

Court Appearances and Subpoenas

405.1 PURPOSE AND SCOPE

This policy has been established to provide for the acceptance of subpoenas in connection with a matter arising out of the employee's course and scope of official duties, and to ensure that employees appear when subpoenaed, or are available to appear in court when requested and present a professional appearance.

405.2 AUTHORITY AND REFERENCES

- Executive Committee;
- Government Code § 68097.1;
- Penal Code §§ 1328(c), 1328(d), 1328(d)(e), 1328(f) PC.

405.3 POLICY

Riverside County Probation Department employees will respond appropriately to all subpoenas and any other court-ordered appearances.

405.4 COURT SUBPOENAS

At the request or order of the Court, district attorney or defense counsel, by subpoena or otherwise, an employee of the department shall appear in court and offer testimony or other service as requested. Any time an employee is compelled to appear in court, the employee's direct supervisor and institutional scheduler, if applicable, shall be notified immediately. Appearances without subpoena shall require prior supervisor approval.

Service of a subpoena requiring the appearance of any department employee in connection with a matter arising out of the employee's course and scope of official duties may be accomplished by personal service on the employee or by delivery of two copies of the subpoena on the employee's supervisor or other authorized departmental agent (Government Code § 68097.1; Penal Code § 1328(c)). Subpoena service is also acceptable by courier or court liaison from the court to this department.

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 employee within sufficient time for the named employee 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 employee within sufficient time for the named employee to comply with the subpoena, the

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supervisor 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)).

405.4.1 SPECIAL NOTIFICATION REQUIREMENTS

Any employee who is subpoenaed to testify or agrees to testify on behalf of or at the request of any party other than the County Counsel, the prosecutor, or the defense shall notify his/her immediate supervisor without delay prior to providing any information and regarding:

- (a) Any civil case where the County or one of its employees, 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 civil action stemming from the employee's on-duty activity or because of his/her association with the Riverside County Probation Department.
- (d) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Riverside County Probation Department.

The supervisor will then notify the Chief Probation Officer via the chain of command and the appropriate attorney, as may be indicated by the case. The Chief Probation Officer or designee should determine if additional legal support is necessary.

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

405.4.2 OFF-DUTY RELATED SUBPOENAS

Employees receiving valid subpoenas for actions taken off-duty not related to their employment with the Riverside County Probation Department will not be compensated for their appearance. Arrangements for time off shall be coordinated through their immediate supervisor.

405.5 FAILURE TO APPEAR

Any employee who fails to comply with the terms of any properly served subpoena or court-ordered appearance may be subject to discipline if the subpoena arises out of the employee's course and scope of official duties with the department.

405.6 COURT STANDBY

If an employee on standby changes his/her location during the day, the employee shall notify their immediate supervisor of how he/she can be reached. Employees are required to remain on standby until released by the court or the party that issued the subpoena.

405.7 COURTROOM PROTOCOL

When appearing in court, employees shall:

- (a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.
- (b) Dress in appropriate attire for court as described in the Personal Appearance policy.

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- (c) Observe all rules of the court in which they are appearing.
- (d) Remain alert to changes in the assigned courtroom where their matter is to be heard.
- (e) Remain in court until properly excused.

405.7.1 PREPARATION FOR TESTIMONY

Before the date of testifying, the subpoenaed employee shall locate relevant reports and become familiar with their content in order to be prepared for court.

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