



CLEVELAND DIVISION OF POLICE

GENERAL POLICE ORDER



EFFECTIVE DATE: NOVEMBER 30, 2020	CHAPTER: 2 - Legal	PAGE: 1 of 10	NUMBER: 2.03.01
SUBJECT: SUBPOENAS			
CHIEF: <i>Calvin D. Williams, Chief</i>			

Substantive changes are italicized

PURPOSE: To establish procedures for the distribution, service, and return of all subpoenas, criminal and civil, issued by the Cleveland Municipal Court, Cuyahoga County Common Pleas and Juvenile Courts, as well as criminal and civil subpoenas issued by any other Federal, State, County, or Municipal Court.

POLICY: *It is the policy of the Cleveland Division of Police* to ensure prompt distribution, service, and return of Cleveland Municipal, Cuyahoga County Common Pleas Court and Juvenile Court subpoenas.

DEFINITIONS:

Common Pleas Court Subpoenas - are issued by the Cuyahoga County Common Pleas Court, Grand Jury, or Juvenile Court.

Hot Subpoenas - are received by the Bailiff's Department or Court Unit and require the subpoenaed member to appear at the next scheduled session of court.

Misdirected Subpoenas - are delivered to a *unit* where the subpoenaed member is not assigned.

Subpoena Logbook - a three ring binder with loose leaf log sheets with the following column headings: date received, entered by, subpoenaed member and badge number, court date, court room, defendant's name, subpoenaed member's signature, serving supervisor's signature, date of service, and time of service. *A bound logbook with the same column headings may be used in place of a binder.*

PROCEDURES:

- I. Municipal Court Subpoenas
 - A. For district personnel
 - 1. The Bailiff's Department will:
 - a. Record each subpoena on a register.
 - b. Deliver Municipal Court subpoenas issued to district personnel to the district administrative supervisor.
 - 2. The district administrative supervisor shall:
 - a. Acknowledge receipt of delivered subpoenas by signing and dating the register *and provide a copy to of the register to the delivering Bailiff.*

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- b. Place the original in the *subpoena logbook*.
 - c. Maintain the binder in the district administrative supervisor's office.
 - d. Cause prompt pickup of subpoenas by the patrol and support sections.
3. The member retrieving subpoenas *from the district administrative supervisor* shall:
 - a. Acknowledge receipt by signing the register. The district administrative supervisor shall then sign the register and enter the date and time of pick up.
 - b. Place a copy of the register into the subpoena logbook.
 4. The Officer-in-Charge (OIC) of support sections shall ensure that someone is available to pick up subpoenas from the district administrative supervisor during normal business hours.
- B. For bureau personnel
1. The Bailiff's Department will:
 - a. Deliver Municipal Court subpoenas issued to bureau personnel (e.g., Bureau of Traffic, Bureau of Special Investigations) to the commander's executive assistant *or designee*.
 - b. Record each subpoena on a register.
 2. The bureau executive assistant *or designee* shall:
 - a. Acknowledge receipt of delivered subpoenas by signing and dating the register.
 - b. Place the original register in a binder.
 - c. Maintain the binder in the bureau executive assistant's office.
 - d. Cause prompt pickup of subpoenas by all units reporting to the bureau.
 3. The member retrieving subpoenas shall:
 - a. Acknowledge receipt by signing the register. The bureau executive assistant shall then sign the register and enter the date and time of pickup.
 - b. Place a copy of the register into the subpoena logbook.
 4. Unit OICs shall ensure that someone is available to pick up subpoenas from the executive assistant during normal business hours.

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- C. For sections/units not reporting to districts or bureaus
 - 1. The Bailiff's Department will:
 - a. Deliver Municipal Court subpoenas issued to section/unit personnel not reporting to districts/bureaus (e.g., Intelligence Unit) to the OIC.
 - b. Record each subpoena on a register.
 - 2. The OIC shall:
 - a. Acknowledge receipt of delivered subpoenas by signing and dating the register.
 - b. Place the original register in a binder.
 - c. Maintain the binder in the section/unit.

- D. Hot Subpoenas
 - 1. For district/bureau personnel
 - a. The Bailiff's Department will:
 - i. Fax the subpoena and register to the district/bureau administrative supervisor/executive assistant.
 - b. The district/bureau administrative supervisor/executive assistant shall:
 - i. Review the register and subpoenas for accuracy and note errors/omissions on the register.
 - ii. Sign and date the register.
 - iii. Fax the register back to the Bailiff's Department.
 - c. If the hot subpoena is issued to district personnel, comply with procedures in section I.A.
 - d. If the hot subpoena is issued to bureau personnel, comply with procedures in section I.B.
 - 2. Hot subpoenas for sections/units not reporting to districts or bureaus
 - a. The Bailiff's Department will:
 - i. Fax the subpoena and register to the section/unit OIC.
 - b. The section/unit OIC shall:

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- i. Review the register and subpoenas for accuracy and note errors/omissions on the register.
- ii. Sign and date the register.
- iii. Fax the register back to the Bailiff's Department.
- iv. Comply with procedures contained in section I.C.

II. Common Pleas Court Subpoenas

A. For district personnel

1. The Sheriff's Department will deliver Common Pleas Court subpoenas to the Court Unit.
2. Court Unit personnel shall record delivered subpoenas into a computerized database.
3. The district administrative supervisor shall:
 - a. Each weekday, excluding holidays, dispatch a member to retrieve subpoenas from the Court Unit.
 - b. Retrieve the subpoenas from the dispatched member.
 - c. Cause prompt pickup of subpoenas by the patrol and support sections.
4. The member designated to retrieve subpoenas shall:
 - a. Acknowledge receipt of subpoenas picked up at the Court Unit by signing the log sheet and entering the date and time of pick up.
 - b. Deliver the subpoenas to the administrative supervisor and place a copy of the register into the subpoena logbook maintained in the office.
5. The member designated to retrieve subpoenas from the administrative supervisor shall:
 - a. Acknowledge receipt by signing the logbook. The administrative supervisor shall then sign the logbook and enter the date and time of pickup.
 - b. Place a copy of the register into the subpoena logbook.
6. Support sections OICs shall ensure that someone is available to pick up subpoenas from the district administrative supervisor during normal business hours.

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B. For bureau personnel

1. The Sheriff's Department will deliver Common Pleas Court subpoenas to the Court Unit.
2. Court Unit personnel shall:
 - a. Record delivered subpoenas into a computerized database.
 - b. Notify the commander's executive assistant that subpoenas are ready for pick up.
3. The executive assistant shall:
 - a. Upon notification, promptly dispatch a bureau member to retrieve the subpoenas.
 - b. Cause prompt pickup of subpoenas by all units reporting to the bureau.
4. The bureau member designated to retrieve subpoenas from the Court Unit shall:
 - a. Acknowledge receipt of subpoenas from the Court Unit by signing the log sheet and entering the date and time of pickup.
 - b. Deliver subpoenas to the bureau executive assistant and place a copy of the register into the subpoena logbook maintained in the office.
5. The member designated to retrieve subpoenas from the bureau executive assistant shall:
 - a. Acknowledge receipt by signing the logbook. The bureau executive assistant shall then sign the logbook and enter the date and time of the pickup.
 - b. Place a copy of the register into the subpoena logbook.
6. Unit OICs shall ensure that a member is available to pick up subpoenas from the executive assistant during normal business hours.

C. For sections/units not reporting to districts/bureaus

1. The Sheriff's Department will deliver Common Pleas Court subpoenas to the Court Unit.
2. Court Unit personnel shall:
 - a. Record delivered subpoenas into a computerized database.
 - b. Notify the OIC of the section/unit that subpoenas are ready for pick up.

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3. The OIC shall promptly dispatch a section/unit member to retrieve the subpoenas.
4. The section/unit member shall acknowledge receipt of subpoenas by signing the log sheet and entering the date and time of pickup.
5. The retrieving member shall record the subpoenas into the subpoena logbook maintained in the unit.

D. Hot Common Pleas Court subpoenas

1. For district/bureau personnel
 - a. Court Unit personnel shall:
 - i. Record hot subpoenas into a computerized database.
 - ii. Telephone the administrative supervisor/executive assistant and request immediate pick up.
 - b. The administrative supervisor/executive assistant shall:
 - i. Promptly dispatch a district/bureau member to retrieve the hot subpoena.
 - c. District/bureau personnel shall:
 - i. Acknowledge receipt of the hot subpoena by signing the log sheet and entering the date and time of pickup.
 - d. If the hot subpoena is issued to district personnel, comply with procedures contained in section II.A.
 - e. If the hot subpoena is issued to bureau personnel, comply with procedures contained in section II.B.
2. For sections/units not reporting to districts/bureaus
 - a. Court Unit personnel shall:
 - i. Record hot subpoenas into a computerized database.
 - ii. Telephone the section/unit OIC and request immediate pick up.
 - b. The OIC shall
 - i. Promptly dispatch a section/unit member to retrieve the hot subpoena.

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- c. The section/unit member shall comply with procedures contained in section II.C.

III. Grand Jury Subpoenas

- A. Specialized units assigned to Cleveland Police Headquarters shall continue to pick up Grand Jury subpoenas delivered to the Court Unit.
- B. Grand Jury subpoenas for districts shall be emailed directly to the appropriate district.
- C. The district detective unit OIC or designee shall check the district's email twice a day (Monday-Friday), once before 1000 hours and again after 1400 hours. The district detective unit OIC or designee shall ensure that the Grand Jury subpoenas are logged into the Subpoena Log Book and the subpoenas dispensed to the appropriate shift and unit.
- D. Misdirected subpoenas shall be routed by forwarding the email to the appropriate district or unit. Hard copies shall be faxed if necessary.
- E. Each district shall designate *a detective* to act as Grand Jury Liaison. The Grand Jury Liaison shall be responsible for:
 1. Retrieving Grand Jury subpoenas and preparing cases for the Grand Jury.
 2. Obtaining ballistic evidence.
 3. Obtaining drug evidence test results.
 4. Obtaining any other forensic evidence necessary for case presentation.
 5. Presenting felony cases to the Grand Jury via video testimony.
 6. In the event the Grand Jury Liaison is not available to provide video testimony, the OIC shall assign another detective *when appropriate and necessary*.

IV. Service/Return

- A. Patrol section and support section/unit OICs shall make daily checks of the subpoena logbook to ensure that recorded subpoenas have been disposed of in a timely and proper manner. OICs shall attempt to serve *all* subpoenas.
 1. Personal service
 - a. The served member shall sign the logbook to acknowledge receipt of the subpoena.
 - b. The serving supervisor shall sign the logbook to document service of the subpoena.
 - c. The serving supervisor shall record the date and time of service.

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2. Service by telephone
 - a. OICs shall
 - i. Make reasonable and timely, and if necessary multiple attempts to notify the member of the subpoena by telephone.
 - ii. If telephone service is successful enter the word “telephone” in the “subpoenaed member’s signature” field, sign as the serving supervisor, and record the date and time of service.
 - b. Telephone service of a subpoena cannot be made by leaving a message with a family member, answering machine, voicemail, or email.

3. Unsuccessful service—court date is within three days
 - a. *For Municipal Court subpoenas* OICs shall:
 - i. Enter the reason for non-service (e.g., furlough, vacation day, extended illness) in the subpoenaed member’s signature field.
 - ii. Sign their name in the serving supervisor’s signature field.
 - iii. Record the return date and time in the appropriate fields.
 - b. When the logbook does not contain an entry in the subpoenaed member’s signature field and the court date is within three days, the OIC shall:
 - i. Presume the subpoena has yet to be disposed of.
 - ii. Attempt to serve the subpoena.
 - iii. If the OIC is unable to serve the subpoena, enter the reason for non-service (e.g., furlough, vacation day, extended illness) in the subpoenaed member’s signature field and sign their own name and badge in that section and return it without service.

4. Whether served or unserved, OICs shall ensure that every subpoena recorded in the logbook contains a proper disposition.

- B. Return of Municipal Court subpoenas to the Bailiff’s Department
 1. Returned Municipal Court subpoenas shall be separated into groups of served and unserved and be returned to the administrative supervisor/executive assistant who shall promptly give them to the bailiff’s representative when fresh subpoenas are delivered to the district/bureau.
 2. OICs of sections and units not reporting directly to a district or bureau shall promptly deliver served subpoenas to the Bailiff’s Department.

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C. *Return of served Common Pleas Court subpoenas to the Court Unit*

1. Served Common Pleas Court subpoenas shall be returned to the Administrative Supervisor/Executive Assistant who shall promptly deliver them to the Court Unit.
2. OICs of sections and units not reporting directly to a district or bureau shall promptly deliver served subpoenas to the Court Unit.

D. *Unserved Common Pleas Court subpoenas*

1. *If a Common Pleas Court subpoena cannot be served due to a member's illness, furlough, or other circumstance, the member's immediate supervisor shall notify the County Prosecutor who is assigned to the case that the officer is unable to attend.*
 - a. *Telephone notification is only acceptable if the supervisor speaks directly to the prosecutor. Leaving a voicemail is not sufficient.*
 - b. *If the supervisor cannot directly speak with the prosecutor, the supervisor shall obtain the prosecutor's email address and make notification by leaving the following information.*
 - i. *Officer's name and badge number.*
 - ii. *Case number, date, courtroom number, and name of defendant.*
 - iii. *If possible the officer's date of return for rescheduling.*
 - c. *The supervisor shall make a notation in the subpoena logbook and a copy of the email shall be retained with the subpoena in the unit.*

V. *Misdirected Subpoenas*

A. The administrative supervisor/executive assistant *or OIC* shall:

1. Ascertain the subpoenaed member's current assignment.
2. Notify by telephone the administrative supervisor/executive assistant *or OIC* under whose command the subpoenaed member is currently assigned of the misdirected subpoena.
3. *Promptly email the subpoena to the supervisor to properly serve it on the member.*
4. Make a follow-up call to ensure that the *email* was successfully transmitted.

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5. After sending the misdirected subpoena to its proper destination, record its disposition in the register/logbook and on the subpoena itself.
6. File the subpoena for accountability purposes.
7. Upon receipt of the *emailed* subpoena, comply with the distribution procedures contained in this order.

VI. Maintaining Subpoenas

- A. Patrol section and support section OICs shall ensure that subpoenas are secured.

THIS ORDER SUPERSEDES ANY PREVIOUSLY ISSUED DIRECTIVE OR POLICY FOR THIS SUBJECT AND WILL REMAIN EFFECTIVE UNTIL RESCINDED OR SUPERSEDED.