# 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 "onâ€‘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, defendant's names, case number, 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 (SHâ€‘R-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 5â€‘07/170.00, 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 courtâ€‘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 fullâ€‘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 courtâ€‘generated overtime worked reports (SHâ€‘Râ€‘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 fullâ€‘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.