

Unit Order #19 - Court Procedures

Los Angeles County Sheriff's Department

CRESCENTA VALLEY STATION

UNIT ORDER # 19

COURT PROCEDURES

It is the policy of the Crescenta Valley Station that this Unit Order supplement, rather than replace, existing Departmental policies and procedures with respect to subpoenas and court appearances. A broad overview

of Departmental policy is provided, with key points reinforced or clarified. It also provides additional direction where needed, and formalizes other procedures that have been observed as a matter of custom. Because this document is intended to serve as a primary source of direction for court related issues, a significant part is duplicated from other sources. If any part of this Unit Order is found to be in conflict with any Regional or Departmental policy, or MOU, that conflict shall be resolved by observing the latter.

Purpose:

The purpose of this Unit Order is to establish a court liaison plan which will:

- â— Provide an effective method of serving subpoenas upon unit personnel.
- â— Ensure the prompt court appearance of subpoenaed personnel.
- â— Ensure the testimony of unit personnel is professional and credible.
- â— Provide for the proper management and verification of court overtime.
- â— Hold each responsible employee accountable for any non-compliance.

Definition: As referenced in this Unit Order, the term “subpoena” shall include all documentation from the court regarding a pending court trial. Subpoena also includes any “Request for Trial” notification and “Trial by Declaration.”

Policy:

GENERAL RESPONSIBILITIES

Court Liaison Lieutenant

The Court Liaison Lieutenant shall be responsible for the on-going management of the Court Liaison

operation and for overseeing the daily performance of the Court Liaison Sergeant and staff. The Lieutenant shall be responsible for ensuring that all unit personnel comply with the provisions of this directive, as well as any and all related Departmental policy.

Court Liaison Sergeant

The Court Liaison Sergeant shall be directly responsible for actively supervising the Unit's Court Liaison operation, and for ensuring compliance with this Unit Order and all related policy. The

sergeant shall directly supervise the daily activities of the court liaison staff, and shall be available for liaison purposes Monday through Friday, from 0830 to 1630 hours.

Additionally, it shall be the responsibility of the Court Liaison Sergeant to:

- Oversee the activities of station personnel with respect to all court appearances.

â— Establish and maintain effective liaison with key personnel in the courts, including judicial officers, members of the District Attorney's Office, and members of the Public Defender's Office. The Sergeant shall meet at frequent intervals with head deputy district attorneys, identifying and resolving any actual or potential problems related to court appearances and/or credibility of testimony.

â— Regularly monitor daily court appearances to:

- Ensure subpoena compliance and verify attendance.
- Ensure compliance with Department policy regarding dress and grooming standards.
- Audit the testimony of unit personnel to ensure that it is credible and professional.

Any problems encountered in this area shall be documented and followed up on. Any training related issues will be promptly communicated, through channels, to the training staff.

â— Approve all court overtime and ensure that the subpoena compensation system is effectively administered. Any discrepancies in the reporting of court overtime shall be identified and then immediate

notification of the Court Liaison Lieutenant shall be made.

â—‹ Ensure that station personnel receive training regarding court appearance standards and expectations, and ensure that each member is aware of his or her responsibilities as specified in this plan.

â—‹ Ensure that the following systems are being maintained and properly utilized:

- Contact log
- Log for non-appearance of employee witnesses.
- District Attorney complaint process.
- Subpoena tracking system
- Compiling, printing and posting of the five-day court list.
- Five-day list for verification of service & acknowledgment.

â—‹ Be familiar with all court procedures and initiate or recommend charges when appropriate.

Patrol Sergeants

Patrol Sergeants shall be responsible for reviewing the content of all reports and ensuring that only those deputies essential for case prosecution are included in the report.

Court Deputies and Investigators

Court Deputies and investigators shall be responsible for requesting subpoenas for only the minimum number of deputies required to testify. Investigating officers in charge of a case shall be responsible for ensuring that prosecution witnesses are subpoenaed and served, and aware of their required court appearance.

Court Liaison Officers

The station court liaison officer (CLO) shall be responsible for:

- â— Subpoena control;

- â— Receiving and processing all incoming subpoenas and documenting a trail of possession and service,

- â— Ensuring service of subpoenas to station personnel,

- â— Receiving, record and file all subpoena acknowledgments,

- â— Maintaining the subpoena control ledger or automated system,

- â— Posting and distribution of the court appearance list on a daily basis.

- â— Coordination of on-call court cases between the courts and station personnel;

- â— Maintaining the on-call control log,

- â— Making frequent checks throughout the day to ascertain the status of all on-call cases,

- â— Promptly notifying station personnel when they are no longer on-call.

- â— Maintenance of the Court Liaison Log.

A court liaison log shall be established and maintained which will provide a record of the following:

â— Communications to and from the District Attorney's Office regarding changes in case information (e.g. rescheduled cases, cancellations, status changes from "must appear" to "on-call," witness unavailability, etc.), as well as any notifications to or from subpoenaed employees regarding those changes.

â— Reports or inquiries regarding the non-appearance of personnel in any case wherein a subpoena has been issued.

- The Court Liaison Sergeant shall conduct an inquiry in each such case, and shall document his findings and report to the Court Liaison Lieutenant as appropriate.

â— Any inquiries or reports of problems from the District Attorney's Office.

- All such inquiries and problems shall require follow-up by the Court Liaison Sergeant, who shall communicate the outcome to the District Attorney's Office, when appropriate, and the Court Liaison Lieutenant shall be notified.

â— Assisting in resolving conflicts when personnel are subpoenaed to appear during regularly scheduled vacations.

â— Being familiar with the contents of this directive and Sections 3-01/050.95 and 5-07/250.00 et. seq. of the Manual of Policy and Procedures, relating to court cases, court appearances, and the reporting of court overtime.

â— Promptly notifying the Court Liaison Sergeant or, in his or her absence, the Watch Commander of any problems, difficulties or conflicts.

â— Reviewing all overtime slips for accuracy and forwarding them to the Court Liaison Sergeant for final approval.

Station Personnel

Station personnel shall be responsible for:

â— Checking their mailboxes at the beginning and end of each shift and reading any notifications related to court appearances.

â— Receiving and immediately acknowledging all subpoenas issued to them.

â— Promptly notifying the court liaison officer of any subpoenas received from any source other than the CLO.

â— Notifying the CLO as soon as possible whenever a case is trailed or continued.

â— Punctual compliance with all subpoenas and any subsequent oral instructions from the judicial officer having jurisdiction of the case.

â— Ensuring that any and all necessary evidence is delivered to court for their case.

â— Being thoroughly familiar with their case and testifying in a professional, credible manner.

â— Notifying the training staff and the court liaison sergeant without delay whenever any training conflicts with a scheduled court appearance.

â— Personally contacting the handling Deputy District Attorney regarding any inability to comply with a subpoena, or any request for a variance (e.g. being placed on-call). The employee shall then advise the Court Liaison Officer and provide the name of the handling Deputy District Attorney who was notified, as well as the case name and number.

â— Notifying the Court Liaison Officer, via memorandum, at least two weeks in advance of any changes variances in any regularly scheduled vacation (e.g. additional "F" days, swaps, etc, which would alter the days

of the absence). The memo will include starting and ending dates of the scheduled absence.

â— Immediately notifying the Court Liaison Officer whenever the status of a case has been changed from MUST APPEAR to ON-CALL, or vice versa, and for providing the CLO with the name and title of the person authorizing the change.

Note: If a subpoena is issued by a private attorney, permission to be excused or placed on-call must be obtained by that private attorney, NOT A DEPUTY DISTRICT ATTORNEY.

â— Shall be familiar with the contents of this directive and Sections 3-01/050.95 and 5-07/250.00 et. seq. of the Manual of Policy an Procedures, relating to court cases, court appearances, and the reporting of court overtime.

Note: When making notifications to, or communicating with, the court liaison officer, the preferred methods are e-mail, phone call memorandum or personal contact. Do not rely on voice mail without follow up, and do not write messages on, or attach them to, overtime slips unless the message pertains to that overtime slip.

SUBPOENA PROCESSING, SERVICE AND ACKNOWLEDGMENT

The CLO shall time stamp all incoming subpoenas upon receipt.

When subpoenas are received by the CLO, the CLO shall determine if there is sufficient time to effect service and if there is sufficient time for personnel to comply with the subpoena. In making this determination, the CLO shall be guided by the provisions of Penal Code Section 1328. If there is insufficient time for service and/or compliance, the CLO **shall return the subpoena to the issuer with the reason for non-service.** If this becomes necessary, the following steps shall be taken:

â— The CLO shall immediately notify the Court Liaison Sergeant, who will make the final determination regarding acceptance or refusal.

â— Immediate notification shall be made to the investigating officer if one is assigned and known.

â— Immediate notification shall be made to the issuer.

â— Written documentation shall be made in the form of a log of any such subpoena received and what steps were taken. Any subpoenas received less than five (5) court-days prior to the hearing date shall also be logged, whether served or not served.

If there is sufficient time for compliance, the CLO shall attach an acknowledgment slip to the subpoena and place it in the mailbox of the person being subpoenaed.

If the employee has transferred, the CLO shall correct the address, if known, and return the subpoena to the issuer. The CLO shall also make every effort to notify the CLO or, supervisor, at the employee's new unit of assignment, and forward a copy of the subpoena to the new unit.

If unable to serve a subpoena, the CLO shall notify the Court Deputy or the investigating officer, as appropriate.

Station personnel receiving a subpoena from the Court Liaison Officer, shall immediately sign the attached acknowledgment slip and place it in the CLO's mail tray. Acknowledgment slips not returned within five business days of the appearance date shall be forwarded to the employee's supervisor or Watch Commander who will ensure that personal service is made by a supervisor.

Court Appearances

Personnel who receive a "Must Appear" subpoena, must appear at the designated time and place, adequately prepared to testify, unless excused by the handling Deputy District Attorney *personally*, or via a member of the Court Liaison staff.

All subpoenas shall be considered **MUST APPEAR** unless specific instructions are given for ON-CALL status. If there is ever any doubt, it shall be treated as a **MUST APPEAR**.

Personnel who are unable to comply with a subpoena because of an illness or personal emergency shall:

â— **Notify the assigned Deputy District Attorney prior to the time the case is called.** This notification is the personal responsibility of the person subpoenaed, not that of the Court Liaison Officer.

â— **Notify the Court Liaison Sergeant,** or the Court Liaison Officer, providing the name of the Deputy District Attorney notified, as well as the case name and number.

Note: If personnel are unable to comply with either of the above they shall communicate the required information to the Court Liaison officer or the on-duty Watch Commander, who will take the necessary steps to ensure these notifications are made.

Scheduled court appearances shall **always** be given priority over training, RDO's, or other scheduled time off.

Note: Although a scheduled vacation technically cannot supersede a subpoena, the courts are generally very flexible with law enforcement, provided that they have been given sufficient notice of vacation dates.

Therefore, when preparing complaint reports, deputies shall list their vacation dates at the bottom of the face page, between their name and I.D. number. When additional deputies are referred to in the body of the report, their vacation dates shall also be listed.

Example: John Smith (vac. 6/9/65) #123456

Sergeants approving reports shall ensure that vacations dates are included. If there is no scheduled vacation pending, write "(vac. none)" or "(vac. 0)."

Whenever personnel receive multiple subpoenas for the same date with conflicting appearance times they shall notify the CLO and the appropriate Deputy District Attorney(s) regarding their priority of appearance(s), and they shall be guided by the following:

- â— Federal Court shall have priority over State Court.
- â— Juvenile cases shall have priority over adult cases.
- â— Felony cases shall have priority over misdemeanor cases.
- â— Misdemeanor cases have priority over infractions (most traffic cases).

Whenever subpoenaed personnel encounter any conflicts regarding court appearances, it is **their** responsibility to ensure that the conflict gets resolved. This may mean contacting the training office to have training rescheduled, or contacting the D.A.'s office when a two superior court cases conflict, etc.

When in doubt, the Court Liaison Sergeant, or other supervisor should be consulted. Remember, it is still the responsibility of the subpoenaed person to ensure that the conflict is appropriately resolved.

Whenever a case is continued or a deputy receives other oral instructions from the court regarding any court appearance, the Deputy shall communicate that information to the CLO without delay. The CLO shall then update the daily court appearance list with this information.

Court Appearances While Assigned to Field Duty

Frequently our responsibilities in the field and our obligation to appear in court are competing for the same time slot. Similarly, the desk's need to effectively manage field resources often conflicts with a field deputy's responsibility for being in court. However, by observing the following simple procedures, both field and desk personnel can fulfill their responsibilities minimal disruptions to operations. When a deputy has a court appearance on a particular day he shall, at the beginning of his/her shift, give the desk advance notice by means of an MDT message (e.g. "FYI, I have COURT IN Pasadena at 0830"). Then, when ready to leave his/her area to go to court, the deputy shall enter an "obs" in the MDT to reflect the court appearance.

If any question arises on behalf of the desk or the field deputy as to whether the deputy will proceed to court or remain in the field, the watch deputy shall immediately notify the watch commander, who will make that determination. Only a serious emergency or very compelling circumstances should prevent a deputy from attending court.

Any time an on-duty deputy is delayed or prevented from attending court because of field conditions, the watch commander, or the designated Watch Sergeant shall personally notify the deputy district attorney handling the case and explain why the deputy cannot be in court. This shall then be documented in the Watch Commander's Summary Report.

On-Call Status

Personnel receiving an on-call subpoena, or who have been placed on call, shall:

- â— Ensure that the CLO is aware of their on-call status.
- â— Ensure that the CLO has a phone number where the person on-call will be immediately available.
- â— Appear promptly and be adequately prepared to testify when called.

All requests for on-call status shall be made by the person subpoenaed (NOT THE CLO) directly to whomever issued the subpoena; usually the District Attorney's office. If granted on-call status, the following information shall be provided to the CLO prior to 1600 hours on the last court day prior to the specified appearance date:

- â— Name of Deputy D.A. granting on-call status.
- â— Case information
- â— ETA to court (must be one hour or less).
- â— Telephone number where on-call personnel can be reached. Personnel desiring to use pagers or answering machines may do so, provided that they re-contact the CLO within thirty minutes of a page or answering machine message to confirm receipt of the message. Remember, when on-call personnel are

REQUIRED to be available by phone. This means that it is up to those on-call to keep their line clear and make sure that their equipment works.

Bottom line: It is the responsibility of the person on-call to make sure that the CLO can reach them while they are on-call. If the person on-call is deemed to be unavailable on-call overtime will not be paid for that day.

When the CLO is notified of the above information, the CLO will enter it in the On-Call Control Log. Subpoenas issued initially as "on-call" will automatically be entered in the On-Call Control Log by the CLO. The CLO will then track the status of on-call cases as described in Section 5-07/270.10 MPP. When the status of a case changes, the CLO will notify the concerned personnel at once. Unless notified sooner, personnel shall contact the CLO by 1200 hours on the court date to be advised of case status. The CLO will also notify on-call personnel by the end of the court day whether to remain on-call the following day.

Reminder: Requests for on-call compensation may not be considered for any personnel not on the On-Call Control Log. Therefore, it is important that the CLO be promptly advised of any status changes.

On-call cases frequently trail for up to ten days. However, personnel shall not automatically consider themselves on-call for ten days unless specifically instructed to do so by the CLO or the District Attorney. If so instructed directly by the District Attorney, this information must be provided to the CLO by 1600 hours, if possible.

Important: Requests for on-call compensation may not be approved when case information is not provided to the CLO as required in MPP Section 5-07/270.05 (as listed above).

When no longer on-call, personnel will be so advised by the CLO. Should any personnel be advised by any other source, they shall immediately relay this information to the CLO.

Exception: Deputies having worked the previous EM, or PM overlap shift, who wish not to be contacted unless needed for court, must leave a memo for the CLO requesting same. However, deputies who avail themselves of this option must still contact the CLO prior to 1600 hours to obtain case disposition information.

Trial by Declaration

Trail by Declaration (TBD) is an option available to a defendant when contesting a traffic citation. TBD's allow a defendant to have their case reviewed by a magistrate without a physical appearance in court. A TBD requires both the defendant and deputy personnel to testify via written correspondence.

When a TBD is requested, the court will send a Trail by Declaration form accompanied by a "Request for Trail" form to the Court Liaison Deputy. The TBD will be logged in as received and distributed to the concerned deputy(s). The deputy will be required to acknowledge receipt of the TBD in the same manner as a criminal subpoena. During normal working hours, deputy personnel will complete the TBD, date and sign it, and return it to the Court Liaison Deputy or Sergeant before the court due date (as noted on the Request for Trial form.) The TBD log will be updated to reflect the deputy completed the document and that the TBD was sent to the concerned court. Upon review by a magistrate, a decision of guilt or innocence regarding the TBD will be made by the magistrate and deputy personnel will be notified by the court of that decision. Since deputy personnel are not required to physically appear in court, no overtime will be granted for completion of a TBD. A TBD is an official court document and case and deputy personnel are reminded to handle the TBD as if they were testifying in an actual courtroom.

COURT OVERTIME PAY

Must Appear

For each court appearance resulting from a subpoena, all personnel from the rank of Deputy through Lieutenant are eligible for a minimum of three hours overtime, which **includes** compensation for all travel, and evidence pick up. Additionally, overtime shall be granted for all time actually spent in court that exceeds two (2) hours. No additional overtime shall be granted for subpoenas that overlap or coincide in reporting times, nor for court appearances that occur as an extension of regular duty time.

Upon arrival at court and upon leaving, personnel shall legibly time-stamp their subpoena in the court clerk's office or the Court Services office (formerly the Marshall's Office). Only subpoenas with time stamp "IN" and a time stamp "OUT" will be accepted to verify court appearance times. A single time stamp will only qualify you for "minimum" overtime. If, for any reason, there is no time stamp available at a particular location, attach a note explaining same to any overtime slip submitted.

On-Call

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.

Time Increments

All overtime shall be earned, credited and paid in fifteen (15) minute increments.

Note: *Personnel submitting an Overtime Worked Report shall do so no later than the end of their next scheduled shift. Late reporting of overtime will not effect payment for the time worked, but may delay payment and will be in violation of this directive.*

Attire

Regardless of regular assignments, station personnel appearing before the courts shall dress either in full class A uniform, or appropriate business attire. Under no circumstances shall personnel appear before the court wearing jeans, sport shirts, knit shirts or raid jackets.

Todd D. Deeds
Crescenta Valley Station

Date Approved

(Revised on 06/03/2008)
