



*Kern County Sheriff's Office*

**Policies and Procedures**

<b>TITLE: DUTIES OF PERSONNEL - SUBPOENAS</b>		<b>NO: B-600</b>	
<b>APPROVED: Donny Youngblood, Sheriff-Coroner</b>			
<b>EFFECTIVE: August 1, 1990</b>	<b>REVIEWED: 9/04/2020</b>	<b>REVISED: 4/1/1996</b>	<b>UPDATED: 9/04/2020</b>

**POLICY**

A member who is subpoenaed in a matter pertaining to his/her duties may be served personally, by fax or electronic service to the KCSO Subpoena Coordinator, who has been designated to receive service of subpoenas on behalf of current KCSO Employees. The designated employee will complete service by delivering a copy of the subpoena to the officer via electronic service utilizing the Microsoft Outlook Calendar system.

The member's superior or designated employee may refuse service if they know that they will be unable to complete service prior to the hearing date. If the superior or designated employee is sub-served less than five (5) days prior to the hearing date, and he/she is not reasonably certain that he/she can complete the service, he/she may refuse acceptance. To refuse service, employees can either "Decline" the subpoena in email or call the Subpoena Coordinator directly to reject subpoena and give reason for not being able to accept. The Subpoena Coordinator would then send the rejected subpoena back to the office serving subpoena with valid reasoning for rejection.

Civil subpoenas are to be served and accepted in the same manner as criminal subpoenas with the additional requirements that a witness fee is deposited prior to service of the subpoena.

**DEFINITION:** A subpoena is a process by which the attendance and testimony of a witness may be compelled in a civil suit or criminal action. It is a writ or order directed to a person requiring their attendance at a particular time and place to testify as a witness.

Generally, a subpoena is served by delivery of a copy, or a ticket containing its substance, to the witness personally (California Code of Civil Procedure §1987).

Service of a Subpoena Duces Tecum must include a copy of the affidavit in support of the subpoena. Service of a Subpoena Duces Tecum without a copy of this affidavit is invalid. The affidavit states what records or items are required, and that their production is material to the case, and that the witness has the required items (CCP §1985(b), 1987).

A clerk, judge, or attorney of record in an action or proceeding, may sign and issue a subpoena to require attendance before the court where the proceeding is pending (CCP §1985).

Disobedience to a subpoena, or a refusal to be sworn, or to answer as a witness, or to subscribe an affidavit or deposition when required, may be punished as a contempt by the court issuing the subpoena.

**PROCEDURE:**

When a member receives a civil subpoena, they will:

- Complete a Contract Services Justification Form #490, including all of the following:
  - Date form completed;
  - Name of attorney issuing subpoena in ‘AGENCY TO BE CHARGED’ section;
  - Case name and number in “JOB DESCRIPTION” section;
  - The date or dates of appearance;
  - Deputy’s name;
  - Number of hours, overtime and regular;
  - List any standby time as “other costs”;
  - If Sheriff’s Office vehicle used, list vehicle number and mileage;
  - Do not total;
  - Have supervisor sign as authorized signature;
  - Forward form to Financial Services.

**NOTE:** Normally the form #490 will be attached to the civil subpoena. If not, they may be obtained from the subpoena coordinator or the Financial Services Section.

B-600-2

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