

Unit Orders #20 - Civil Subpoena Procedures

Los Angeles County Sheriff's Department

CRESCENTA VALLEY STATION

UNIT ORDER # 20

CIVIL SUBPOENA PROCEDURES

It is the policy of the Crescenta Valley Station that Civil subpoenas are handled somewhat differently than regular criminal subpoenas. For purposes of this Unit Order, Civil subpoenas are defined as a summons to

testify or give a deposition in a civil case. These subpoenas are usually generated by a private attorney. The main difference is that most Civil Subpoenas are accompanied by a \$275.00 check which is considered to be a “down payment” towards the cost of the employee testifying on Sheriff’s Department time.

The following is a guide on how to handle Civil Subpoenas and clarifies the responsibilities of station personnel regarding these subpoenas.

Desk Personnel

Since the majority of civil Subpoenas are served at the front counter of the station, desk personnel play an important role in the process. When a process server presents a Civil Subpoena to be served during day shift hours, Monday-Friday, desk personnel should contact the Court Liaison Officer and have him/her come accept service of the subpoena. The Desk personnel’s only responsibility will be to fill out a receipt for the \$275.00 fee that accompanies the subpoena and to deposit the \$275.00 into the general fund, (Cash Box usually kept by the Watch Deputy). In all cases where a Civil Subpoena is accepted, either by desk personnel or the Court Liaison Officer, the desk personnel shall deposit the money into the cash box.

When the Court Liaison Officer is not available, then the desk personnel’s responsibilities become more involved. There are two big issues that need to be addressed prior to accepting the subpoena.

â— The first issue is that we are not required to accept the subpoena if the person being requested to testify is considered to be “unavailable.” For purposes of this Unit Order, “unavailable” is defined as either “I.O.D.” status, or the subpoena cannot be served to the requested employee with sufficient notice, **(i.e., five (5) days in advance of the hearing date)**. If the requested employee is unavailable, the subpoena is not required to be accepted, per Penal Code Section 1328(d).

- If the requested employee is on “relieved of duty” status, then the subpoena will be accepted and forwarded to Operations who will be responsible for determining if that employee is available to testify.
- The status of the employee can be checked either through Operations, the Watch Sergeant or Watch Commander.

â— The second issue is that the party who requested the testimony of our employee is required to pay a \$275.00 witness fee which accompanies the subpoena upon service.

- The catch to this is that if the employee being subpoenaed was a witness in the case but did not take any "police action", the Sheriff's Department should not be paid for the testimony of the employee.

Example: A Deputy is off duty and witnesses a traffic accident, but he/she does not act in an official capacity, representing themselves as an off-duty Sheriff's Deputy, and does not perform any police action, the employee is merely a witness. In this case, the Sheriff's Department is not involved and should not be paid the \$275.00 fee. Often times, attorneys find out that their witness happens to be a Sheriff's employee and will automatically send the subpoena to the station with the fee.

- Desk personnel should make some reasonable attempt to find out the nature of the action taken by the employee during the incident to determine if the Sheriff's Department is entitled to the fee.

â€ A simple way of determining if the employee took police action is if there is a Sheriff's Department file number on the subpoena.

â€ If there is no file number, the process server might know the nature of the incident, but in most cases a telephone call to the party generating the subpoena is needed.

Desk personnel should make every attempt to determine the nature of the incident. If the nature of the incident cannot be verified, and the employee being subpoenaed is not unavailable, desk personnel shall accept service of the subpoena and collect the fee.

- When a civil subpoena service is accepted by desk personnel, the subpoena shall be forwarded to the station Court Liaison Officer for entry Subpoena Tracking System.

- There are a few exceptions to the collecting of the fee.

â€ If the party generating the subpoena is another law enforcement agency or a county agency, we do not charge them a fee.

Example: Department of Children and Family Services will often times request the testimony of a Deputy in a civil child custody hearing because the Deputy may have written a report initially dealing with the removal of the children from the home. In this case, we would not charge the fee because the Deputy is testifying at the request of a county agency.

â€ Attach copy of check and Request For Information report (Attachment A) to subpoena.

Court Liaison Officer

The responsibility of the Court Liaison Officer concerning civil subpoenas is not much different than that of criminal subpoenas. The Court Liaison Officer, when available, is responsible for accepting the service of the subpoena. The Court Liaison officer will then attempt to ascertain the nature of the incident to determine if the fee is necessary and also if the employee requested to testify is available.

If the subpoena service is accepted, the Court Liaison officer will enter the subpoena into the Subpoena Tracking System and track the case in the same nature as the criminal subpoenas. In addition, the Court Liaison Officer will attach the "Los Angeles County Sheriff's Department Report of Witness and Mileage Fees" form (SH-R-376), to the copy of the subpoena that is given to the employee.

The purpose of the form is for the testifying employee to fill out upon completion of his/her testimony. The form is required by Sheriff's Department fiscal services for later billing purposes. The \$275.00 fee is only considered a "down payment" until it is determined the amount of time the employee spent testifying.

If the Court Liaison Officer determines that the fee accepted by desk personnel was not necessary, then the Court Liaison Officer will present this fact to Operations, who will in turn notify Fiscal Services of the need to refund the money. It is not the responsibility of the Court Liaison Officer to handle the money collected or to refund the money. The fee should have already been deposited into the general fund by desk personnel and if a refund is needed, it is handled by Fiscal Services.

Operations

Station Operations will be responsible for notifying Fiscal Services of a fee that was accepted in error and of the need for a refund. Operations staff will also be responsible for determining the status of a "relieved of duty" employee. If that employee is determined to be available to testify, then the subpoena will be forwarded to the Court Liaison Officer for tracking purposes.

Scheduling

It is the responsibility of the testifying employee to arrive on time and be appropriately dressed for testimony. Appropriate dress is considered to be either full Class A Uniform or appropriate business attire. The testifying employee will also be responsible for filling out the attached "Report of Witness and Mileage Fees" form when he/she is finished testifying. Once this form is filled out, it shall be given to the Operations staff for forwarding to Fiscal Services.

Todd D. Deeds
Crescenta Valley Station

Date Approved

(Revised on 02/12/2013)
