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.