



# GENERAL POLICE ORDER CLEVELAND DIVISION OF POLICE



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SUBJECT: <b>SUBPOENAS</b>			
ASSOCIATED MANUAL:		RELATED ORDERS: <b>2.3.03</b>	
CHIEF OF POLICE: <i>Michael McGrath, Chief</i>			

*Revisions are printed in italics*

**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 courts.

**POLICY:** To ensure prompt distribution, service, and return of Cleveland Municipal and Cuyahoga County Common Pleas Court subpoenas. The City of Cleveland shall not compensate personnel for court attendance generated by activities related to secondary employment. The City of Cleveland shall compensate court appearances due to arrests made outside the scope of secondary employment duties/venue, which result from the member's primary responsibility to the citizens of Cleveland.

**DEFINITIONS:**

**Common Pleas Court Subpoenas** are issued by the Common Pleas Court, the Grand Jury, or the Juvenile Court.

**"Hot" Subpoenas** are received by the bailiff's office or Court Unit and require the subpoenaed member to appear at the next scheduled session of court.

**Misdirected Subpoenas** are delivered to a district or bureau where the subpoenaed member is not assigned.

**Subpoena Logbooks** shall be maintained as loose leaf log sheets in a 3-ring binder and contain 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.

PAGE: 2 of 15	SUBJECT: SUBPOENAS	GPO NUMBER: 2.3.01
------------------	-----------------------	-----------------------

## PROCEDURES:

### I. Distribution of Subpoenas

#### A. Municipal Court Subpoenas for district personnel

1. Municipal court subpoenas issued to district personnel will be delivered by the bailiff's office to the District Administrative Supervisor. The bailiff's office will record each subpoena on a register.
2. The District Administrative Supervisor shall acknowledge receipt of delivered subpoenas by signing and dating the register.
3. The original register shall be placed in a binder. The binder shall be maintained in the District Administrative Supervisor's office. A copy shall be provided to the Bailiff's Office messenger on the following business day.
4. The District Administrative Supervisor shall cause prompt pickup of subpoenas by the Patrol and Support Sections.
5. The member designated to retrieve subpoenas from the District Administrative Supervisor shall acknowledge receipt by signing the register. The District Administrative Supervisor shall then sign the register and enter the date and time of pickup.
6. The retrieving member shall *place a copy of the register into the section/unit subpoena logbook.*
7. Support Section OICs shall ensure that someone is available to pickup subpoenas from the District Administrative Supervisor during normal business hours.

#### B. Municipal Court Subpoenas for bureau personnel

1. Municipal court subpoenas issued to bureau personnel (e.g., Bureau of Traffic, Bureau of Special Investigations) will be delivered by the Bailiff's Office to the Commander's Executive Assistant. The Bailiff's Office will record each subpoena on a register.

PAGE: 3 of 15	SUBJECT: SUBPOENAS	GPO NUMBER: 2.3.01
------------------	-----------------------	-----------------------

2. The Bureau Executive Assistant shall acknowledge receipt of delivered subpoenas by signing and dating the register.
  3. The original register shall be placed in a binder. The binder shall be maintained in the Bureau Executive Assistant's Office.
  4. The Bureau Executive Assistant shall cause prompt pickup of subpoenas by all units reporting to the bureau.
  5. The unit member designated to retrieve subpoenas from the Bureau Executive Assistant shall acknowledge receipt by signing the register. The Bureau Executive Assistant shall then sign the register and enter the date and time of pickup.
  6. The retrieving member shall *place a copy of the register into the section/unit subpoena logbook.*
  7. Unit OICs shall ensure that someone is available to pickup subpoenas from the executive assistant during normal business hours.
- C. Municipal Court Subpoenas for sections and units not reporting to districts or bureaus
1. Municipal Court subpoenas issued to section/unit personnel not reporting to districts/bureaus (e.g., Intelligence Unit) will be delivered by the Bailiff's Office to the section/unit OIC. The Bailiff's Office will record each subpoena on a register.
  2. The OIC shall acknowledge receipt of delivered subpoenas by signing and dating the register.
  3. The register shall be placed in a binder. The binder shall be maintained in the section/unit.
- D. "Hot" Municipal Court Subpoenas for district and bureau personnel
1. When the Bailiff's Office receives a "hot" subpoena, the subpoena and its register will be faxed to the District/Bureau Administrative Supervisor/Executive Assistant.

PAGE: 4 of 15	SUBJECT: SUBPOENAS	GPO NUMBER: 2.3.01
------------------	-----------------------	-----------------------

2. The District/Bureau Administrative Supervisor/Executive Assistant shall review the subpoena register and subpoenas for accuracy and note errors/omissions on the register.
  3. After signing and dating the register, the District/Bureau Administrative Supervisor/ Executive Assistant shall fax it back to the Bailiff's Office.
  4. If the "hot" subpoena is issued to district personnel, procedures contained in (A) (3) through (6) of this section shall apply.
  5. If the "hot" subpoena is issued to bureau personnel, procedures contained in (B) (3) through (6) of this section shall apply.
- E. "Hot" Municipal Court Subpoenas for sections and units not reporting to districts or bureaus
1. When the Bailiff's Office receives a "hot" subpoena, the subpoena and its register will be faxed to the section/unit OIC.
  2. The section/unit OIC shall review the subpoena register and subpoenas for accuracy and note errors/omissions on the register.
  3. The section/unit OIC shall sign and date the register. The OIC shall then fax it back to the Bailiff's Office.
  4. The OIC shall comply with procedures contained in (C) (3) of this section.
- F. Commons Pleas Court Subpoenas for District Personnel
1. Common Pleas Court subpoenas issued to district personnel will be delivered by the Sheriff's Office to the Court Unit.
  2. Court Unit personnel shall record delivered subpoenas into a computerized database maintained for that purpose.
  3. Each weekday, excluding holidays, the District Administrative Supervisor shall dispatch a district member to retrieve subpoenas from the Court Unit.

PAGE: 5 of 15	SUBJECT: SUBPOENAS	GPO NUMBER: 2.3.01
------------------	-----------------------	-----------------------

4. The district member shall acknowledge receipt of all subpoenas by signing the log sheet and entering the date and time of pickup.
5. The district member shall deliver the subpoenas to the District Administrative Supervisor and *place a copy of the register into the subpoena logbook* maintained in the office.
6. The District Administrative Supervisor shall cause the subpoenas to be promptly retrieved by the Patrol and Support Sections.
7. The member designated to retrieve subpoenas from the District Administrative Supervisor shall acknowledge receipt by signing the logbook. The Administrative Supervisor shall then sign the logbook and enter the date and time of pickup.
8. The retrieving member shall *place a copy of the register into the section/unit subpoena logbook*.
9. Support Section OICs shall ensure that someone is available to pickup subpoenas from the District Administrative Supervisor during normal business hours.

G. Common Pleas Court Subpoenas for Bureau Personnel

1. Common pleas court subpoenas issued to bureau personnel (e.g., Bureau of Special Investigations) will be delivered by the Sheriff's Office to the Court Unit.
2. Court Unit personnel shall record delivered subpoenas into a computerized database.
3. When a bureau has subpoenas requiring pickup, Court Unit personnel shall notify the commander's executive assistant. Upon receipt of such notification, the executive assistant shall promptly dispatch a bureau member to retrieve the subpoenas.
4. The bureau member shall acknowledge receipt of all subpoenas by signing the log sheet and entering the date and time of pickup.

PAGE: 6 of 15	SUBJECT: SUBPOENAS	GPO NUMBER: 2.3.01
------------------	-----------------------	-----------------------

5. The bureau member shall deliver the subpoenas to the Bureau Executive Assistant and *place a copy of the register into the subpoena logbook* maintained by the office.
  6. The Bureau Executive Assistant shall cause the subpoenas to be promptly retrieved by units reporting to the bureau.
  7. The unit member designated to retrieve subpoenas from the Bureau Executive Assistant shall acknowledge receipt by signing the logbook. The Bureau Executive Assistant shall then sign the logbook and enter the date and time of the pickup.
  8. The retrieving member shall *place a copy of the register into the bureau/section/unit subpoena logbook*.
  9. Unit OICs shall ensure that someone is available to pickup subpoenas from the executive assistant during normal business hours.
- H. Common Pleas Court subpoenas for sections and units not reporting to districts or bureaus
1. Common Pleas Court subpoenas issued to section/unit personnel not reporting to districts/bureaus (e.g., Internal Affairs Unit) will be delivered by the Sheriff's Office to the Court Unit.
  2. Court Unit personnel shall record all delivered subpoenas into a computerized database.
  3. When a section/unit has subpoenas requiring pickup, Court Unit personnel shall notify the OIC of the section/unit. Upon receipt of such notification, the OIC shall promptly dispatch a section/unit member to retrieve the subpoenas.
  4. The section/unit member shall acknowledge receipt of all subpoenas by signing the log sheet and entering the date and time of pickup.
  5. The retrieving member shall record the subpoenas into a log sheet maintained by their unit.
- I. "Hot" Common Pleas Court Subpoenas for district and bureau personnel

PAGE: 7 of 15	SUBJECT: SUBPOENAS	GPO NUMBER: 2.3.01
------------------	-----------------------	-----------------------

1. "Hot" subpoenas shall be recorded in the Court Unit's computerized database.
  2. Upon receipt of a "hot" subpoena, Court Unit personnel shall telephone the Administrative Supervisor/Executive Assistant and request immediate pickup.
  3. The administrative supervisor/executive assistant shall promptly dispatch a district/bureau member to retrieve the "hot" subpoena from the Court Unit.
  4. The district/bureau member shall acknowledge receipt of the "hot" subpoena by signing the log sheet and entering the date and time of pickup.
  5. If the "hot" subpoena is issued to district personnel, procedures contained in (F) (5) through (8) of this section shall apply.
  6. If the "hot" subpoena is issued to bureau personnel, procedures contained in (G) (5) through (8) of this section shall apply.
- J. "Hot" Common Pleas Court Subpoenas for sections and units not reporting to districts or bureaus
1. "Hot" subpoenas shall be recorded in the Court Unit's computerized database.
  2. Upon receipt of a "hot" subpoena, Court Unit personnel shall telephone the section/unit OIC and request immediate pickup.
  3. The OIC shall promptly dispatch a section/unit member to retrieve the "hot" subpoena from the Court Unit.
  4. The section/unit member and Court Unit personnel shall comply with procedures contained in (H) (4) and (5) of this section.

## II. Service and Return of Subpoenas

- A. Maintenance of subpoena logbooks

PAGE: 8 of 15	SUBJECT: SUBPOENAS	GPO NUMBER: 2.3.01
------------------	-----------------------	-----------------------

1. Patrol section and support section/specialized unit OICs shall make daily checks of the logbook to ensure that recorded subpoenas have been disposed of in a timely and proper manner.
2. When a subpoena is personally served:
  - 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.
3. When a subpoena cannot be personally served:
  - a. The patrol section and support section/specialized unit OICs shall make reasonable and timely, and if necessary, multiple attempts to notify the member of the subpoena by telephone.
  - b. If telephone service is successful, the OIC shall enter the word "telephone" in the "subpoenaed member's signature" field, sign as the serving supervisor and record the date and time of service.
  - c. Telephone service of a subpoena cannot be made by leaving a message with a family member, answering machine/voicemail or e-mail.
4. When a subpoena cannot be personally or telephonically served and the court date is within three days, the OIC shall enter the reason for non-service (e.g., furlough, vacation day, compensatory time off ) in the "subpoenaed member's signature" field and sign their own name in the "serving supervisor's signature" field and record the return date and time in the appropriate fields.
5. 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 presume that the subpoena has yet to be disposed of. In such cases, the OIC shall serve the subpoena. *If the OIC is unable to do so, the OIC will enter the reason for non-service (e.g. furlough, vacation day, extended illness) in the "subpoenaed member's signature" field*



PAGE: 9 of 15	SUBJECT: SUBPOENAS	GPO NUMBER: 2.3.01
------------------	-----------------------	-----------------------

*and sign their own name and badge in that section and return it without service.* In either case, proper entries shall be made in accordance with (3) through (5) of this subsection.

6. Whether served or unserved, OICs shall ensure that every subpoena recorded in the logbook contains a proper disposition as provided for in this subsection.

B. Maintenance of Subpoenas

1. Patrol Section and Support Section/specialized unit OICs are responsible for securing subpoenas.
2. Patrol Section and Support Section/specialized unit OICs shall make daily checks of subpoena storage areas to ensure that all subpoenas issued to their personnel have been disposed of in a timely and proper manner.
3. When a subpoena is personally served, the serving supervisor shall:
  - a. Note on the subpoena that personal service was made by signing their name and recording the date of service.
  - b. Provide the original of the served subpoena to the subpoenaed *member*.
  - c. Promptly return a copy of the served subpoena to the Administrative Supervisor/Executive Assistant. [Sections and units not reporting to districts or bureaus refer to (C) (3) of this section for return procedure.]
4. When a subpoena is telephonically served, the serving supervisor shall:
  - a. Note on the subpoena that telephone service was made by signing their name and recording the date of service.
  - b. Make available the original of the served subpoena to the subpoenaed member.
  - c. Promptly return a copy of the served subpoena to the Administrative Supervisor/Executive Assistant. [sections and

PAGE: 10 of 15	SUBJECT: SUBPOENAS	GPO NUMBER: 2.3.01
-------------------	-----------------------	-----------------------

units not reporting to districts or bureaus refer to (C) (3) of this section for return procedure.]

5. When a subpoena cannot be personally or telephonically served and the court date is within three days, the OIC shall:
    - a. Note on the subpoena the reason for non-service (e.g., furlough, vacation day, and compensatory time off) sign their name and record the return date.
    - b. Promptly return the unserved subpoena to the Administrative Supervisor/Executive Assistant. [Sections and units not reporting to districts or bureaus - refer to (C) (3) of this section for return procedure.
  6. Whether served or unserved, OICs shall ensure that every subpoena contains proper entries regarding its disposition in accordance with (3) through (5) of this subsection.
- C. Return of Served and Unserved Subpoenas to the Bailiff's Office and the Court Unit
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. Served and unserved Common Pleas Court subpoenas shall be separated by served/unserved and returned to the Administrative Supervisor/Executive Assistant who shall promptly deliver them to the Court Unit.
  3. OICs of sections and units not reporting directly to a district or bureau shall promptly deliver subpoenas separated by served/unserved to either the Bailiff's Office (Municipal Court) or the Court Unit (Common Pleas Court).
  4. Common Pleas Court subpoenas returned to the Court Unit shall be given to the Sheriff's representatives promptly when they deliver fresh subpoenas to the Court Unit.

PAGE: 11 of 15	SUBJECT: SUBPOENAS	GPO NUMBER: 2.3.01
-------------------	-----------------------	-----------------------

### III. Misdirected Subpoenas

- A. Upon receipt of a misdirected subpoena, the Administrative Supervisor/Executive Assistant shall ascertain the subpoenaed member's current district/bureau of assignment.
- B. The Administrative Supervisor/Executive Assistant, under whose command the subpoenaed member is currently assigned, shall be notified by telephone of the misdirected subpoena. The subpoena shall then be promptly faxed to the member subpoenaed. The faxing Administrative Supervisor/Executive Assistant shall make a follow-up call to ensure that the fax was successfully transmitted.
- C. After sending the misdirected subpoena to its proper destination, the faxing Administrative Supervisor/Executive Assistant shall record its disposition in the register/logbook and on the subpoena itself. They shall then file the subpoena for accountability purposes.
- D. Upon receipt of the faxed subpoena, the receiving Administrative Supervisor/Executive Assistant shall comply with the distribution procedures contained in Section I of this directive.

### IV. Response to Subpoenas

- A. Court Attendance
  - 1. Subpoenaed members shall attend any arraignment, grand jury hearing, pre-trial, trial or continuance as required.
  - 2. Members shall sign in at the Court Unit or Juvenile Liaison Office prior to a court appearance. If the Court Unit is closed, officers shall sign in at the Record Section.
  - 3. Members shall obtain a Prosecutor/Court Attendance Information Card from the Court Unit, Juvenile Liaison Office or the Record Section.
  - 4. Members shall obtain a time stamp on the back of the Prosecutor/Court Attendance Information Card. The time stamp indicates the time the member signed in for court. If the Court Unit is closed, members shall sign in and receive their time stamp at the Warrant Unit.

PAGE: 12 of 15	SUBJECT: SUBPOENAS	GPO NUMBER: 2.3.01
-------------------	-----------------------	-----------------------

- a. If the time stamp is inoperable, Court Unit personnel shall promptly notify the OIC of the Record Section who shall initial the back of the card and enter the sign-in time.
  - b. The time entry on the card should be the same as that entered on the Court Attendance Sheet and the Court Attendance sign-out Sheet.
5. Members shall complete a Courtroom Log Sheet in each courtroom for which they have been subpoenaed.
  - a. The Courtroom Log Sheet will require the member's sign in time, name and badge number, district/assignment, shift, duty status, the defendant's name, the case number, and the other courtrooms for which subpoenas were received for that day.
  - b. The Courtroom Log Sheets will be provided and maintained by the Municipal Prosecutor's Office
6. Excused Absence/Tardiness
  - a. After a subpoena has been served, only the assigned prosecutor can excuse the subpoenaed member from attendance at the proceeding. Leaving a message with the Grand Jury bailiff or on a prosecutor's answering machine does not constitute being excused from a court proceeding.
  - b. Members excused from appearing in court shall record the following information on their copy of the subpoena:
    - i. The name of the prosecutor who agreed to seek a continuance of the case.
    - ii. The date that the agreement was made.
    - iii. The time that the agreement was made.
  - c. When members are excused from appearing in court, they shall, for accountability purposes, maintain the subpoena with the above documentation recorded on it.

PAGE: 13 of 15	SUBJECT: SUBPOENAS	GPO NUMBER: 2.3.01
-------------------	-----------------------	-----------------------

- d. Members who anticipate arriving after the scheduled start of their court case shall notify the prosecutor. The name of the prosecutor notified along with the date and time of notification shall be documented on the member's copy of the subpoena.
  - e. Failure to respond to a subpoena may result in Divisional charges and/or contempt of court proceedings.
7. Witness Vouchers
- a. Whenever members respond to a Common Pleas Court subpoena, they shall obtain a witness voucher from the County Clerk's Office. In order to obtain a witness voucher, the original (white) subpoena must be presented to the cashier.
  - b. Members shall endorse the witness voucher by their signature and badge number.
  - c. The member shall surrender the endorsed witness voucher to the Court Unit.
8. After completion of the court appearance, members are to sign out at the Court Unit or Juvenile Liaison Office. If the Court Unit is closed, members shall sign out at the Record Section OIC's office.
9. Members shall obtain a time stamp on the back of the Prosecutor/Court Attendance Information Card.
- a. If the Court Unit is closed, members shall sign in and receive their time stamp at the Record Section OIC's office.
  - b. The time stamp requirement applies only to members attending court at the Justice Center or who otherwise sign in or out at the Court Unit.
10. Members shall submit to their OIC a copy of their subpoena(s) attached to the Prosecutor/Court Attendance Information Card.
11. Members shall not submit subpoenas that have material information marked over, crossed out or otherwise altered unless the prosecutor assigned to that case signs and dates the subpoena.

PAGE: 14 of 15	SUBJECT: SUBPOENAS	GPO NUMBER: 2.3.01
-------------------	-----------------------	-----------------------

- a. If material information is altered, the member may seek counter service at the respective prosecutor's office.
- b. Overtime shall not accrue for submitting an altered subpoena.
- c. Overtime shall not accrue when a member has to return to the prosecutor's office to receive the issuing prosecutor's signature and date when that member failed to obtain the signature's during the original appearance.

V. Subpoenas from jurisdictions outside of Cuyahoga County Common Pleas Courts shall be handled in the same manner as Cuyahoga County Common Pleas Courts subpoenas to the extent possible. Witness vouchers or other similar payments received for attending to subpoenas issued outside of Cuyahoga County's jurisdiction shall be handled as other such payments to the extent possible.

#### VI. *Grand Jury Subpoenas*

- A. *Grand Jury subpoenas for specialized units assigned to Cleveland Police Headquarters shall continue to be delivered to the Court Unit.*
- B. *Grand Jury subpoenas for districts shall be e-mailed 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 (see Section III).*
- E. *Grand Jury Liaison*
  1. *Each district shall designate an officer to act as Grand Jury Liaison.*
  2. *The Grand Jury Liaison shall be responsible for:*

PAGE: 15 of 15	SUBJECT: SUBPOENAS	GPO NUMBER: 2.3.01
-------------------	-----------------------	-----------------------

- a. *Retrieving Grand Jury subpoenas and preparing cases for the Grand Jury.*
  - b. *Obtaining firearm test fire results (ballistic evidence).*
  - c. *Obtaining drug evidence test results.*
  - d. *Obtaining any other forensic evidence necessary for presentation of the case to the Grand Jury.*
  - e. *Presenting felony cases to the Grand Jury via video testimony.*
3. *In the event the designated Grand Jury Liaison is not available to provide video Grand Jury testimony, the OIC of that investigative unit shall assign another detective as appropriate to handle that task.*