



DEPARTMENT NOTICE

22-028
06/01/22

Subpoenas and Court Appearances

Members are reminded that a subpoena is an order from the court. Criminal and Traffic Courts monitor the attendance of officers under subpoena to court. Failure to appear in court after being subpoenaed is a violation of DGO 3.08 Court Appearances by Members, California Civil Code Sections 1211 & 1212, and may result in a bench warrant for the member's arrest, otherwise known as a "body attachment," with an accompanying fine and disciplinary action. The responsibility to resolve all issued body attachments and accompanying fines rests with the member, personally.

Subpoenas transmitted and acknowledged by email have the same force and effect as subpoenas personally served. Members shall accept service of subpoenas transmitted by email (e-subpoenas) in accordance with Department email policy; see DN 20-070, *Department Email Policy and Procedures* or most recent email policy. E-subpoenas are deemed received at the end of the member's first full shift after delivery. Acknowledging receipt of an e-subpoena by electronic means is akin to obtaining the member's initials when personally serving a subpoena.

For SFDA e-subpoenas:

[REDACTED]
[REDACTED] If unable to appear in court for any reason, the member shall send a REPLY-ALL email from the e-subpoena email and fill out the pre-formatted attestation. It is recommended that the ADA be cc'd on the email. Members should not expect to receive explicit excusal from the DA's Office. Instead, members are encouraged to be in direct contact with the ADA to know if a continuance is likely to be granted or not, or if the case can proceed without the member's testimony. Detailed policy for SFDA e-subpoenas is forthcoming.

For e-subpoenas sent by the SFPD Court Liaison Unit/Legal Division: The member shall confirm receipt in an email reply. If unable to appear in court for any reason, the member shall email the subpoenaing attorney to request excusal. Members shall immediately notify the Court Liaison Unit when excusal or rescheduling is approved by the attorney, when such requests are denied, or when there is no response. Members are not relieved from their appearance obligation until explicitly excused by the subpoenaing attorney. Members subpoenaed by the defense cannot be excused by the prosecution.

The Court Liaison Unit will forward courtesy copies of subpoenas for logging and for providing to the member to submit with their defense memo or SFPD form 203, *Record of Court Appearance* for civil court cases where applicable. Upon logging the subpoena onto the *Unit Subpoena Log Form* (SFPD 186), the Subpoena Officer shall check that the member is working before the court date, and if not, immediately contact the Court Liaison Unit by phone. Traffic court subpoenas are not yet sent by email, so personal service and return of the signed "proof-of-service" is required.

Per DGO 3.08 *Court Appearances by Members*, Section II. *Defense Subpoenas*, when in receipt of a defense subpoena for a criminal proceeding, a defense memo shall be written and forwarded

to the Legal Division (SFPD Form 251, *Defense Subpoena Memo*). To clarify, defense memos for criminal court cases shall be forwarded to the Court Liaison Unit. Required memos for all other types of cases as outlined in DGO 3.08 shall be forwarded to the Legal Division.

The Court Liaison Unit occasionally directs service of defense subpoenas to a member's station when there is less than five (5) court days to serve the subpoena before the court date. Defense subpoenas for appearance, not standby (a standby subpoena changed to an appearance subpoena is acceptable), delivered directly at a station/unit shall be accepted and served if the member is working prior to the hearing date. The proof of service section shall be signed by the serving member and the subpoena sent to the Court Liaison Unit. If after hours, refer to DGO 3.08 and 1328(d) PC. If there are questions or concerns about this process, contact the Court Liaison Unit during business hours, Monday-Friday.

Defense standby subpoenas are valid for up to fourteen (14) court days after the date on the subpoena but can be extended. [REDACTED]

[REDACTED] The confirmation message must include the member's name, star number, and the name of the defendant. Members shall leave a confirmation message each day the case is trailing during the dates and times specified on the voice recording, even when not eligible for court standby compensation. Members who fail to leave a confirmation message are subject to disciplinary action for failing to honor the subpoena.

For all subpoenas: Members shall provide all relevant details of their conflict such as the reason, dates affected, and location of travel/training, where applicable. Members may be required to provide documentation of travel arrangements for filing a motion for continuance. SFPD form 506, *Court Case Response*, shall not be used to request continuance or excusal except for personally served SFDA subpoenas that are not duplicated by email (e-subpoena) and SF Superior Court traffic subpoenas. Members shall obtain a new subpoena from the attorney whenever their appearance on a must-appear subpoena is changed to a different date unless in court and ordered by the Judge to return on a subsequent date. Members are cautioned regarding entering into direct standby agreements with attorneys when subpoenaed as "must-appear" as doing so is voluntary and therefore not approved for court overtime compensation.



WILLIAM SCOTT
Chief of Police

Per DN 20-150, all sworn & non-sworn members shall electronically acknowledge this Department document in PowerDMS. Members whose duties are relevant to this document shall be held responsible for compliance. Any questions regarding this policy should be made to sfpd.wrattendirectives@sfgov.org, who will provide additional information.