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.