

OFFICE OF CHIEF OF POLICE
OAKLAND POLICE DEPARTMENT

MEMORANDUM

TO: All Personnel

DATE: 15 Jul 11

SUBJECT: Revision of Departmental General Order E-1,
DEPARTMENTAL SUBPOENA SERVICE (Rev. 24 Mar 00)

The subject order has been revised to update policy and procedures regarding the service of Municipal, Superior and Federal Court criminal or civil subpoenas within the Department for members and employees, and to private persons. This order also establishes new procedures for electronic subpoena service to facilitate the elimination of inherent delays of hardcopy subpoena service.


The Evaluation Coordinator for this order shall be the BFO Administrative Unit Commander, who, without further notice, shall forward the required report to the Chief of Police on or by 16 Jan 12.

The Evaluation Coordinator shall receive, review and document the acceptance or rejection of all comments and/or recommendations received prior to submitting his/her six-month evaluation report.

The Evaluation Coordinator shall forward a copy of the six-month evaluation report, along with the comments/recommendations received, to the Office of Inspector General to be maintained in the appropriate Departmental General Order archive folder.

Personnel shall acknowledge receipt, review, and understanding of this directive in accordance with the provisions of DGO A-1, DEPARTMENTAL PUBLICATIONS.

By order of


Anthony W. Batts
Chief of Police

Date Signed: 7/13/11



DEPARTMENTAL
GENERAL
ORDER

E-1

Index as:

Departmental Subpoena Service

Effective Date:
15 Jul 11

Evaluation Coordinator:
BFO Administrative Commander

Evaluation Due Date:
16 Jan 12

Automatic Revision Cycle:
3 Years

DEPARTMENTAL SUBPOENA SERVICE

The purpose of this order is to set forth Department policy and procedures for serving Superior and Federal Court criminal or civil subpoenas within the Department for members and employees, and to private persons. This order additionally establishes new procedures for electronic subpoena service to facilitate the elimination of inherent delays of hardcopy subpoena service.

I. SUBPOENA SOURCE AND TYPE

- A. The Court Liaison Unit shall be the primary point of contact and receive and process subpoenas for members and employees.
- B. Subpoenas shall be logged in the DALITE computer and/or the database maintained by the Court Liaison Unit.
- C. Subpoenas are received via two (2) sources:
 - 1. DALITE Subpoenas: Subpoenas generated by Alameda County District Attorney's Office DALITE Computer System for criminal cases.
 - 2. Individual Subpoenas: Subpoenas received from Superior or Federal Courts and other sources (such as traffic, defense and civil attorneys, and outside jurisdictions).
 - 3. The Department also receives subpoenas from other counties and is required by law to attempt service.

II. COURT LIAISON UNIT SUBPOENA SERVICE PROCESSING

Upon receipt of a subpoena, the Court Liaison Unit shall:

- A. Ensure the timely service¹ of subpoenas, criminal or civil, to members and employees.
- B. Determine if the named member or employee is presently employed with the Department and on active duty status by reviewing the automated scheduling and staffing management system (TeleStaff) and Personnel Orders.
- C. Immediately notify the initiating entity of non-service if a person has left the Department or is otherwise unavailable for service.
- D. Ensure the return of successfully served subpoenas.
- E. Confer with the District Attorney's Office to facilitate court appearance scheduling of members and employees.
- F. Maintain and update the Department's Court Log and update the Alameda County Subpoena Log Sheet in the DALITE System regarding the service of subpoenas.
- G. Track member and employee court attendance for overtime purposes.
- H. Monitor and provide information on continuances, subpoena cancellations, plea changes, and other factors that affect the status of scheduled court appearances of members and employees.
- I. Liaison with organizational units and Alameda County Court Administration, the Office of the City Attorney and private firms, to resolve issues that may arise.
- J. Update the Department's Court Log and update the Alameda County Subpoena Log Sheet (criminal subpoenas only) with the following information after verifying the availability of each member or employee:

¹ The Court Liaison shall use the options button (on the Outlook Toolbar) to request both a delivery receipt and read receipt from the subpoenaed member/employee. The electronic receipt is sent back to Court Liaison as proof of service.

1. Name, serial number, and rank or position title;
 2. Date forwarded to organizational unit;
 3. Date subpoena returned or electronic verification received to the Court Liaison Unit; and
 4. Court and scheduled appearance time, date, docket number, and attorney.
- K. Forward subpoenas to appropriate organizational units for service as follows:
1. Criminal
 - a. From the Alameda County District Attorney

Forward electronic subpoena via OPD email system to the subpoenaed member or employee.
 - b. Other Jurisdictions (Federal/County)

Hand-deliver subpoenas to the subpoenaed member or employee's organizational unit commander or designee for service to the subpoenaed member or employee.
 - c. Other (Traffic, Civil, Public Defender, Private Attorney)

Hand-deliver subpoenas to the subpoenaed member or employee's organizational unit commander or designee for service to the subpoenaed member or employee.
 2. CPRB

A CPRB subpoena shall be processed in accordance with the provisions of DGO M-3.2, CPRB.

III. POST-SERVICE SUBPOENA PROCESSING

Delivery of a subpoena shall be established by one of the following means:

- A. Successful Service - Upon receipt of a signed hardcopy subpoena or documentation (email read receipt) denoting the subpoena was opened/read. Return all signed subpoenas indicating successful service to the initiating entity.

The Court Liaison Unit shall update the Department's Court log and, if necessary, the Alameda County Subpoena Log Sheet with the date of service.

- B. Non-Service - The return of the hardcopy subpoena with an appropriate notation indicating why service was not made; or

Email documentation denoting the electronic subpoena was not opened/read (e.g., Deleted, Mailbox full, email off-line).

1. In the event a READ receipt is not received within four (4) calendar days of the original delivery date, the Court Liaison Unit shall forward the electronic subpoena to the subpoenaed member/employee's immediate supervisor.

2. The immediate supervisor shall direct the subpoenaed member/employee to read the email and reply; or

Provide two (2) copies of the subpoena to the member/employee who shall sign one (1) copy and retain a copy for overtime purposes.

3. The immediate supervisor shall forward the signed copy directly to the Court Liaison Unit.

- C. The Court Liaison Unit shall update the Department's Court log and, if necessary, the Alameda County Subpoena Log Sheet with the date and reason for non-service. Immediately notify the initiating entity of non-service.

IV. MEMBERS AND EMPLOYEES RESPONSIBILITIES

- A. Check OPD email at least once every work day in accordance with the provisions of Departmental Training Bulletin V-X, OPD EMAIL.
- B. Confer with court authorities for instructions at least one (1) day before the scheduled appearance date.
- C. Telephone the Court Liaison Unit's court cancellation recording (238-6501) at the end his/her last tour of duty before specified appearances, to determine final schedule status.
- D. Notify the initiating entity and the Court Liaison Unit as soon as possible but no later than 48 hours before a scheduled appearance if unable to attend because of illness, injury, or other emergency.
- E. Appear at date, time and location specified in the subpoena.
- F. Prepare and submit an Overtime Worked Requisition Form (TF-3171) signed by the DDA. Ensure a copy of the subpoena accompanies the form after completion of all court appearances.
- G. Responding to Electronic Subpoenas

Members and employees shall:

1. Open and read electronic subpoenas received via Department email. Print one (1) copy of the subpoena for overtime purposes.

NOTE: The delivery receipt will indicate the email was received into the member/employee's email inbox

2. Officers shall use the "Read Receipt" option when opening the email from the Court Liaison Unit (Attachment A).

NOTE: The read receipt shall serve as proof of service.

3. In the event the member or employee cannot make the court date, he/she shall reply electronically by using the REPLY function to the Court Liaison Unit and "cc" his/her immediate supervisor as soon as possible but no later than 48 hours before a scheduled appearance if unable to attend because of illness, injury, or other emergency.

H. Responding to Hard copy Subpoenas

Members or employees shall sign and return one (1) copy of a subpoena to the unit representative to be routed to the Court Liaison Unit and retain one (1) copy for overtime purposes.

I. Responding to All Other Subpoenas (except CPRB)

Members or employees shall:

1. Sign and return one (1) copy of the subpoena to the unit representative, to be routed to the Court Liaison Unit as proof of service and retain one (1) copy.
2. Comply with the provisions of Manual of Rules Section 398.32, NOTIFICATION OF SUBPOENA TO TESTIFY FOR THE DEFENSE, when subpoenaed to appear for the defense.

J. CPRB Subpoenas

Member and employee shall comport with the policy and procedures in accordance with the provisions of DGO M-3.2.

V. COMMANDER/MANAGER AND SUPERVISOR RESPONSIBILITIES

A. Unit commanders and managers shall:

1. Designate a supervisor to be responsible for all tasks regarding subpoenas for all members and employees of the unit.
2. Ensure subordinate personnel comport with all provisions of this order.

B. The designated supervisor shall:

1. Direct subordinate personnel to check their Department email for electronic subpoenas at least once every day during their regularly scheduled workday.

2. Upon notification from the Court Liaison of Non Service:
 - a. Direct the subpoenaed member/employee to read the email and reply; or
 - b. Provide two (2) copies of the subpoena to the member/employee who shall sign one (1) copy and retain a copy for overtime purposes.
 - c. Forward the signed copy directly to the Court Liaison Unit.
3. Distribute hardcopy subpoenas and ensure subpoenaed members/employees sign one (1) and retain a copy for overtime purposes.
4. Forward the signed copy to the Court Liaison Unit as proof of service; and
5. Ensure any hardcopy subpoena that cannot be served in a timely manner is returned to the Court Liaison Unit with the reason for non-service on the subpoena.
6. Ensure subordinate personnel comport with all provisions of this order.

VI. PRIVATE PERSON SUBPOENA PROCESSING RESPONSIBILITY

A. Responsibilities of the Warrant Unit, Records Division

All subpoenas for private persons shall be sent to the Warrant Unit, where a log shall be kept maintaining the following information:

1. Date and time received;
2. Type of subpoena (criminal);
3. Name of the plaintiff, complainant, defendant or respondent;
4. Officer/unit assigned for service;
5. Date of assignment;
6. Docket Number; and

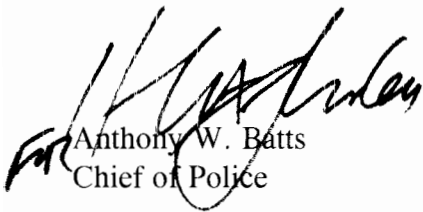
7. Date service due.

B. Responsibilities of the Fugitive Unit, Criminal Investigation Division

1. The Fugitive Unit Supervisor shall assign subpoenas to unit members for attempted service. Once the subpoena has been served or service has been attempted, the member shall return the subpoena to the Warrant Unit. The member serving or attempting service of the subpoena shall record the following information on the original subpoena:

- a. Date and time the subpoena was executed/service attempted;
- b. Member's name;
- c. The name of the person on whom the subpoena was executed;
- d. The method of service (physical, phone), or the reason for non-service;
- e. Address of the service or attempted service.

By order of


Anthony W. Batts
Chief of Police

Date Signed: 7/13/11

Attachment A

Subpoena - Windows Internet Explorer

https oaklandnet.com

Reply Reply to all Forward [Icons] Help

Attachments can contain viruses that may harm your computer. Attachments may not display correctly.
The sender of this message has requested a read receipt. [Click here to send a receipt.](#)

From: Kelly, Jim (James)
To: Alexander, Blair
Cc:
Subject: Subpoena
Attachments: [lanqley.doc\(46KB\)](#)

Test

James Kelly
Sergeant of Police
BFO Administrative Sgt.
510-773-1220 Cell
510-238-4933 Office



Click here to send a
"Read Receipt" when accessing
email through Webmail.