mileage as being pursuant to Section 68097.2 of the Government Code and shall give the case number and include the statement, "Report of Witness and Mileage Fees (SH-R-376) submitted to Fiscal Services."

Deputies shall submit this mileage claim, reviewed and signed by the Unit Commander, together with each day's completed Report of Witness and Mileage Fees form to Fiscal Services, Special Accounts Section, Attention: Witness Fees, at the end of the regular mileage reporting period.

Upon receipt at Fiscal Services, the Witness Fees Clerk will retain the SH-R-376 and turn over the mileage claim to the mileage clerk for regular processing and payment by the Auditor-Controller.

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### • **5-07/170.20 - Verification of Fee Payments by Deputies**

The required daily fee should be deposited with the clerk of the concerned court by the party at whose request the subpoena was issued. A Deputy receiving a civil subpoena shall check the subpoena to determine whether the required fee has been deposited.

If the fee has been deposited, the subpoena should bear an endorsement to that effect, or the person serving the subpoena may exhibit a receipt for the deposit of the first day's fee.

If no such endorsement has been made or receipt exhibited, the Deputy shall observe the following procedure:

- Upon arrival at the court, he shall ask the court clerk to determine whether or not the fee has been paid;
- When the fee has not been paid, the Deputy shall request the court clerk to notify the judge to that effect so that collection can be made for that day; and
- Each subsequent day that the Deputy is required to appear, he shall check with the court clerk to determine whether the fee for that day has been paid.

No fee will be deposited for Deputies responding pursuant to a subpoena wherein the party causing the

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subpoena to be issued is the County of Los Angeles.

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### • **5-07/170.25 - Filling Out Form SH-R-376**

When submitting form SH-R-376, an original and one carbon copy shall be made and the following instructions adhered to in filling out the form.

The subpoenaed Deputy shall:

- Complete sections 1 through 6 (name entered in section 6 to be the same as in section 1 in addition to the Unit of assignment);
  - Complete section 7 upon accepting service of subpoena. (The information for this section is usually located on the lower portion of the face of the subpoena.) If payment of the fee is not applicable (see section 5-07/170.20), enter the words "Fee Not Applicable - Party: County of Los Angeles" in the area across from Fee Information;
  - Complete sections 8 through 12;
  - Complete form by entering date, employee number, base salary, item classification and signature;
  - Submit each day's completed form to his supervisor for signature;
  - Submit the original of the completed forms together with any mileage claims (see section 5-07/170.15) to Fiscal Administration, Special Accounts Section, Attn: Witness Fees; and
  - Subpoenaed person shall keep the carbon copies of the form for his personal records.
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### • **5-07/170.30 - Station/Unit Commanders Responsibility**

Station/Unit Commanders shall be responsible for the prompt forwarding to Fiscal Services of the required copies of the Report of Witness and Mileage Fees (SH-R-376) and, when applicable, the required copies of the Mileage Claim (76M395), at the designated reporting periods as outlined under section 5-07/170.10, section 5-07/170.15, section 5-07/170.25, and section 5-07/200.15.

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### • **5-07/180.00 - Deputy Personnel Subpoenaed for Taking of Depositions in Civil Cases**

Deputy personnel who are subpoenaed for the purpose of taking a deposition in connection with any civil action or proceeding within the County and out of the County within 75 miles from home, or if the Deputy is a party to the action, i.e., The Deputy is named on the subpoena as a defendant in an action against the County of Los Angeles, within 150 miles from home, shall receive their regular salary and travel expenses, as indicated under section 5-07/170.05. Deputies shall also adhere to those procedures which are outlined under section 5-07/170.10 through section 5-07/170.25.

Under certain circumstances, a court may approve a subpoena to a deposition at a place beyond the mileage limits outlined above.

Only the party desiring to take the deposition, or his attorney, can authorize, designate or otherwise determine the place for the taking of a deposition; however, said party and/or his attorney may not designate any Sheriff's Department facility as the place for the taking of a deposition.

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### • **5-07/190.00 - Department Employees As a Nonofficial Witness for Others**

Sworn and civilian employees of this Department who are required by subpoena or otherwise to attend and give evidence in any judicial proceeding, criminal or civil, in a nonofficial capacity, i.e., the incident from which the action being litigated is neither job connected nor County related and the employee is not party to the action or an expert witness in the action, shall not be entitled to any compensation or mileage from the County. Attendance at such proceedings shall be on the employee's own time and at their own expense. Employees who attend any judicial proceeding in a nonofficial capacity may retain such fees and mileage as is authorized by law for such attendance.

Service of a subpoena under this section shall be made to the witness personally. An employee's supervisor or other person shall not accept service of such a subpoena on behalf of the employee.

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### • **5-07/200.00 - Civilian Personnel Subpoenaed As Witness for the County in Civil Cases**

Civilian personnel who are subpoenaed as a witness for the County, i.e., the employee is not a defendant in the action and is subpoenaed on behalf of the County regarding an event or transaction which the employee perceived or investigated in the course of his duties, in any civil action or proceeding, or in the taking of a deposition, shall be allowed their regular County salary plus mileage when complying with such subpoena.

The provision concerning the 500-mile limitation in response to such subpoenas, as indicated under section 5-07/170.00, shall so apply under this section.

Service of a civil subpoena under this section shall be made to the witness personally. An employee's supervisor or other person shall not accept service of such a subpoena on behalf of the employee.

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### • **5-07/200.05 - Salary Provisions**

Provisions for receiving salary are as follows:

- Employees making such appearances during duty hours shall receive their regular salary; and
  - Employees making an off-duty appearance shall be compensated with appropriate overtime credit.
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### • **5-07/200.10 - Reporting Procedures**

Civilian personnel shall report any overtime earned in response to such subpoenas to their Unit Commander through regular overtime reporting procedures.

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A Report of Witness and Mileage Fees (SH-R-376) shall not be made and no witness and/or mileage fees will be deposited or otherwise collected under this section. Civilian personnel who are subpoenaed as a witness for the opposition in any civil action or proceeding, or for taking of a deposition, to which the County is a party, shall adhere to those procedures outlined under section 5-07/220.00 of this chapter.

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### • **5-07/200.15 - Reporting Mileage Procedure: Court Mileage Reimbursement - (Civilians)**

Civilian mileage permittees shall include the court mileage on their regular Mileage Claim (76M395). Under the column headed "Purpose of Trips," personnel shall show the court mileage as being pursuant to Section 80 of the County Administrative Code and shall include the case number.

Civilian personnel shall submit the Mileage Claim at the end of the regular mileage reporting period for processing by Fiscal Administration and payment by the Auditor-Controller.

Civilian personnel not under a mileage permit, and using their own vehicle for transportation to or from court, shall file a Mileage Claim for the actual mileage driven by complying with the following:

- Write the words "Civil Subpoena" in the upper right-hand corner of all three copies of the Mileage Claim forms to distinguish these claims from those of regular mileage permittees; and
- Under the column headed "Purpose of Trips," write "Pursuant to Section 80 of the County Administrative Code" and include the case number.

Civilian personnel shall submit an approved Mileage Certification (SH-AD-111) and the Mileage Claim to Fiscal Administration, Special Accounts Section, Attn: Witness Fees, on the first regular working day following his last court appearance date.

Civilian personnel responding to a civil subpoena, as outlined under this section, shall not, under any circumstances, file a Mileage Claim if a County vehicle is used for transportation.

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### • **5-07/210.00 - Department Employee Subpoenaed As Expert Witness in Civil Cases**

Department members shall not accept employment, or receive any remuneration in addition to their County compensation, for services as an expert witness or examiner in any civil proceeding in which the County is a party or in which any other party to the proceeding has, in relation to the proceeding, been subject to the jurisdiction or regulation of any county board, commission or agency.

Any sworn or civilian employee of this Department who is required to attend and provide testimony in any civil proceeding in his official capacity, whether by subpoena or otherwise, shall collect the full amount of fees and mileage, as prescribed by law, for each day's attendance and travel that is necessary. All such employees shall promptly deliver to the County treasurer all such fees and mileage so collected, including any compensation paid to him or her for services as an expert witness or examiner.

An employee who is required or employed to attend and provide testimony in any civil proceeding in an

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unofficial capacity, whether by subpoena or otherwise, shall not be entitled to compensation or mileage from the County. Individuals may retain for their own use any fees, mileage or compensation collected from other sources for their authorized services as an expert witness or examiner. However, nothing in this subsection shall authorize any employee of this Department to receive and retain any fees, mileage or compensation as an expert witness or examiner for any purpose that is contrary to the policies regulating outside employment.

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### • **5-07/220.00 - Appearance As a Defense Witness - Criminal/Civil**

An employee who has been subpoenaed or intends to appear voluntarily as a defense witness in any criminal action, or as a witness for the opposition in any civil action to which the County is a party, shall notify his Unit Commander as soon as possible, and submit to him the following information:

- Type of case;
- Names of investigating officers;
- Name of concerned government agency;
- Name of defendant or plaintiff;
- Court case number;
- Location of hearing, Court Division, or street address; and
- Date and time of appearance.

Unit Commanders, upon receipt of the notification, shall immediately notify the concerned investigating officers and the attorney for the concerned government agency.

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### • **5-07/220.05 - Declarations in Civil Cases**

Deputy personnel who receive a written declaration regarding an event or transaction which the employee has perceived or investigated in the course of his duties, relative to any civil action or proceeding, shall not sign the declaration, unless County Counsel advises to the contrary. The requestor shall be notified to pursue other legal methods as outlined under section 5-07/170.00 and section 5-07/180.00 of this chapter.

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### • **5-07/230.00 - Subpoena Duces Tecum - Civil Cases**

A subpoena duces tecum, like a subpoena, is a writ or order directed to a person requiring his attendance at a particular time and place to testify as a witness.

However, unlike a subpoena, a subpoena duces tecum requires that the person bring with him any books, documents or other things which are described in such subpoena and otherwise specified in an attached declaration or affidavit.

Employees of this Department responding pursuant to a subpoena duces tecum in a civil case or upon being served such a subpoena shall adhere to the procedures as outlined in the following subsections.

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## • 5-07/230.05 - Procedures - Deputy Personnel

In addition to the procedure outlined under the above subpoena sections, Deputy personnel shall comply with the following procedures:

Only the Deputy specifically named on the subpoena duces tecum, or his immediate superior, shall accept service of the subpoena. In cases wherein the Deputy specifically named on the subpoena duces tecum is assigned to another Bureau, Unit, etc., the officer in charge shall determine the correct Unit of assignment of the named Deputy and direct the process server or other person attempting to serve the subpoena to the proper location. In all other cases (i.e., when the order is directed to the Sheriff or his representative, to a Bureau, Unit, detail or section, or to any facility of this Department or to the Custodian of Records of the Sheriff's Records and Identification Bureau), the process server or other person attempting to serve the subpoena duces tecum shall be directed to serve such subpoena at the Court Services Division Headquarters.

There are instances wherein the named Deputy's personal attendance is not required by the terms of the subpoena duces tecum. In such cases, there will appear on the face of such subpoena or the attached declaration or affidavit a clause which reads:

"The personal attendance of the witness is not required. Compliance with this subpoena will be satisfied by producing the requested records at the time and place stipulated."

The Deputy shall then, after personally accepting service of the subpoena duces tecum or upon receiving such subpoena from his immediate superior, immediately forward the subpoena by the quickest means possible to the Court Services Division Headquarters.

The service of a subpoena duces tecum is invalid unless at the time of such service a copy of the declaration or affidavit upon which the subpoena is based, is given to the person served with the subpoena.

A Deputy who responds to the court or to the place of taking a deposition pursuant to a subpoena duces tecum is required to bring with him any books, documents or other things which are described in such subpoena and otherwise specified in the attached declaration or affidavit only if those matters or things are in the Deputy's possession or under his control.

When a Deputy does not have in his possession or under his control all or part of the matters or things described in the subpoena duces tecum or otherwise specified in the attached declaration or affidavit and whose personal attendance is not exempt by the terms of the subpoena, he should be prepared to factually state that all or part of the matters or things requested are not in his possession or under his control, e.g., at his Unit of assignment, or within his jurisdiction, etc.; however, if the Deputy's personal attendance is exempt by the terms of the subpoena, he should contact the concerned attorney or the party causing the issuance of the subpoena duces tecum and inform that person of the circumstances relative to those matters or things not in his possession or under his control.

In all instances, when a Deputy responds to any court or to any place for the purpose of taking a deposition in connection with any civil action or proceeding and brings with him any books, documents or other things requested pursuant to a subpoena duces tecum, the subpoenaed matters or things shall only be turned over to the clerk of the court or to the judge and, in cases of depositions, to a qualified court reporter, Notary Public or

to a judge or officer authorized to administer oaths, or to a person appointed by the court in which the action is pending. If a qualified court reporter, etc., is not present to take a proper deposition, the records or materials brought to the deposition are to be returned to this Department without permitting inspection by any attorney.

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### • **5-07/230.10 - Procedures - Custodian of Records or Other Qualified Witness**

A subpoena duces tecum which is directed to the Sheriff or his representative or to a Station, Bureau, Unit, detail or section of this Department or to any other facility of this Department or to the Custodian of Records of the Sheriff's Records and Identification Bureau (RIB), shall be accepted only by Court Services Division, Los Angeles Civil Process Office, unless otherwise directed by competent authority.

When a subpoena duces tecum is served upon the custodian of records or other qualified witness and this Department is neither a party nor the place where any cause of action is alleged to have arisen and such subpoena requires the production of all or any part of the records of this Department, the custodian of records or other qualified witness of the Certification Unit of RIB shall, within fifteen days after the receipt of the subpoena, deliver by mail or otherwise a true, legible and durable copy of all the records so described and otherwise specified to the clerk of the court or to the judge if there is no clerk and, in cases of depositions, to the officer before whom the deposition is to be taken and, in other cases, to the officer, body or tribunal conducting a hearing together with an affidavit.

If copies of the records are mailed, the records shall be separately enclosed in an inner envelope, sealed, with the title and number of the action, name of the witness and date of the subpoena written on the face of the envelope. This envelope shall then be enclosed in an outer envelope, sealed and addressed for delivery to the appropriate person or body as indicated above. Additionally, all such records shall be accompanied by the affidavit of the custodian of records or other qualified witness, stating in substance, each of the following:

- The affiant is the duly authorized custodian of records or other qualified witness and has authority to certify the records;
- The copy is a true copy of all the records described in the subpoena duces tecum; and
- The records were prepared by the personnel of the Department in the ordinary course of business at or near the time of the act, condition or event.

If the Department has none of the records described in the subpoena duces tecum and otherwise specified in the attached declaration or affidavit, or only part thereof, the custodian of records or other qualified witness shall so state in the affidavit.

Unless the parties to the proceeding otherwise agree, or unless the sealed envelope is returned to the custodian of records or other qualified witness who is to appear personally, all copies of the records shall remain sealed and shall be opened only at the time of trial, deposition or other hearing, upon the direction of the judge, officer, body or tribunal conducting the proceeding in the presence of all parties who have appeared in person or by counsel. All records which are not introduced in evidence or required as part of the record shall be returned to this Department.

When a subpoena duces tecum is served upon the custodian of records or other qualified witness as provided above and his personal attendance is not required by the terms of the subpoena, the limitation regarding the

500-mile distance, as referred to in section 5-07/170.00, shall not apply.

The personal attendance of the custodian of records or other qualified witness and the production of the original records is required only if the subpoena duces tecum contains a clause which reads:

"The personal attendance of the custodian of records or other qualified witness and the production of the original records is required by this subpoena."

The required per diem witness and mileage fee, whereby the personal attendance of the custodian of records or other qualified witness is required as indicated in Note 3 above, shall be the same as for that required under section 5-07/170.00 of this chapter.

As otherwise indicated under this section, when the personal attendance of the custodian of records or other qualified witness is not required by the terms of the subpoena duces tecum, a certification service charge for records only shall be collected at the time of service of the subpoena by Court Services Division.

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### • **5-07/230.15 - Duplication of Audio and Video Tapes and Cost Recovery**

Audio/Video Tape Duplication: Audio tape duplication is a relatively simple process and, in most instances, can be performed by members of the originating unit. Therefore, unless unusual circumstances exist\*, all duplications of AUDIO/VIDEO TAPE RECORDINGS shall be performed by the originating unit.

Members of the Fraud & Cyber Crimes Bureau Technical Operations Detail will assist in the duplication of AUDIO/VIDEO tape recordings when:

- The originating unit does not have the necessary equipment to perform the duplicating process;
- The tape duplication process is beyond the capability of the originating unit's personnel; and
- Difficulties with the original tape recording requires the technical knowledge/expertise of personnel assigned to the Technical Operations Detail at STARS Center.

Cost Recovery: Defense attorneys requesting duplication services are to be charged for the actual costs of providing such services, based on the salary of the employee performing the service. The requesting party will be required to provide sufficient blank tapes for the job. Funds collected are to be processed as per MPP section 3-05/060.15.

Duplication work for a county employed defense attorney, i.e., Public Defender or Alternate Public Defender, is not directly billed, however, sufficient blank tapes must still be supplied. These attorneys must also sign an acknowledgment that they require the duplication for the defense of their client and that they authorize the Sheriff's Department to charge their Department for the duplication work. Charge acknowledgments will be forwarded monthly to Financial Programs Bureau, Special Accounts, for the processing under current existing procedures. As is customary and in compliance with past practice, copies for the District Attorney will be supplied at no cost.

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### • **5-07/230.20 - Enhancement of Audio and Video Evidence**

The intent of this policy is to clarify the use of outside contractors, laboratories and individuals for the enhancement of audio and video evidence. Department investigators shall first use Department resources for this service before seeking outside assistance.

Audio and video enhancement is a forensic process currently performed by the Fraud & Cyber Crimes Bureau, Technical Operations Detail. Investigators assigned to this detail possess the training, expertise and equipment necessary to properly evaluate and enhance audio and video evidence. Whenever an investigator of this Department deems it necessary to have audio and/or video evidence enhanced, they will adhere to the following procedures:

- The Technical Operations Detail will be the primary point of contact for audio and video enhancement requests. It is the responsibility of the handling investigator to seek the assistance of the Technical Operations Detail before going outside the Department;
- If the Technical Operations Detail is unable to work on the subject evidence, or if the evidence cannot be satisfactorily processed within 10 working days, the investigator may seek outside assistance with the concurrence of the Technical Operations Detail Sergeant or Lieutenant, and then the approval of the investigator's Unit Commander. Technical Operations Detail will provide a referral as described:
  - The Technical Operations Detail will be responsible for referring investigators to reputable outside resources in the following order:
    1. No-fee service from a government sponsored lab, i.e., FBI, NLECTS, etc.; and
    2. Fee-based service from a private lab

**NOTE:** Use of a fee-based lab requires compliance with established Fiscal Guidelines and Procedures

- exceptions to the above policy may be appealed through the Detective Division Chief or his designee.

Nothing in this policy precludes other Units within the Sheriff's Department from developing their own audio and video enhancement capabilities, as long as standard recognized equipment is utilized and the enhancement is accomplished by properly trained personnel. In these cases, the use of outside enhancement resources will still be dictated by this policy.

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## • 5-07/240.00 - Subpoena Duces Tecum - Criminal Cases

When a member of this Department attends any court or legal proceedings and is required to deliver records or material in response to a subpoena duces tecum, the records or material shall be turned over to the deputy district attorney, the court clerk or in their absence, in a superior court, to the bailiff - never directly to the defense attorney. Personnel delivering records or materials are not to be unduly delayed by court clerks or deputy district attorneys.

When responding to a subpoena duces tecum with records or material at a federal court, the court clerk shall be contacted for instructions concerning the delivery of the subpoenaed items.

Department personnel receiving notice of a delay or postponement of a court or legal proceeding shall immediately relay the information to the concerned member or his supervisor.



When there is sufficient time, certified copies of subpoenaed documents for courts or other legal proceedings may be mailed to the district attorney in criminal cases, or the court clerk in civil cases with the exception of deposition proceedings.

If a member responds to a subpoena duces tecum regarding a deposition and a qualified court reporter or notary is not present to take a proper deposition, the records or materials brought to the deposition are to be returned to this Department without permitting inspection by any attorney.

When a subpoena duces tecum is received and the county or a contract city is one of the parties in the proceedings, the county counsel shall be contacted immediately to ascertain if there are any special instructions regarding compliance.

The Discovery Unit shall respond to court on all Pitchess motions for the Department which involve personnel records, i.e., citizen complaints, personnel information and/or results of administrative investigations.

When Pitchess motions, ordering the disclosure of personnel records, are received at the unit level, immediate notification shall be made to the Discovery Unit. Additionally, the unit shall, without delay, forward the subpoena, or a copy of the subpoena, to the Discovery Unit.

Subpoenas duces tecum received at the unit level ordering disclosure in matters other than personnel records, e.g., a specific Deputy Daily Worksheet (DDWS), inmate worker's records, jail gate book entries, station logs, etc., shall require the court appearance of a unit representative.

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## • 5-07/250.00 - Criminal Subpoena and Court Appearances

Department personnel who are served with a "must appear" subpoena must appear at the designated court on time, adequately prepared to testify on the case specified, unless they are excused by the handling deputy district attorney personally, the city attorney, or via the designated unit court liaison.

**NOTE:** A "must appear" subpoena is a court order to come to court to testify. Regardless of Department employment status, personal health, or injury (i.e., relieved of duty (ROD), injured on duty (IOD), retired, resigned, separated, etc.), Department personnel and former Department personnel are required by law to respond to a notice to appear subpoena.

Any subpoena received for an employee who is ROD with pay, IOD, or off work for any reason must be forwarded to the subpoenaed person without delay. Record of the notification must be maintained at the unit making the notification. If an employee is unable to attend the court hearing for which he or she was subpoenaed, it is the responsibility of the employee to contact the deputy district attorney or city attorney who issued the subpoena and their designated unit court liaison. If the Department is unable to reach an employee who is ROD with pay, IOD, or off work for any reason, the Department shall notify the deputy district attorney or city attorney who issued the subpoena of this fact no later than seven days prior to the appearance date on the subpoena.

If any person subpoenaed is no longer a member of the Department or ROD without pay (see section 5-07/270.20), the Department shall immediately notify the deputy district attorney or city attorney who issued the subpoena and advise the status of the subpoenaed person. Record of the notification must be maintained at



the unit making the notification.

Personnel who have been served with "on-call" subpoenas, or who have been placed on call, shall appear promptly when contacted by the District Attorney's Office, city attorney, concerned court's bailiff, or the designated unit court liaison and shall be adequately prepared to testify on the specified case, adhering to procedures outlined in the following subsections.

#### Area Commander Responsibilities

Each division shall designate a court liaison oversight commander who is responsible for monitoring the division's compliance with subpoenas and court overtime management efforts.

If this commander becomes aware of any court service problems involving units within his or her division, he or she shall ensure that the concerned unit commander remedies these problems.

The court liaison oversight commander shall review the court liaison plan of each unit within his or her division to ensure that it adequately addresses the priorities of court appearance, testimony, and court overtime management.

The court liaison oversight commander shall ensure each plan includes procedures for training division personnel in court appearance policy and for auditing unit performance in court appearance matters.

The commander shall personally meet quarterly with his or her respective court liaison personnel to ensure that adequate emphasis is placed upon court overtime related matters.

#### Unit Commander Responsibilities

It shall be the responsibility of the unit commander to:

- Ensure that court overtime is managed in a fiscally prudent manner by conducting quarterly audits to confirm that court "overtime worked reports" are accurate;
- Ensure consistent, prompt court appearance, and credible testimony by personnel under his or her command;
- Hold all personnel under his or her command accountable for adherence to Department and unit court appearance policies;
- Appoint a unit court liaison lieutenant and sergeant and ensure they are proactive in performing their assigned duties;
- Ensure the court liaison sergeant actively supervises his or her staff and frequently communicates with the local District Attorney's Offices, and the city attorney, in an effort to provide effective service;
- Ensure he/she or his/her staff work with their local judges, deputy district attorneys, city attorneys, and deputy public defenders to form a criminal justice council, meeting no less frequently than quarterly to discuss and address strategies to facilitate court overtime management and court appearance issues;
- Resolve in a timely manner any court appearance problems that may develop with the local courts, District Attorney's Office, city attorneys, or Public Defender's Office;
- Establish a unit court liaison plan in the form of a unit order;
- Review the need for assigning a court liaison officer at their respective courts for the purpose of

monitoring the status of cases for which subpoenas have been issued. This may be a multi-station/unit effort, with case status reports being relayed or sent to concerned stations/units so that personnel under subpoena can be released from on-call or must appear status;

- Ensure subpoenas are accepted and served on the subpoenaed employee if the employee is in his or her unit. The acceptance of a late subpoena will be at the discretion of the unit commander based on his or her knowledge of the employee's availability;
- Ensure the address on the subpoena is corrected and that the subpoena is returned to the person delivering it if the employee has been transferred;
- Ensure the investigating officer or the court deputy is notified if unable to serve the subpoena;
- At units that do not utilize an automated subpoena tracking system, ensure that a Court Appearance Register form (SH-CR-470) is maintained in which the following information shall be recorded:
  - Employee's name
  - Date and time subpoena received
  - Court of appearance
  - Date and time of appearance
  - Court case number
  - URN
  - Defendant's name
  - Subpoena disposition
- Ensure that court case continuances are recorded after receiving notification of a continuance from the employee subpoenaed.

#### Additional Procedures

If a subpoena is served directly on an employee, he or she shall notify his or her unit commander via memorandum to the designated unit court liaison so the necessary entry will be made in the automated subpoena tracking system or Court Appearance Register form.

The employee shall initial the Court Appearance Register form, or shall return the proof of service to the designated unit court liaison in units using an automated subpoena tracking system, to acknowledge receipt of the subpoena. All personnel served with a subpoena shall comply with the instructions on the subpoena and any subsequent oral instructions of the judge or magistrate who has jurisdiction of the case. Personnel who are subpoenaed to appear may, in lieu of appearance at the time specified in the subpoena, agree with the party at whose request the subpoena was issued to appear at another time or upon such notice as may be agreed upon. Information regarding any such agreement shall include the employee's, other party's, and defendant's names, case number, and any other pertinent information, and shall be communicated immediately to the designated unit court liaison by the employee.

In the event an emergency arises which conflicts with a court appearance date or time, the subpoenaed employee shall contact the assigned deputy district attorney or city attorney prior to the time the case is called and inform him or her of any necessary absence and the reason. The employee shall advise the designated unit court liaison regarding the emergency and provide the deputy district attorney's name, the case number, and defendant's name.

Employees subpoenaed to appear at any court proceeding or trial shall report directly to the deputy district

attorney or city attorney presenting the case and shall not absent themselves or leave the courtroom until excused by the magistrate, deputy district attorney, or city attorney. Any overtime worked reports (SHR-251) submitted for compensation shall be accompanied by a time-stamped copy of the subpoena for the corresponding case. The subpoena shall bear a legible "time in" and "time out" stamp from the time stamp in the Sheriff's Court Services Division office, or by other time-stamped verification method approved by the employee's unit commander. Whenever there is no working time stamp available, the employee shall report this fact to their designated unit court liaison without delay.

Investigating deputies in charge of a case who assist the deputy district attorney or city attorney in the prosecution of the case shall be responsible for contacting subpoenaed employees and prosecution witnesses prior to the court appearance time to ascertain if they are aware of the required court appearance.

The provision concerning the 500-mile limitation in response to such subpoenas, as indicated in section 507170.00, shall apply under this section.

### Court Liaison Plan

Each unit shall establish a court liaison plan in the form of a unit order. While conforming to Department policies governing court liaison and service functions, the unit plan shall recognize the unique circumstances and needs of the unit's local deputy district attorney, city attorney, public defender's, and courts' offices. The plan shall emphasize and ensure the priority of court appearance by unit personnel, establish strict controls for managing court-generated overtime, and hold each Department employee accountable for any noncompliance with both unit and Department court appearance policies. The plan shall ensure the testimony by unit personnel is professional and credible.

The plan's procedures shall ensure a documented trail of subpoena possession and service. The documentation shall include the dates, times, and names of individuals who were a part of the receiving, tracking, forwarding, and serving of subpoenas, as well as the return of the proofs of service.

The plan shall provide for the supervision and training of unit personnel regarding court appearance standards and the expectations specified in these manual sections.

### Court Liaison Lieutenant Responsibilities

The lieutenant shall be responsible for managing the unit's court liaison operation. Whether a collateral or full-time assignment, the lieutenant shall take an active role in monitoring the court liaison activities.

The lieutenant shall oversee the daily performance of the court liaison staff and shall ensure the timely and accurate processing and service of subpoenas to unit personnel by the staff.

The lieutenant shall ensure the appearance by subpoenaed unit personnel. At least once per month, he or she shall check on the quality of their testimony, as well as the propriety of their attire. He or she shall also contact the local district attorney, the city attorney, and public defender's offices, as well as the local courts, regarding nonappearance and testimony issues.

The lieutenant shall be responsible for establishing and personally maintaining an effective and cooperative relationship with the local courts, district attorney's offices, city attorneys, and public defender's offices, addressing their special needs and communicating the unit's special needs.

The lieutenant shall ensure the subpoena compensation system is effectively administered. He or she shall ensure strict controls are followed to verify the accuracy of court-generated overtime worked reports (SHR-251) and to manage overtime expenditures.

He or she shall ensure innovative efficiency measures are employed by the unit court liaison personnel to limit court overtime expenditures (i.e., attempt to have the local district attorney's office or city attorney schedule jury trial subpoenas for the second or third day of the trial; misdemeanor cases should be subpoenaed as "on-call").

The lieutenant shall ensure the accuracy, thoroughness, and completion of any follow-up inquiry resulting from any complaints regarding testimony or nonappearance.

The lieutenant shall prepare and submit a monthly report to his or her captain indicating court overtime expenditures, a synopsis and status of any district attorney or city attorney inquiries, and documentation of issues that arise from the audits. The report shall identify the people contacted during the inquiries and audits. The report shall indicate the action taken to resolve problems and complaints.

#### Court Liaison Sergeant Responsibilities

The sergeant, whether a collateral or full-time assignment, shall directly supervise the unit court liaison staff and be available for liaison purposes Monday through Friday, from 0830 to 1630 hours. He or she is directly responsible for ensuring the effectiveness of the unit's court liaison operation and for ensuring that it complies with all Department and unit court appearance policies.

The sergeant shall also ensure the designated unit court liaison staff make frequent contacts with the respective district attorney's offices and city attorney to monitor "on-call" subpoena case progress, to facilitate having "on-call" subpoenas canceled, and subpoenaed personnel notified whenever it is feasible to do so.

The sergeant is responsible for ensuring his or her respective court(s) is contacted to facilitate having "must appear" subpoenas changed to "on-call" subpoenas whenever it is feasible to do so.

The sergeant shall personally establish and maintain a strong, cooperative liaison with the unit's local district attorney's offices and city attorney, meeting weekly or at intervals requested by the head deputy district attorneys. The sergeant shall identify all situations that are potential problems for the district attorney's offices or city attorney regarding deputy appearances or testimony and shall attempt to rectify them.

The sergeant shall maintain frequent contact with the local district attorney's offices and city attorney and receive and follow up on any inquiries from those offices, communicating the results to the court liaison lieutenant.

For any deputy district attorney or city attorney inquiries, the sergeant shall conduct a thorough inquiry to determine the circumstances. He or she shall report the results of his or her inquiry and any ongoing court appearance problems to his or her court liaison lieutenant.

The sergeant shall be responsible for approving court overtime expenditures.

The sergeant shall be held accountable for complying with these policies and for the performance of any subordinate unit court liaison staff.

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- **5-07/260.00 - Summonses - Criminal and Civil**

Procedures governing these activities are outlined in the following subsections.

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- **5-07/260.05 - Receipt of Summons for Jury Duty**

When an employee of this Department receives a summons for jury duty, he shall immediately notify his Unit Commander. The procedures governing jury duty, as outlined in the Personnel chapter of this manual, shall be observed.

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- **5-07/260.10 - Appearance Before or Questioning by Any Grand Jury, Governmental Agency, Board or Committee**

It shall be the employee's responsibility upon receipt of a summons or subpoena to appear before, or who voluntarily appears before a governmental agency, board, investigating committee or any other special examining agency to notify his Unit Commander immediately. If the summons is a verbal request, the requesting agency shall be referred to the Unit Commander.

The Unit Commander shall immediately notify Risk Management Bureau, Civil Litigation Unit of the summons, subpoena, or verbal request and submit a detailed memorandum to be forwarded, through channels, to the Sheriff.

Any employee who is contacted by any governmental agency conducting an investigation into possible civil rights violations that could involve this Department or its members in any litigation or criminal charges shall not submit to any questions or disclose any information until Internal Affairs Bureau is properly notified.

Employees shall direct the representative of an inquiring agency to contact Internal Affairs Bureau for interview arrangements. Internal Affairs Bureau shall be responsible for County Counsel notification for possible employee representation at the interview and for entering an appropriate entry on the Department Operational Log.

In addition to possible representation by the County Counsel's staff, employees may obtain and have present private counsel. Under no circumstances may employees tape record testimony given before a Grand Jury.

When the Department or any member is contacted concerning Fair Employment Practice Commission (FEPC) and Equal Employment Opportunity Commission (EEOC) complaints, it is necessary to ensure consistency of response and provide protection for the County from civil litigation or potential financial liability.

All Department named complaints received shall be forwarded to Personnel Administration immediately for processing. Members contacted directly shall immediately notify their Unit Commander and forward the

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complaint to Personnel Administration, who shall notify Internal Affairs Bureau prior to sending copies of either type of complaints to the Selection Standards and Appeals Division, CAO, Office of Human Resources, Room 464, Kenneth Hahn Hall of Administration.

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- **5-07/260.15 - County Grand Jury**

A summons from the County Grand Jury or a Federal Grand Jury or a verbal request regarding either the County Grand Jury or Federal Grand Jury appearance investigations shall be reported to the Sheriff's Executive Assistant and followed by a memorandum to the Sheriff, through channels. No employee shall tape record testimony given before a Federal or County Grand Jury.

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- **5-07/260.20 - Appearance Before or Questioning by the Federal Grand Jury**

Any employee who receives a summons to appear before the Federal Grand Jury or is questioned by the Federal Grand Jury shall immediately report this fact to the Sheriff's Executive Assistant, through channels.

Witnesses who have appeared before the Federal Grand Jury and have been sworn to secrecy or so ordered by that Grand Jury may not discuss or disclose any of their testimony or the nature of the inquiry to anyone.

If any employee is so ordered or sworn to secrecy after an appearance, only this fact need be reported.

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- **5-07/270.00 - Subpoenas - "On-Call" and "Must Appear"**

Subpoenas received from the District Attorney's Office for appearance in a Superior Court may be stamped either "On-Call" or "Must Appear." Subpoenas which are not stamped shall be treated as though they were stamped "Must Appear."

Unit Commanders shall ensure that the subpoena compensation system is effectively administered under the supervision of the Court Liaison Sergeant.

The Court Liaison Sergeant shall maintain a log of all incoming and outgoing contacts regarding court appearances and/or subpoenas, from or to the local courts, District Attorney's Offices or subpoenaed personnel (see section 5-07/250.00).

Court Liaison Officer

Each Unit shall identify a Court Liaison Officer (CLO), sworn or civilian, to handle the tracking and distribution of court subpoenas to Unit personnel. He shall also track the acknowledged receipt of these subpoenas by affected personnel. He shall perform his duties in an effort to limit court overtime expenditures where possible.

The CLO shall make frequent contacts with the District Attorney's Offices to determine case progress for the

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purpose of canceling "on-call" subpoenas when subpoenaed personnel are no longer needed on a case. During these same contacts, the CLO shall attempt to facilitate having "must appear" subpoenas changed to "on-call" when possible. He shall notify concerned personnel of any of these changes.

A record of all subpoenas received is maintained by the CLO. A request to be placed on-call for a must appear subpoena should be made by the subpoenaed Deputy to the District Attorney's Office serving the named court. Permission must be obtained from the handling Deputy District Attorney for the subpoenaed Deputy to be placed on-call. If permission is not obtained, the Deputy to whom a must appear subpoena was issued, whether on or off duty, shall appear in court at the time and date indicated. If granted on-call status, the Deputy shall advise his CLO and assume the same responsibilities as outlined in the following subsections for a normal on-call subpoena situation.

All sworn personnel from the rank of Deputy Sheriff through Lieutenant are eligible for a minimum of two hours overtime for each subpoena resulting in a court appearance, including travel time. Personnel are not eligible for the two-hour minimum if this minimum would overlap the employee's scheduled duty reporting time. This also applies to two subpoenas which coincide in reporting times (An employee is required to be in court at 1330 hours. His normal time to report to duty is 1400 hours. The employee is entitled to one-half hour overtime for his court appearance, and a maximum of one hour travel time).

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### • **5-07/270.05 - Deputies' Responsibilities**

Deputies who are on-call as a result of a subpoena during off-duty hours are eligible for half-time compensation. The concerned Deputy must be available to receive telephone calls from the appearance hour specified on the subpoena, maintain a response time of one hour or less to court and on the last working day prior to the specified date of appearance, contact his Unit's CLO and provide the following required information:

- Court date;
- Court issuing subpoena;
- Court case number;
- Defendant's name;
- Officer's name;
- Nature of subpoena ("must appear" or "on-call");
- Deputy District Attorney's name granting on-call status (if applicable);
- Telephone number where officer can be reached; and
- Estimated travel time to court (one hour or less).

If the Deputy has not been contacted on the date of his court case, he shall contact his Unit's CLO by 1200 hours to be advised of his case status. If the court case is still pending, he will remain on-call until notified to report to court, relieved by the court, advised by the CLO or appropriate Unit supervisor or until the end of the court day. When on-call Deputies are required to respond and appear in court, it is imperative that they complete an Overtime Worked Report (SH-R-251) only for the necessary time at court. Travel to court when responding from on-call status is compensated at the half-time rate.

A minimum of two hours half-time compensation, including travel to court, will be granted to an employee who



receives an on-call subpoena provided the on-call status is not cancelled prior to the date of the subpoena. However, additional compensation will not be granted for "on-call" subpoenas which are issued for the same or overlapping time periods as "must appear" subpoenas.

In the event of transfer of assignment on or before the date set for appearance, it shall be the Deputy's responsibility to notify the CLO at both his past and present assignment of his court subpoena. In the event the new assignment does not have a CLO, the Deputy shall notify his supervisor.

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### • **5-07/270.10 - Court Liaison Officer's Responsibilities**

The person designated as CLO for each Unit shall be the coordinator between the individual courts and his Unit's personnel holding on-call status to the court. The CLO must be available between the hours of 0800 and 1630 daily, Monday through Friday, holidays excluded. Workloads of the CLO will vary considerably depending upon personnel assigned and the frequency of court appearances.

All contacts with the court should be handled through the District Attorney's Office serving that court. In Superior Court, the District Attorney's witness coordinator will provide all the necessary information.

The CLO shall enter the required information on an On-Call Control Log (SH-R-371). This information must, whenever possible, be transmitted to the CLO at least on the day prior to the court appearance and on Friday before a Monday appearance.

Each court day, the CLO will contact the District Attorney's Office at the courts having "on-call" subpoenas and verify the on-call status of the witnesses. Any changes in status shall be reported to the concerned officer immediately. By 1130 hours of the court day, the CLO will again contact the District Attorney's Office and ascertain the status of the cases involving on-call witnesses for afternoon on-call status.

Throughout the day, the CLO will maintain liaison with the court and will notify any officer on call if he is needed in court.

When an officer arrives at court in response to an "on-call" subpoena, or is notified of his case disposition, or is relieved of on-call status at the end of that court day, the CLO shall complete an Overtime Worked report (SH-R-251), in the officer's name, indicating the total hours of on-call status (including travel to court, if applicable), circling "399 - On-call Court (half time)" and authorizing half-time pay for the officers. The CLO shall route the SH-R-251 to the officer for signature and submission for Unit approval. Reports shall then be forwarded to the Unit timekeeper.

If the officer is on an on-call status at the end of the court day, the CLO shall notify the employee at the end of that day whether he is to remain on-call the following day. Failure by the CLO to notify the concerned employee of his court status may result in unnecessary additional compensation.

It shall be the duty of each CLO to prepare a monthly report indicating the total number of hours accrued by personnel remaining on-call for court appearances.

These monthly reports shall be forwarded by the CLO on the first working day of the following month to the Unit timekeeper for use in preparing the "Overtime & Mileage Report (By Unit)" (SH-AD-578). Half-time (on-call)

compensation is not recorded on the worksheet or the Employee Overtime Record (SH-AD-200), as this time is not considered to be creditable service hours.

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### • **5-07/270.20 - Mandatory Subpoena Compliance by Personnel on Suspension**

Employees are obligated to appear in court or be on call when so ordered by a subpoena. This mandatory responsibility may conflict with a time when an employee is suspended from duty without pay.

In order to alleviate these situations, Unit Commanders shall ensure that every effort is made to avoid suspending employees on dates when they are required to comply with a subpoena. Prior to advising Internal Affairs Bureau of the suspension date(s), the scheduling supervisor shall determine through personal contact if the concerned employee has received any subpoenas which would conflict with the proposed date(s) of suspension.

If the subpoena is received by an employee subsequent to the setting of the suspension date(s) which requires his compliance during the suspension, the following procedures shall apply:

- The employee shall immediately notify his supervisor of the conflict;
- The Unit Commander shall determine the feasibility of someone else testifying or the case being continued or dismissed; and
- Suspended employees who are required to meet their court obligations shall be restored to duty on day shift for the full day of the subpoena. If the subpoena compliance does not result in the employee working a full day, the employee shall be assigned duties to meet such requirements. Departmental identification may be returned to the employee for that specific day(s) only.

If a suspended employee is restored to duty to meet a court obligation on a scheduled RDO, the employee is entitled to submit for the appropriate overtime compensation.

- The Unit Commander shall ensure that Internal Affairs Bureau is notified as soon as possible, prior to the date of the subpoena compliance;
- The employee's suspension period will be extended to account for the day(s) that the employee was restored to duty;
- Internal Affairs Bureau will make the necessary adjustments and notifications concerning the extension of the suspension period;
- After the employee's subpoena compliance, or if the case is continued, dismissed, or otherwise adjudicated, the employee shall immediately contact his Unit supervisor for his work assignment; and
- Suspended employees shall not be restored to duty for a partial work day. The employee must work a full day regardless of the time required to comply with the subpoena.

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### • **5-07/280.00 - Handling Civil Actions Against Department And/Or Employees**

A Unit Commander who has an employee under his command who receives written legal notice that a civil

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action, other than small claims, is being undertaken against him for official conduct, shall immediately report the circumstances on the Service of Process Notification (SH-CI-348), through channels, to his Division Chief or Division Director. The Unit Commander shall forward the original civil summons and complaint, along with the white copy of Service of Process Notification form SH-CI-348 (Rev. 8/91), directly to the Civil Litigation Unit, within three working days after receipt of the civil summons or complaint, for processing. The SH-CI-348 form shall be completed in its entirety, with distribution as indicated on the form.

If the civil summons or complaint is of a nature that would adversely affect the Department's operation, such as a request for a court ordered injunction halting a certain Department function, **immediate** telephonic notification (during business hours or the next business day) shall be made to the Civil Litigation Unit.

The Department, and/or any employee served with a civil summons or complaint, has only 20 calendar days to respond to a Federal Court action and 30 calendar days for a State Court action. Failure to comply within the proper time periods may result in a judgment of default against the Department and the named employee.

It is the responsibility of each named employee, once served in a civil action, to ensure that notification is made through their operations office, to the Civil Litigation Unit.

The Civil Litigation Unit shall assist the concerned Unit with investigating the civil action, if necessary, and submit its findings to County Counsel which will then answer the civil action to the court having jurisdiction.

Any information obtained at the time of the initial inquiry regarding the civil claim will be used as documentation for this purpose. If no initial inquiry was conducted by the concerned Unit prior to the receipt of the civil summons or complaint, an immediate inquiry shall be conducted by the concerned Unit Commander as directed in section 5-07/290.05.

A Service of Process Notification form shall be submitted for each employee served on a given case, or when an employee is served an amended/additional complaint or legal papers on the same case. This notification form must be used for each separate service of legal process.

#### Acceptance of Service

If an employee being served at his present Unit of assignment is absent, service shall be accepted by the Watch Deputy, Watch Sergeant, Watch Commander or designated supervisor and in civilian Units, by the authorized supervising civilian employee. The person accepting service shall immediately forward the documents to the Unit operations office for processing.

Service shall not be accepted if the employee being served is not presently assigned to the Unit. All attempts shall be made to determine where the employee is assigned and this information relayed to the process server.

Employees shall not accept service for a person who is no longer employed by the Department, nor shall any information regarding the former employee be furnished to the process server.

Service for employees who are relieved of duty shall be accepted at the employee's regular Unit of assignment. It shall be the responsibility of the employee's regular Unit of assignment to notify the employee, regardless of his status, that this service has occurred.

When service is accomplished by mail and acknowledgment is requested, e.g., service through the U.S. Mail with a notice and acknowledgment form enclosed, the notice and acknowledgment form shall not be processed by the employee being served. County Counsel will process the "Acknowledgment of Receipt" after they receive the summons and complaint from the Civil Litigation Unit.

Employees should contact the Civil Litigation Unit for assistance if there are any questions regarding civil actions.

Civil Litigation Unit shall be responsible for forwarding the legal documents and Department correspondence to the County Counsel.

Service of lawsuits naming the Department, Sheriff, Undersheriff, or Assistant Sheriff shall be accepted by the Civil Litigation Unit, Risk Management Bureau, 4900 Eastern Avenue, Suite 102, Commerce, California 90040.

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## • 5-07/290.00 - Review of Civil Claims by Unit Commanders and Division Chiefs or Division Director

Upon receipt of a copy of a civil claim from the Civil Litigation Unit, the Concerned Unit Commander shall review the claim. The concerned Unit Commander is responsible for conducting an inquiry into the allegations in each civil claim and providing a response that sets forth the information obtained in that review, as well as identifying when an administrative or criminal investigation of alleged misconduct is warranted.

### Claim Review Requirements

As part of the Claim Review, all available information about the allegations made in the claim should be gathered. The review shall be unbiased, seeking to obtain all information whether supporting or undermining the claim. Unless the memorandum from the Civil Litigation Unit accompanying the claim indicates otherwise, this claim review shall include, at a minimum:

- Identifying, gathering, and preserving all pertinent written documentation and supporting physical materials (refer to Section 5-07/290.15, Administrative Documentation/Materials), including the documents identified on the Civil Litigation Unit Claim Response Documentation/Materials Check-Off List accompanying the claim. All evidence identified shall be labeled with a green label per Section 5-04/020.15;
- Interviewing claimant. If a claimant is represented by counsel, do not contact the claimant directly. A request shall be made of counsel to interview a claimant. If possible, any interview of a claimant shall be audio recorded. If counsel or claimant declines to be interviewed, such declination shall be noted;
- Identifying and interviewing all Department employees who were participants in, witnesses to, in the vicinity of, or had post-incident involvement with the events underlying the claim. Whenever possible, employee work schedules shall be arranged to allow for in-person interviews;

**NOTE:** Although a claim review is not an administrative investigation, if a Department employee requests that he/she be given the rights he is entitled to in an administrative investigation, the employee's request should be granted.

- Identifying and interviewing any non-Department witnesses to the events underlying the claim, both those identified in any underlying paperwork, and those identified through the claim review, including those the claimant identifies; and
- When appropriate, visiting and photographing the location of the alleged incident.

When there is more than one involved Unit responding to a claim, the primary Unit designated by the Civil Litigation Unit shall coordinate with the secondary Units to avoid duplicate efforts. The Units should arrange a single interview of the claimant and of each witness that covers all areas of necessary inquiry.

The Civil Litigation Unit may indicate that a different claim review procedure should be followed for certain types of claims, including claims of property damage, lost property, or over-detention.

If the claim relates to an incident that has previously been reviewed because of a reported use of force, shooting, traffic collision, Watch Commander's Service Comment Report, or administrative investigation, the claims review should be coordinated with the Unit level or Internal Affairs Bureau investigator who handled the previous review and focus on any additional or different information or allegations provided by the claim. The Claim Review need not repeat any steps taken as part of any prior investigation or review, unless additional or different information or allegations require additional investigation. To the extent additional or different information or allegations are found in the claim, that new information shall be reviewed like any other claim.

#### Administrative/Criminal Investigations

If, at any time while reviewing the claim, the Unit Commander determines that discipline or criminal prosecution may be an issue because of the nature and seriousness of the allegation(s) and/or the concerned employee's performance history, the Unit Commander shall follow Department policy, as set forth in Section 3-04/020.05, for initiation of an appropriate administrative or criminal investigation. When an administrative or criminal investigation is initiated, the Unit Commander shall coordinate with the Civil Litigation Unit and/or County Counsel to inform them that an administrative or criminal investigation has been initiated and to assist in responding to the claim as necessary. As long as discipline or criminal prosecution is not an issue, the Unit Commander shall perform a Claim Review. The Unit Commander should keep in mind that the selection of a given course of action does not preclude initiation of another course of action if the subsequent uncovering of facts justifies or mandates it.

#### Unit Commander's Claim Review Report

After conducting his Claim Review, the Unit Commander shall direct a memorandum to his Division Chief or Division Director and complete any worksheets forwarded by Civil Litigation along with the claim. The Unit Commander's memorandum shall include:

- All information obtained from the review of the claim, including a list of witnesses, any conflicting versions of the facts, and each source for information, as well as a description of the claim review performed;
- All training, policies or procedures relating to the conduct alleged to be wrongful, and any perceived issues or nonissues regarding the same;
- Whether any administrative or criminal investigation is warranted;
- Identification of personnel involved in the events underlying the claim as either an involved employee or as a supporting employee. (An "involved" employee is someone who took part in the event, while

personnel who witness it or who were in the vicinity or had post incident involvement are “supporting” employees. If the event involves an incident where no employees were directly involved, i.e., slip and fall by a county inmate at a jail facility, with no Department witnesses, the Unit Commander shall indicate “no Department employees involved.”);

- Whether the personnel involved were contract city items or county items, whether the location of occurrence was within a contract city, unincorporated area, Department facility or independent incorporated city, and whether the personnel were performing contract city business at the time of the occurrence; and
- Any other insights or assessments of the claim or issues raised by it.

The completed worksheets provided by the Civil Litigation Unit, as well as relevant supporting documents shall be attached to the Unit Commander’s memorandum. All other documentary or physical evidence relating to the civil claim shall be preserved by the Unit in a manner that allows for its retrieval.

Finally, when a Unit Commander forwards the claim review report to his/her Chief or Division Director, he shall simultaneously forward a complete copy of the claim review packet to the Office of Independent Review.

#### Division Chief’s or Division Director’s Responsibilities

The concerned Division Chief or Division Director is responsible for ensuring that the Unit-level review was thorough, that the proper decision was made regarding any administrative or criminal investigation, and that the review was completed in a timely manner.

The Division Chief or Division Director shall review the Unit Commander’s memorandum for thoroughness of the review of the claim. A thorough review requires both a thorough inquiry into the facts and a thorough analysis of those facts for any performance, training, policy, or disciplinary issues. If a review is not thorough, the Chief or Division Director shall return it to the Unit Commander for further investigation or analysis.

The Division Chief or Division Director shall also review the Unit Commander’s determination on the propriety of an administrative or criminal investigation. If the Division Chief or Division Director determines further internal administrative or criminal investigation is warranted even though not suggested by the Unit Commander, the Division Chief or Division Director shall follow the Department policies for initiation of such an investigation.

Once the Division Chief or Division Director is satisfied with the claim review, he shall then forward the Unit Commander’s memorandum and his concurrence with it to the Civil Litigation Unit.

The Division Chief or Division Director will be responsible for ensuring that the claim reviews for his Division are completed in a timely manner. The Civil Litigation Unit will track the status of requests for claim reviews. The Division Chief or Division Director will have access to information regarding claims that are overdue.

#### Timing for Claim Review

The designated Unit(s) has 20 calendar days, from the date listed on the Risk Management Bureau memorandum, to complete their review and forward the claim to the Division Chief or Division Director. Division Chiefs or Division Directors are expected to review and forward claim reports to the Risk Management Bureau within 5 days.

Decreasing the amount of time needed to provide a response to the Risk Management Bureau, without sacrificing the quality of the review, is important. Therefore, all are encouraged, where possible, to rely on electronic or facsimile transmission of documents rather than Department or county mail systems. In addition, it is crucial that a Unit immediately notifies the Risk Management Bureau of all claims that have been forwarded to it in error and any additional Units that may need to prepare their own claim report.

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### • **5-07/290.05 - Unit Initiated Claim Process**

The Unit Commander is encouraged to identify incidents in which the actions of an employee under his command have adversely impacted a member of the community. In such instances, the Unit Commander may assist the claimant personally to ensure quick payment and a just resolution of any claim. Such reimbursement can generally be made within three business days. The Unit Commander may initiate this claim process by:

- Making immediate notification to the Civil Litigation Unit during business hours;
  - Assisting the claimant in the completion of the County Claim form;
  - Obtaining verbal concurrence of the Division Chief or Division Director;
  - Preparing a written incident (claim) review which will include reference to the Division Chief's or Division Director 's verbal approval; and
  - Forwarding the claim and completed incident review to the Civil Litigation Unit.
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### • **5-07/290.10 - Accelerated Claim Process**

In those instances where time is critical and it is imperative that action be taken immediately, it is the prerogative of the Unit Commander to expedite financial reimbursement to a member of the community by means of the accelerated claim process. Each request will be evaluated on a case-by-case basis after considering the exigency of the circumstances and hardship to the citizen(s) involved. Favorable Department public relations should also be a factor. All requests for accelerated claim settlement shall be made to the Civil Litigation Unit. Civil Litigation Unit personnel are available for consultation and/or response to an incident on a 24-hour basis by contacting the Sheriff's Headquarters Bureau. The accelerated claim process begins immediately upon verbal concurrence of the Unit Commander. Payment in these select cases can usually occur the next business day.

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### • **5-07/290.15 - Administrative Documentation/Materials**

It is incumbent upon all Department members to recognize the importance and long term ramifications of retaining relevant administrative documentation/materials for the purpose of protecting the Department and its members from civil liability.

Administrative documentation/materials with potential civil value, which are produced at the Unit level, and that have no other established storage or retention guidelines, or whose civil value may exceed established guidelines, shall be retained by that Unit. These items may include, but are not limited to, recorded interviews, photographs, items associated with use of force reviews and service reviews in response to service

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comments, miscellaneous non-criminal audio and video tapes, etc. Items with specified statutory retention/disposal periods may also be included, such as copies of DDWS, SCC tapes, booking photographs, jailer's records, etc.

All the above mentioned documentation/materials are potentially discoverable in a court of law and are therefore subject to subpoena. If there are any questions regarding relinquishing control of administrative documentation/materials to persons outside the Department, the Civil Litigation Unit shall be consulted for advice.

The concerned Unit Commander shall be responsible for the security, recordation and disposition of all administrative documentation/materials that have been determined to have potential civil value. The Unit Commander shall ensure that such documentation/materials are maintained separately from Station/Unit crime evidence and retained for not less than two years from the date of recordation. Documentation, materials and other items that are associated with incidents tracked by LARCIS will be retained for the same period of time as the incident retention listed in LARCIS.

A person of the rank of Lieutenant or equivalent shall be designated to manage and supervise the storage system, and to coordinate its function with other Bureaus/Units which have an interest in the items stored. The Lieutenant shall ensure that each item is properly identified with pertinent information such as the date the item was collected, by whom, any relevant file numbers and a brief description of the item stored. A catalog shall be put in place which records the storage, retrieval and ultimate disposition of all collected items. Once the minimum two year retention period has been realized, destruction of items is permissible unless further retention has been requested by the Civil Litigation Unit. If documentation, materials and other items are associated with incidents tracked by LARCIS they will not be destroyed, but will be retained for the same period of time as the incident retention listed in LARCIS.

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## • **5-07/300.00 - Subpoenas and Requests to Appear At Civil Service or Employee Relations Commission Hearing**

Upon receipt of a Civil Service or Employee Relations Commission subpoena, or upon any request to appear to testify in a discipline case on behalf of the employee appealing the discipline, Department members shall notify their unit commander immediately and provide the following information in writing

- Date and time served or notified/requested;
- Case identification (name of appellant/employee);
- Date, time and place of appearance;
- Position and work hours of Department member;
- Work and home telephone numbers; and
- Documents, if any, directed to bring.

A copy of the Department member's memorandum and subpoena, if received, shall be emailed to the Advocacy Unit as soon as possible at [advocunit@lasd.org](mailto:advocunit@lasd.org).

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## • **5-07/310.00 - Small Claims Court Actions Claim of Plaintiff and Order**

The jurisdiction of Small Claims Court is to resolve civil disputes between individuals when the amount in question is under \$5,000. The failure of a defendant to be represented in court can result in a default judgement in favor of the suing party.

It is the responsibility of the Auditor-Controller's Office to represent the Department and its employees in small claims court for activities related to the Department.

In those instances where the employee is being sued in a private capacity, unrelated to any Department activity, (i.e., private business contracts, personal property disputes, etc.) the acceptance of a "Claim of Plaintiff and Order" at the employee's Unit of assignment is permissible.

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### • **5-07/310.05 - Unit Responsibilities**

A Unit Commander who has an employee under his command who receives written legal notice of a small claims action being undertaken against him, for an action which is Department related, shall immediately report the circumstances on the Service of Process Notification form (SH-CI-348), through channels, to his Division Chief or Division Director. The Unit Commander shall forward the original "Claim of Plaintiff and Order," along with the white copy of the Service of Process Notification form, to the Civil Litigation Unit within two business days. The Service of Process Notification form shall be completed in its entirety and distributed as indicated on the form. The Department and/or employee shall be served at least ten days prior to the court date (Cal. Code of Civil Procedures sec. 415.20). A service of Process Notification form shall be submitted for each employee who is served.

Any information obtained from the initial inquiry regarding the small claims action will be used as documentation for this purpose. If no inquiry was conducted by the concerned Unit prior to the receipt of the "Claim of Plaintiff and Order," an immediate inquiry shall be conducted by the concerned Unit Commander as directed in section 5-07/290.00, (Civil Claims). This documentation shall be routed through the respective Division Chief or Division Director to the Civil Litigation Unit within ten business days.

A small claims action for activities not related to the Department (i.e., private business contracts, personal property disputes, etc.) does not apply to the above Department routing and review process.

A small claims court action naming employees who are relieved of duty, including employees temporarily reassigned, shall be accepted at the employee's regular Unit of assignment. It shall be the responsibility of the employee's regular Unit of assignment to notify the employee, regardless of his status, that this service has occurred.

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### • **5-07/310.10 - Acceptance of Service**

If an employee being served at his present Unit of assignment is absent or relieved of duty (including employees temporarily reassigned), service shall be accepted by the Watch Deputy, Watch Sergeant, Watch Commander or designated supervisor and in civilian Units, by the authorized supervising civilian employee. The person accepting service shall immediately forward the documents to the Unit's operations office for processing. It shall be the responsibility of the operations office to notify a relieved of duty employee of such service.

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Service shall not be accepted if the employee being served is not presently assigned to the Unit. All attempts shall be made to determine where the employee is assigned, and this information relayed to the process server.

If the employee is served personally, he shall immediately notify his supervisor. The supervisor will then comply with "Unit Responsibilities."

Service shall not be accepted for a person no longer employed by the Department. No information regarding the former employee shall be furnished to the process server.

Acceptance of service not related to Department business (i.e., private business contracts, personal property disputes, etc.) at an employee's work place is permissible under the law. It shall be the responsibility of the accepting supervisor to forward the "Claim of Plaintiff and Order" to the named employee. The statute also requires the named employee be served with a second copy of the claim via U.S. mail within ten days of substituted service.

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### • **5-07/310.15 - Service Naming the Department or Department Executives**

A small claims court action naming the Department or the Sheriff, Undersheriff or Assistant Sheriff(s) shall be accepted by only the Civil Litigation Unit during business hours, or by the Sheriff's Headquarters Bureau during non-business hours.

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### • **5-07/310.20 - Service by Mail**

When service is accomplished by mail, formal acknowledgment is required. The Auditor-Controller will process the required "acknowledgment of receipt" after they receive the original "Claim of Plaintiff and Order" from the Civil Litigation Unit. Named employees are not responsible for formally acknowledging the acceptance of a Department related small claims court action received via U.S. mail.

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### • **5-07/310.25 - Service Naming the County of Los Angeles - or Members of the Board of Supervisors**

Service for the County or members of the Board of Supervisors as defendants shall be referred to the Executive Office of the Board of Supervisors, Kenneth Hahn Hall of Administration, Room 383, 500 W. Temple St., Los Angeles 90012 or to the Auditor-Controller, Warrant Investigation Unit, 2615 South Grand Avenue, Room 100, Los Angeles 90007.

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### • **5-07/310.30 - Subpoenas From the Auditor - Controller's Office**

In some instances the Auditor-Controller may request personnel to appear in court who were not subpoenaed in the small claims action. In such instances the Auditor-Controller investigator shall prepare a notification letter to the employee(s) required to appear in court. Such written notification will serve as a subpoena for the

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purposes of providing testimony. Under such circumstances notification shall be made to the Unit's operations staff.

Department personnel are reminded that it is the responsibility of the Auditor-Controller Office's to represent the Department and its employees in small claims court for activities related to the Department. Every effort shall be made to ensure that personnel provide the highest level of cooperation to the Auditor-Controller's office.

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### • **5-07/320.00 - Civil Lawsuits Originated by Employees**

Whenever an employee contemplates filing a civil action as the result of an incident which occurred while on duty or while performing his official duties, certain preliminary steps must be observed.

Before any action is filed, the employee shall prepare a report of the circumstances on an SH-AD-32A. The report is to be addressed to the Sheriff, through channels, and an original and two copies are to be given to the employee's Unit Commander.

The employee's Unit Commander shall be responsible for the following in the event the above report is submitted prior to filing:

- Preparing a report on an Office Correspondence (SH-AD-32A) which shall include an objective evaluation of all circumstances concerning the incident;
  - Combining the original employee's report, the Unit Commander's original report and all other Department reports and circumstances regarding the incident and forwarding same to the Sheriff, through channels;
  - Sending copies of the above reports and all subsequent reports to the Office of the County Counsel; and
  - Filing one copy of each report in the Unit file.
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### • **5-07/330.00 - Criminal Summons to Corporations**

A judge will issue a summons when criminal information or presentment is made against a corporation. No warrant need be issued.

When a court in the County delivers a corporation summons to a member of this Department, the member shall forward the summons at once to Court Services Division, Los Angeles Civil Process Office.

Summons issued by out-of-County courts for corporations within the County shall also be handled by the Court Services Division.

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### • **5-07/340.00 - Department Service and Enforcement of Civil and Criminal Process**

Citizens making inquiries relative to the function of serving and enforcing process should be informed that this

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Department provides these professional services. Since each civil process must be inspected for proper instructions and fees, Deputy personnel at a Station or other facility should direct all litigants making inquiries concerning the service and enforcement of civil and criminal process to contact the appropriate branch office of this Department's Court Services Division serving their particular district (see section 7-03/040.00).

Should the litigant insist that the Station/facility accept the process and fees, concerned Deputy personnel shall proceed as follows:

- During normal working hours, immediately notify Court Services Division, Headquarters Unit, at (626) 300-3100. Between 1700 and 0800 hours weekdays, weekends and holidays, contact the Duty Commander through the Sheriff's Headquarters Bureau at (323) 526-5541; and
  - If any questions arise as to proper procedures, Deputy personnel should contact the closest Court Services Bureau branch office between 0800 and 1700 hours weekdays.
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### • **5-07/350.00 - Superior Court - Emergency Suspension of Sessions**

When the Presiding Judge of the Superior Court issues a written order suspending sessions of any or all Departments of the Superior Court, the Executive Officer of the Superior Court has been directed by the Presiding Judge to make a telephonic notification to the Sheriff. This notification shall be made through the Chief of the Court Services Division.

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### • **5-07/350.05 - Court Services Division Responsibility**

The Chief of the Court Services Division, or his designee, shall, upon receipt of such message, immediately notify the following:

- The Sheriff; and
- The Chief's of both Custody Services Divisions.

He shall be responsible for ensuring that the Watch Commanders of his Bureaus which handle prisoners are immediately notified of the suspension order and to schedule prisoner movement accordingly.

He shall also be responsible for ensuring that JDIC messages are sent to the following:

- All police agencies in the County;
- All Sheriff's Stations and facilities;
- All California Highway Patrol Stations in the County; and
- Area Broadcast.

This JDIC message shall include the following information:

- A statement that:
    - All Departments of the Superior Court are suspending sessions; or
    - All Departments except (specify) are suspending sessions;
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- The dates on which Court sessions are suspended and the date of resumption of court; and
- A statement that the Superior Court has issued the following order:

"...all action, matters and special proceedings calendared in such Departments on such dates shall be, and same are ordered, continued to the first court day following the dates of such suspension, at the same hour, and in the same Department in which such action, petitions, orders to show cause, matters or proceedings were originally set."

The Court Services Division shall also be responsible for notifying the Sheriff's Headquarters Bureau so that the order may be included on the operational log.

When the Superior Court Bailiffs receive notification of the emergency closing of any or all Departments of the Superior Court, the concerned bailiffs shall immediately notify their area supervisors, who shall be responsible for seeing that a copy of the order is immediately posted on the outer door of each Superior Master Calendar Court within their area of responsibility, including all of the following:

- Master Calendar Civil (Dept. 1);
- Master Calendar Criminal (Dept. 100);
- Master Calendar Domestic Relations (Dept. 2);
- Master Calendar Probate (Dept. 11);
- Master Calendar Mental Health (Dept. 95);
- Master Calendar Civil and Master Calendar Criminal Departments in each of the remaining eight Districts; and
- The main entrance of the court buildings in each of the nine Districts in which sessions of the Superior Court are held.

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## • **5-07/350.10 - Custody Division Responsibility**

The Chief of the Custody Services Divisions are responsible for ensuring that the Watch Commanders of their facilities who handle prisoners are immediately notified of the suspension order and to schedule prisoner movement accordingly.

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