

<b>PALM BEACH GARDENS POLICE DEPARTMENT</b>		
<b>SUBPOENA CONTROL PROCESS</b>		
<b>POLICY AND PROCEDURE 4.1.21</b>		
<b>Effective Date :</b> 03/04/14	<b>Accreditation Standards:</b> CALEA CFA	<b>Review Date:</b> 03/01/2016

## **CONTENTS:**

- 1. Hard Copy Subpoena Processing**
- 2. Electronic Subpoena Processing**

**PURPOSE:** To establish guidelines for maintaining administrative control over hard copy and electronic subpoenas. The Subpoena process serves as an efficient and consistent means of tracking and maintaining a check and balance between the Department and the court system.

**SCOPE:** This policy will apply to all members and for both hard copy and electronic subpoenas.

**REVIEW AND RESPONSIBILITY:** Administrative/Investigations Division Assistant Chief

**POLICY:** This Department is committed to the prosecution of criminal suspects and recognizes that a successful prosecution is dependent on the appearance and testimony of its members in court.

## **PROCEDURES**

### **1. HARD COPY SUBPOENA PROCESS**

#### **a. Department Responsibilities**

- i. Service of a subpoena upon a member called to testify in an official capacity may be made by delivery of a hard copy subpoena to the Records section or the Court Liaison.
- ii. The Records section or Court Liaison will not be required to accept service under the following circumstances:
  1. For a member who is no longer employed by the Department.
  2. For a member not scheduled to work prior to the date the member is required to appear.
  3. If the appearance date is less than five days from the date of service, per FSS 48.031(4) (a) (3).  
However, a subpoena to appear in a juvenile matter must be accepted even if the appearance date is less than five days from the date of service at all times due to the 21 day detention (per the State Attorney's Office Juvenile division).
  4. A member must be personally served by the process server for any case in which the member is to appear for a civil case, AND where a department case number was not assigned and/or the member is not being called to testify in an official capacity on a matter handled in the course and scope of employment. Such members will not attempt to avoid service. The lobby interview room shall be designated as a private area where such member can be served as per FSS 48.031(1) (b).
  5. If the member is absent because of authorized leave or training and will be available on or before the subpoena appearance date, the subpoena will be accepted.
  6. Subpoenas will be accepted when the appearance date falls on the individual's regular/comp day off.

- b. If a subpoena is accepted in error, the Court Liaison will immediately notify the agency/individual who presented the subpoena. An explanation and the signature of the person returning the subpoena will be written on the subpoena.
- c. Once a hard copy subpoena is accepted, the Court Liaison will scan and send it to the member via Microsoft Outlook as an attachment on the calendar invite as part of the Department's internal routing system.

## **2. COURT APPEARANCE RESPONSIBILITIES**

- a. Failure to appear for court absent mitigating circumstances may result in discipline.
- b. In the event of conflicting subpoenas in which the member is called as a witness to appear at two locations at the same time and date, the member will attempt to gain a release from one subpoena in order to honor the other. A subpoena where a judge is presiding takes precedence over any other proceeding. (An example of the hierarchy is: a criminal or civil case in front of a judge or magistrate, criminal deposition, civil deposition, traffic infraction hearing). If an agreement cannot be worked out, the member will document the details of the refused release and submit to his supervisor.
- c. Members anticipating leave (to include but not limited to: vacation, training, military leave, leaves of absences, or any circumstance that will hinder their appearance in court) must notify the Court Liaison at least 14 days prior to the anticipated start of the leave. Members must be cognizant of the fact that submitting a vacation letter or request for a continuance does not automatically excuse the member from the subpoena. Only the issuing authority of the subpoena can release the member when requested. The member will be responsible for obtaining the name and contact information of the authority releasing them. In the event the case is not continued or postponed, the member subpoenaed is required by law to honor a properly served subpoena.
- d. DHSMV Administrative Review Hearings –An officer that, due to extraordinary circumstances beyond the member's control, is unable to attend the hearing must provide written notice, with copy to their supervisor, to the hearing office prior to the scheduled time of the proceeding. If a member fails to appear after receiving a subpoena for an administrative review, the DHSMV will invalidate the administrative suspension. Failure to appear by any other officer who is subpoenaed may result in a subpoena enforcement action filed by the attorney who served the subpoena. (Rule 15A-6.015 Florida Administrative Code).

## **3. ELECTRONIC SUBPOENA PROCESS**

- a. The agency issuing the Electronic Subpoena (i.e. Public Defender, State Attorney, or Clerk's Office) will issue a calendar invitation containing the subpoena directly to the member who is named in the subpoena and will copy the Court Liaison. Hard copy subpoenas received by the Department will be scanned and sent to the member as a calendar invitation. The member receiving the Electronic Subpoena will accept the invite/subpoena as "Proper Service." The attached subpoena is being sent electronically in lieu of a paper subpoena and the service will be considered the same as if it was hand delivered.
- b. Member's Responsibilities:
  - i. The member shall either "Accept" or "Tentatively Accept" the subpoena.
  - ii. The subpoena will automatically be placed in the member's Microsoft Outlook Calendar upon accepting. The member will forward the invite to their immediate supervisor(s) as well as the Court Liaison, if not already included in the invite.
  - iii. If the member responds as "Tentatively Accepts," they will provide an explanation in their electronic response. The member will also "copy" their immediate supervisor and the Court Liaison in the email response so they will be made aware of the reason provided. Once an agreement has been reached between a member and the agency/attorney issuing the subpoena, a final subpoena or email will be issued.

- iv. Members shall activate their out of office notification when attending training, taking leave, on administrative leave, light duty, no duty or any other type of leave that would affect the delivery and acceptance of an electronic subpoena.
- v. After responding to the subpoena, members must monitor their e-mail for correspondence related to the case. Any changes or cancellations related to the case will be sent in the form of an update to the initial electronic subpoena. Members are required to respond to updates and cancellations in a timely manner.
- vi. If the sender of an Electronic Subpoena requests a read receipt for the original subpoena or any other related correspondence the member shall send the requested receipt.
- vii. It is strongly recommended that the members maintain electronic files related to subpoenas for verification and tracking purposes. These include but are not limited to:
  - 1. The original request
  - 2. Responses
  - 3. Read Receipts
  - 4. Any additional related correspondence
- viii. The Court Appearance Responsibilities outlined in Section 1(B) shall also apply to Electronic Subpoenas.
- ix. Members accepting electronic subpoenas on a mobile device (i.e. smart phone, iPad, etc) should also review the subpoena attached to the calendar invitation on their work desktop or laptop computer to confirm that the calendar entry of the date and time of the subpoena is accurate.

#### 4. TRACKING OF ELECTRONIC SUBPOENAS

- a. The email address ([subpoenas@pbgfl.com](mailto:subpoenas@pbgfl.com)) has been established for the sole purpose of receiving and sending the “invites” to the calendar for tracking and research purposes.
- b. A copy of the electronic tracking of the request and any response, whether accepted, denied, or deleted, can be obtained from the Information Technology department of the sending or the receiving agency.

#### 5. GLOSSARY

**Subpoena:** A legal document requiring a member to attend a deposition, trial or legal hearing involving a criminal or civil case and/or incident occurring as a part of their duties or stemming from their employment with the Department.

**Hard Copy Subpoena:** A paper subpoena requiring a tangible proof of service in the form of a signature.

**Electronic Subpoena:** An electronic calendar invite that is sent using the Microsoft Outlook Calendar function containing a subpoena attachment.

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- SUBPOENAS

**RESPONSIBILITY INDEX**

- ADMINISTRATIVE/INVESTIGATIONS DIVISION ASST. CHIEF
- RECORDS SPECIALISTS
- COURT LIAISON
- ALL MEMBERS

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**APPROVED:**



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Stephen J. Stepp  
Chief of Police

03/25/2014  
Date