
Subpoenas and Court Appearances

405.1 PURPOSE AND SCOPE

This policy establishes the guidelines for department members who must appear in court. It will allow the Humboldt County Probation Department (HCPD) to cover any related work absences and keep the Department informed about relevant legal matters.

405.2 POLICY

HCPD members will respond appropriately to all subpoenas and any other court-ordered appearances.

405.3 SUBPOENAS

Only department members authorized to receive a subpoena on behalf of this department or any of its members may do so. This may be accomplished by personal service to the officer or by delivery of two copies of the subpoena to the officer's supervisor or other authorized department agent (Government Code § 68097.1; Penal Code § 1328(c)).

The party that issues a civil subpoena to an officer to testify as a witness must tender the statutory fee of \$275 with the subpoena for each day that an appearance is required before service is accepted of the subpoena (Government Code § 68097.2).

An immediate supervisor or authorized individual may refuse to accept service for a criminal subpoena if (Penal Code § 1328(d)(e)):

- (a) The supervisor or authorized individual will be unable to deliver a copy of the subpoena to the named officer within sufficient time for the named officer to comply with the subpoena.
- (b) It is less than five working days prior to the date listed for an appearance and the supervisor or authorized individual is not reasonably certain that service can be completed.

If, after initially accepting service of a criminal subpoena, a supervisor or other authorized individual determines it is not possible to deliver a copy of the subpoena to the named officer within sufficient time for the named officer to comply with the subpoena, the supervisor or the subpoena clerk shall notify the server or the attorney named on the subpoena of such not less than 48 hours prior to the date listed for the appearance (Penal Code § 1328(f)).

405.3.1 SPECIAL NOTIFICATION REQUIREMENTS

Any member who is subpoenaed to testify, agrees to testify, or provides information on behalf or at the request of any party other than the County Attorney or the prosecutor shall notify the member's immediate supervisor without delay regarding:

- (a) Any civil case where the County or one of its members, as a result of their official capacity, is a party.

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- (b) Any civil case where any other city, county, state, or federal unit of government or a member of any such unit of government, as a result of their official capacity, is a party.
- (c) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.
- (d) Any civil action stemming from the member's on-duty activity or because of their association with the HCPD.
- (e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the HCPD.

The supervisor will then notify the Chief Probation Officer and the appropriate prosecuting attorney as may be indicated by the case. The Chief Probation Officer should determine if additional legal support is necessary.

No member shall be retaliated against for testifying in any matter.

405.3.2 CIVIL SUBPOENA

The Department will compensate members who appear in their official capacities on civil matters arising out of their official duties, as directed by the current collective bargaining agreement or memorandum of understanding.

The Department should seek reimbursement for the member's compensation through the civil attorney of record who subpoenaed the member.

405.3.3 OFF-DUTY RELATED SUBPOENAS

Members receiving valid subpoenas for off-duty actions not related to their employment or appointment will not be compensated for their appearance. Arrangements for time off shall be coordinated through their immediate supervisors.

405.4 FAILURE TO APPEAR

Any member who fails to comply with the terms of any properly served subpoena or court-ordered appearance may be subject to discipline. This includes properly served orders to appear that were issued by a state administrative agency.

405.5 STANDBY

To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the Department.

If a member on standby changes location during the day, the member shall notify the designated department member of how the member can be reached. Members are required to remain on standby until released by the court or the party that issued the subpoena.

405.6 COURTROOM PROTOCOL

When appearing in court, members shall:

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- (a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.
- (b) Dress in apparel consistent with Probation Dress Code Guidelines.
- (c) Observe all rules of the court in which they are appearing and remain alert to changes in the assigned courtroom where their matter is to be heard.

405.6.1 TESTIMONY

Before the date of testifying, the subpoenaed member shall request a copy of relevant reports and become familiar with the content in order to be prepared for court. The member should also contact the prosecuting attorney regarding testimony and evidence that might be needed in court.

405.7 OVERTIME APPEARANCES

When a member appears in court on off-duty time, the member will be compensated in accordance with the current collective bargaining agreement or memorandum of understanding.