

# Subpoenas and Court Appearances

## 348.1 PURPOSE AND SCOPE

Best Practice **MODIFIED**

This policy establishes the guidelines for department members who must appear in court. It will allow the Indio Police Department to cover any related work absences and keep the Department informed about relevant legal matters. It is the purpose of this policy to provide officers with guidelines for scheduling, preparing for, and testifying in criminal court cases.

## 348.2 POLICY

State **MODIFIED**

Indio Police Department members will respond appropriately to all subpoenas and any other court-ordered appearances. The success of a criminal prosecution is determined not solely by the quality and quantity of evidence but by the manner in which it is presented by law enforcement officers in a court of law. An officer's appearance, demeanor, attitude, and ability to accurately convey evidence in a fair and professional manner are essential in efforts to bring a criminal prosecution to a just conclusion. Therefore, it is the policy of this agency that officers adhere to court scheduling, preparation, appearance, and testimonial guidelines provided herein.

## 348.3 SUBPOENAS

State

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 departmental 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) He/she knows that he/she 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 he/she 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 that he/she is unable 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)).

# Indio Police Department

## Indio PD Policy Manual

### *Subpoenas and Court Appearances*

---

#### 348.3.1 SPECIAL NOTIFICATION REQUIREMENTS

##### **Best Practice**

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

- (a) Any civil case where the City or one of its members, as a result of his/her official capacity, is a party.
- (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 his/her 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 his/her association with the Indio Police Department.
- (e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Indio Police Department.

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

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

#### 348.3.2 CIVIL SUBPOENA

##### **Best Practice**

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 memorandum of understanding or collective bargaining agreement.

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

#### 348.3.3 OFF-DUTY RELATED SUBPOENAS

##### **Best Practice**

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.

#### 348.4 FAILURE TO APPEAR

##### **Best Practice**

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.

# Indio Police Department

Indio PD Policy Manual

## *Subpoenas and Court Appearances*

---

### **348.5 STANDBY**

#### **Best Practice**

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

### **348.6 COURTROOM PROTOCOL**

#### **Best Practice**

When appearing in court, members shall:

- (a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.
- (b) Dress in the department uniform or business attire.
- (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.

#### **348.6.1 TESTIMONY**

##### **Best Practice**

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.

### **348.7 COURTNOTIFY**

#### **Agency Content**

CourtNotify™ is an internet based subpoena management system that shall be the Indio Police Department's primary system for the delivery and tracking of subpoenas to all employees of the Department via email.

CourtNotify™ shall follow the same general subpoena guidelines per Policy 348, except as otherwise noted. The District Attorney or the Department's subpoena clerk will deliver subpoenas via CourtNotify™ to the affected employees.

Officers served subpoenas via CourtNotify or given other official notice to appear before a criminal court by means other than the foregoing are responsible for complying with this directive and for providing agency notification as soon as possible of the need for appearance. Such subpoenas shall be recorded in a manner consistent with this policy.

#### **348.7.1 RESPONSIBILITIES OF EMPLOYEES**

##### **Agency Content**

Employees shall check their electronic email at least once during their workday when on duty to check for any e-subpoenas. Employees shall also check their email or CourtNotify™ account the day of and before a scheduled court appearance for disregard notifications on their cases.

# Indio Police Department

## Indio PD Policy Manual

### *Subpoenas and Court Appearances*

---

All e-subpoena(s) received shall be opened and acknowledged in the CourtNotify™ account. The employee may print a copy of the subpoena for reference. The employee shall notify the Department's subpoena clerk as soon as possible should an e-subpoena be received in error.

All employees shall notify the Department's subpoena clerk of any pre-planned time off by completing the appropriate time off request and/or 1050 form. This also includes incidents of IOD and extended personal sick leave prohibiting a court appearance.

Any employee failing to make this notification and receiving an e-subpoena prior to or during such time will be responsible to make the appropriate arrangements with the court to include the completion and proper dissemination of any applicable court subpoena release form(s).

#### 348.7.2 RESPONSIBILITIES OF SUPERVISORS

##### Agency Content

All supervisors and Watch Commanders shall log on to the CourtNotify™ e-subpoena system during their workday. They shall check CourtNotify™ and identify their personnel who have received an e-subpoena but have not acknowledged the subpoena with the scheduled time frame.

All supervisors and Watch Commanders shall notify the Department's Subpoena Clerk if they identify an error or problem when reviewing e-subpoenas with CourtNotify™.

#### 348.7.3 RESPONSIBILITIES OF THE SUBPOENA CLERK

##### Agency Content

The Department's Subpoena Clerk shall monitor CourtNotify™ throughout the workday. The Subpoena Clerk shall ensure the CourtNotify™ system has received subpoenas from the District Attorney and check to see that employees are accepting their subpoenas.

All time off shall be entered into the employee time off section of the program. All e-subpoenas received by the Subpoena Clerk via the CourtNotify™ system that have dates during an employee's previously scheduled time off shall be returned to the District Attorney with the appropriate comments.

#### 348.7.4 PREPARATION FOR COURT HEARINGS

- (a) Officers shall cooperate with requests from the prosecutor in preparation for court hearings or cases for trial.
- (b) Officers shall be familiar with the basic rules of evidence and should seek clarification of any legal issues that may arise during the trial prior to court appearance.
- (c) Prior to trial, arresting or other officers designated for court appearance shall review case documentation to ensure that they are completely familiar with the facts involved.
- (d) Officers shall provide all reasonable assistance necessary to or requested by the prosecution to.
- (e) Officers shall ensure necessary evidence will be available at trial as requested by prosecution.

# Indio Police Department

## Indio PD Policy Manual

### *Subpoenas and Court Appearances*

---

- (f) Officers shall ensure any legal questions of witnesses are referred to the prosecutor for clarification when appropriate.
- (g) In pretrial conferences with the prosecutor, officers are responsible for providing all information relevant to the case even though it may appear beneficial to the defendant. No detail should be considered too inconsequential to reveal or discuss.
- (h) There shall be no communication between officers and defense attorneys with regard to pending criminal cases without express approval of the prosecutor's office.

#### **348.7.5 APPEARANCE IN COURT**

- (a) Officers shall receive compensation for appearance in court during off-duty hours at the rate designated by this agency and in accordance with established means of calculation. Compensation shall be paid only when officers comply with MOU procedures established by this agency for court appearance, to include but not limited to supervisory notification/approval and adherence to documentation procedures for overtime pay.
- (b) Officers who are late for or unable to appear on a court date shall notify the appropriate court authority as soon as possible.
- (c) Officers' appearance, personal conduct, and manner shall conform to the highest professional police standards.
- (d) When testifying, officers shall restrict remarks to that which is known or believed to be the truth.
- (e) When testifying, officers shall respond directly to questions asked and avoid volunteering information or going beyond the scope of the question.
- (f) When testifying, officers should speak naturally and calmly in a clearly audible tone of voice.
- (g) When testifying, officers should use plain, clearly understood language and avoid using police terminology, slang, or technical terms and display a courteous attitude, maintain self-control and composure.
- (h) If an officer has a schedule conflict for a pending court date (i.e. vacation, scheduled training, scheduled medical appointment, etc.), the officer should submit a 1050 form to the court for a continuance request with ample advance time.

#### **348.8 OVERTIME APPEARANCES**

##### **Best Practice**

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