



DEPARTMENTAL REGULATIONS  
CONCORD POLICE DEPARTMENT

GENERAL ORDER 10  
EFFECTIVE DATE: 3/1976  
REVISION DATE: 12/2010  
REVIEW DATE: 12/2012  
I.D. NUMBER:250

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Chief of Police

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**SUMMONS, COURT APPEARANCES, CIVIL ACTION WITNESS FEES, SUBPOENA SERVICE, AND  
LEGAL DOCUMENTS**

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**A. POLICY STATEMENT**

Members of this department may be summoned to court from time to time, in response to a summons or subpoena. We are obligated by law to appear as directed by an appropriate authority. Members of the Concord Police Department will respond to such appearances in a manner set forth by state law and department policy. The Police Department is also required to process certain legal documents and to serve criminal subpoenas at the request of the District Attorney's Office and defense attorneys.

**B. GENERAL**

1. The purpose of this order is to establish a uniform method for disbursement of subpoenas, notification of employees of canceled subpoenas, posting of a court calendar, and notification to the department when an employee is unable to be present in court as scheduled.
2. No employee of the Police Department shall accept service of any summons or complaint on behalf of the City.
  - .1 A process server shall be notified he/she must contact the City Clerk or his/her Deputy.
3. The subpoena clerk receives subpoenas, trial notices, and requests for court appearances from several sources and is responsible for notification to all bureaus of pending court appearances.
4. The responsibilities of the subpoena clerk will be assigned from within Field Operations Division secretarial staff by the Field Operations Division Commander, and will typically be the Traffic Bureau secretary. Written communication for the subpoena clerk shall be directed to the Field Operations Division.
5. The Police Department maintains a file of court issued restraining orders pursuant to Section 550 of the Civil Code of Procedure.

**C. SUBPOENA CLERK**

1. Restraining orders are first directed to the Records Bureau of the Police Department.
  - .1 The restraining orders are date and time stamped by Records Bureau personnel.
  - .2 Restraining orders are maintained in specified files within the Records Bureau.
  - .3 Criminal and civil subpoenas are forwarded to the Subpoena Clerk for distribution to the appropriate department personnel.

- .4 Subpoenas for records are received and handled by the Records Bureau manager
2. All subpoenas, trial notices, court calendar, and other requests for employee court appearances shall be directed to the subpoena clerk, including defense subpoenas served directly on employees and civil subpoenas.
3. Upon receipt of a court appearance notice, the subpoena clerk will enter the information in the CPD Intranet Court Calendar system. The following information will be entered:
  - .1 Type of case.
  - .2 Date the subpoena was received.
  - .3 Date the subpoena was processed.
  - .4 Name of the defendant or plaintiff.
  - .5 Name of the officer or employee to be served.
  - .6 Appearance date and time.
  - .7 Court docket number.
  - .8 DA's phone number and fax number.
4. The original subpoena will be stamped and both the original and copy given to the employee. A copy of the subpoena will be kept by the subpoena clerk. The subpoena clerk will then forward the subpoena or trial notice to the employee:
  - .1 Via the employee's immediate supervisor if assigned to the Patrol Bureau, in the accordion file in the Briefing Room for the appropriate squad number, or
  - .2 Via the employee's appropriate bureau secretary if not assigned to the Patrol Bureau.
5. The original summons for actions against the City or a City employee shall be forwarded to the City Attorney's Office, with copies to the involved employee, the employee's Division Commander, and the Chief of Police.
6. All employees may access the court calendar via the Intranet. Supervisors will pull copies of the court calendar on a regular basis for employees to view.

#### **D. BUREAU SECRETARIES**

1. Subpoenas for employees in the Investigations and Administrative Services Division will be forwarded to the appropriate bureau secretary.
  - .1 The bureau secretary will check the bureau calendar for any vacation or training conflict.
  - .2 If there is no conflict with the court date, the secretary will serve the employee and complete the subpoena service record. The subpoena service record will then be returned to the subpoena clerk. The court appearance will be recorded on the bureau calendar.
  - .3 If there is a conflict with the court date, the bureau secretary will return the subpoena to the subpoena clerk.

- .4 The Reserve Coordinator will handle subpoenas for reserve officers.
2. In those cases where the subpoena is a rush subpoena, the Reserve Coordinator or Subpoena Clerk will attempt to contact the officer by phone at home or work and notify them of the subpoena.

#### **E. COURT CANCELLATIONS**

1. All notifications that an employee is no longer required to appear in court shall be directed to the subpoena clerk. The subpoena clerk will record the date and time the notification is made.
2. The subpoena clerk will notify employees in the Field Operations Division.
3. The subpoena clerk will notify the appropriate bureau secretary for cancellations involving Investigations and Administrative Services Division employees. The bureau secretary will notify the affected employee of the cancellation as soon as possible.
4. The subpoena clerk shall attempt to notify Field Operations Division employees as soon as possible. If unable to contact the employee, the clerk will leave a message for the employee on the City Voice Messaging System in accordance with F. 1. 1.
5. Court call off notifications labeled as "Trailing" are recognized as official court notifications.
  - .1 The appropriate bureau secretary will notify the officer of a trailing case, along with the new date and time. This notification will serve as an update to the original subpoena, as no new subpoenas are issued on trailing cases.
  - .2 Once notified of the trailing date, the officer is expected to appear on the new date and time, unless told otherwise.
  - .3 If the case is trailing for a second time, another notification will be made to the officer in the same manner as the first time.

#### **F. DUTY OF EMPLOYEES**

1. Personnel who have been subpoenaed are required to review the Intranet Court Calendar.
  - .1 Employees who have a scheduled court appearance shall call their voice-mailbox, after 6:00 p.m. of the day prior to the scheduled appearance, to retrieve any call-off messages. Employees may utilize the department's toll free telephone number to avoid any long distance charges 1-800-827-2489 (827-CITY).
  - .2 Employees who have a scheduled court appearance during their normal workweek shall call their voice-mailbox one-hour prior to their scheduled court appearance, to retrieve any call-off messages. Employees may utilize the department's toll free telephone number to avoid any long distance charges 1-800-827-2489 (827-CITY).
  - .3 Notify the District Attorney of any defense subpoena.
2. All employees who are under court subpoena and become ill and unable to attend must notify their Supervisor who will then notify the subpoena clerk or notify the subpoena clerk directly who will
  - .1 Notify the appropriate Deputy District Attorney and court for possible witness cancellation in criminal cases;
  - .2 Notify the appropriate court and witnesses of cancellation in traffic cases.

- .3 This order also applies to court appearances on an employee's regular day off, and the employee is ill and unable to attend.
3. Employees shall use the "detail" option of the electronic time card whenever an appearance or cancellation thereof is reflected on the time card.
4. Employees who are orally requested to appear in court by a Deputy District Attorney, or City Attorney, shall appear as requested. The employee will request that a written subpoena be prepared for him/her and forward this subpoena to the subpoena clerk.

#### **G. FORMER EMPLOYEES**

1. An employee who has left the department by resignation, retirement, or other means and appears in court as the result of a subpoena for a criminal investigation he/she was involved in prior to leaving, can request compensation for his/her time and expenses.
2. Unless otherwise compensated, approved compensation will consist of 20-cents per mile, or equivalent air fare for travel and a minimum of three hours straight time pay based on the former employee's final step pay. Straight time pay exceeding three hours will be based on time actually spent at/in court as required by the DA's office and the subpoena. Other expenses may be approved on an individual basis.
3. Procedure
  - .1 Upon receiving a subpoena or trial notice for a former employee, the subpoena clerk will refer it to the appropriate division commander of the employee's last permanent assignment.
  - .2 The division commander will then analyze the case to ascertain if the case is important enough to require the former employee's appearance. If not, the subpoena will be returned to the District Attorney's Office with a request for dismissal.
  - .3 On cases to be prosecuted, the subpoena will be forwarded to the former employee, along with a copy of the "Court Appearance Reimbursement Form" (Exhibit A).
  - .4 The former employee must then return the completed form to the Investigations and Administrative Services Division after the court appearance.
  - .5 The Field Operations Division Commander will review the "Court Appearance Reimbursement Form" and the certification of appearance from the Deputy District Attorney or Court Clerk. If accurately completed, he/she will approve payment and issue a Request for Payment for reimbursement. All payments will be by mail from the Finance Department.

#### **H. PRIOR POLICE EMPLOYMENT**

Subpoenas for employees arising out of police activity related to previous law enforcement employment shall be handled in the following manner:

1. Traffic Subpoenas
  - .1 Officers will not be compensated by the City of Concord for responding to any traffic infraction subpoena for action taken as a police officer for a previous employer outside of the Mt. Diablo Judicial District.
  - .2 Officers shall request that their former agency dismiss traffic infraction cases pending, unless the former agency is in the Mt. Diablo Judicial District. Should the former agency refuse or decline

to dismiss pending traffic infractions, the involved officer shall contact his/her division commander.

.3 Mt. Diablo Judicial District cases shall be compensated as if the citation was issued in Concord.

## 2. Criminal Subpoenas

.1 Officers shall respond to criminal subpoenas resulting from previous police employment.

.01 Officers so responding, while on duty or expecting overtime compensation if off duty, shall submit a copy of their subpoena and police report to their division commander, allowing adequate time for review.

.02 The appropriate division commander will analyze the case and determine if it, or the officer's involvement, is essential for prosecution.

.2 Officers may be compensated at time-and-one-half pay or compensatory time for the off-duty time spent testifying in matters resulting from previous police employment or the minimum court attendance pay as outlined in the current Memorandum of Understanding, whichever is greater, subject to division commander approval. No travel time, standby time or cancellation (call-off) time will be compensated for court matters resulting from previous police employment.

3. The on-duty use of department transportation to court resulting from previous police employment is subject to the approval of the appropriate division commander.

.1 The Field Operations Division Commander may approve the use of a department vehicle for Field Operations Division personnel.

.2 Transportation for off-duty testimony is the responsibility of the officer and/or his/her previous employer.

## I. CIVIL ACTION FEE REIMBURSEMENT

1. Following the officer's appearance, the subpoena and request forms shall be returned to the subpoena clerk. The officer shall indicate on the form the number of hours spent in court and that the appearance date was either a normal workday or overtime worked.

.1 After verification by the subpoena clerk, the subpoena will be retained by the Subpoena Clerk.

.2 A copy of the subpoena will be forwarded to the Finance Department with form CP 424 for appropriate action.

.3 On-duty personnel will not be permitted to take compensatory time off to answer civil action subpoenas.

.4 Personnel who respond to a subpoena shall not accept fees directly from the court, tribunal, or an attorney.

## J. TRAVELING OR OVERNIGHT EXPENSES

1. In the event an employee must travel long distances and/or stay overnight because of a civil action, he/she must notify the Department immediately, upon receipt of the subpoena. Following the appearance, the employee must complete and submit the subpoena and a Civil Action Witness Fee Request.

**K. SERVICE OF COURT SUBPOENAS**

1. Sworn and Reserve Police Officers of the Concord Police Department may be required to serve criminal subpoenas on behalf of the District Attorney's Office and defense attorneys.
2. Subpoenas that are to be served on behalf of the District Attorney's Office or a defense attorney shall first be processed as enumerated in Section "C" of this General Order.
3. Sworn and Reserve Police Officers of the Concord Police Department, who serve a subpoena on behalf of the District Attorney's Office or a defense attorney, shall document the following information on the subpoena service slip (Form CP 83):
  - .1 The date and time service was executed/attempted.
  - .2 Name of the officer(s) executing/attempting service.
  - .3 Name of person on whom the subpoena was served.
  - .4 Method of service/reason for non-service.
  - .5 Address of service/attempt, if different than the address listed on the subpoena service slip.