



City of Riverside, California
Human Resources Policy and Procedure Manual

Approved:

Human Resources Director

City Manager

Number: III-3 Effective Date: 07/06

SUBJECT: SUBPOENA FOR EMPLOYMENT RECORDS

PURPOSE:

To establish a uniform ~~guidelines and systematic procedure~~ for handling subpoenas for the production of employment records.

DEFINITION:

A subpoena is a mandatory writ directing a party to appear and/or furnish ~~documentary records evidence~~ at a certain time and place ~~at for a judicial court~~ proceeding; ~~the disobedience of which~~ Failure to comply with the subpoena may be punishable as a contempt of court. A subpoena may be issued by a court or by a quasi-judicial body.

POLICY:

In accordance with the California Code of Civil Procedure, including Section 1985.6, the City of Riverside shall process and comply with all valid subpoenas for employment records. A subpoena requesting production of employment records must be served at least 15 calendar days before the date set for production of said records.

The City Clerk is the City's authorized agent for service of process and is authorized to accept service of all subpoenas for production of records from the City and/or personal appearance by City employees as well as lawsuits against the City, all City departments and City employees with the exception of those subpoenas directed toward the City of Riverside Police Department (RPD) and its employees.

The City of Riverside Police Department Custodian of Record~~Subpoena Clerk~~ is the authorized agent for service of process upon the Riverside Police Department and its sworn and civilian employees. Consequently, the Subpoena Clerk~~Custodian of Records~~ is authorized to accept service of all subpoenas ~~and lawsuits~~ against the City of Riverside Police Department and its employees.

All City departments shall refer the process server to the City Clerk or the RPD Subpoena Clerk~~Custodian of Records~~ for the purpose of accepting service of process. The City Clerk and the RPD Subpoena Clerk~~Custodian of Records~~ shall properly track the service of process and refer it to the City Attorney's Office for further handling.

Within two business days following the service of process, the City Clerk or the RPD Subpoena Clerk~~Custodian of Records~~ shall forward the original subpoena to the City Attorney's Office with the appropriate date stamp for further handling. The City Attorney's Office shall take

responsibility for reviewing the process and take appropriate action with the affected City department. This protocol does not affect the Riverside Police Department's current protocol with respect to the handling of criminal subpoenas.

There may be instances where neither the City nor the Police Department should accept service on behalf of a current or former employee. In both instances, the City Attorney's Office will ~~so~~ advise the City Clerk and/or the RPD ~~Subpoena Clerk~~Custodian of Records.

It is inappropriate for any party to issue a subpoena for testimony or the production of records to the City where the City is a party to the action. Even though the City may not be identified in the caption of the subpoena, it is advisable to contact the City Attorney's Office in order to verify that the City is not a party to the action and should respond to the subpoena.

A deposition subpoena may command either:

1. Only the attendance and testimony of the deponent;
2. Only the production of business records for copying; or
3. Both the production of records or other physical evidence and testimony.

Where personal appearance is required, service must be affected a "reasonable time before the deposition." Please see Fringe Benefits and Salary Resolution Plan (FBSP), *Witness Appearance Compensation (Civilian)*.

Subpoenas that have been lawfully issued must be strictly complied with or the deponent may be punished for contempt.

PROCEDURE:

Responsibility	Action
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~~City Clerk or RPD Subpoena Clerk — 1. — Accept service of subpoenas for production of records and/or personal appearance. Logs and date stamps appropriately the subpoena and forwards to the City Attorney's Office for further handling.~~

~~City Attorney's Office — 2. — Takes responsibility for reviewing the process and takes appropriate action with the affected City department. Submits subpoena for employment records to the Human Resources Department along with any monies received for production fees.~~

~~Human Resources Department — 3. — Immediately forwards copy of the subpoena to the Finance Department, Payroll Division.~~

~~4. — Documents staff time employed to produce records.~~

~~5. — Calculates production cost by staff time and current copying cost as established by the Finance Department's schedule of fee charges in accordance with California Civil Procedures Section 2020(f) and California Evidence Code 1563(g).~~

~~6. — Forwards copies and fees charged to the Payroll Division.~~

~~Finance – Payroll Division 7. Packages payroll information and employment records and notifies the process server on availability of records.~~

~~Calculates staff time employed to produce records and combines with Human Resources fees and collects appropriate charges from the process server.~~