

# COURT LIAISON OFFICE



## OPERATIONS MANUAL

FRESNO POLICE DEPARTMENT

(Revised 03/2016)

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## **MISSION STATEMENT**

The mission of the CLO is to accept, process, and distribute all work-related subpoenas and legal notices for members of the Department, and to coordinate member appearances at these proceedings.

## **GOALS AND OBJECTIVES**

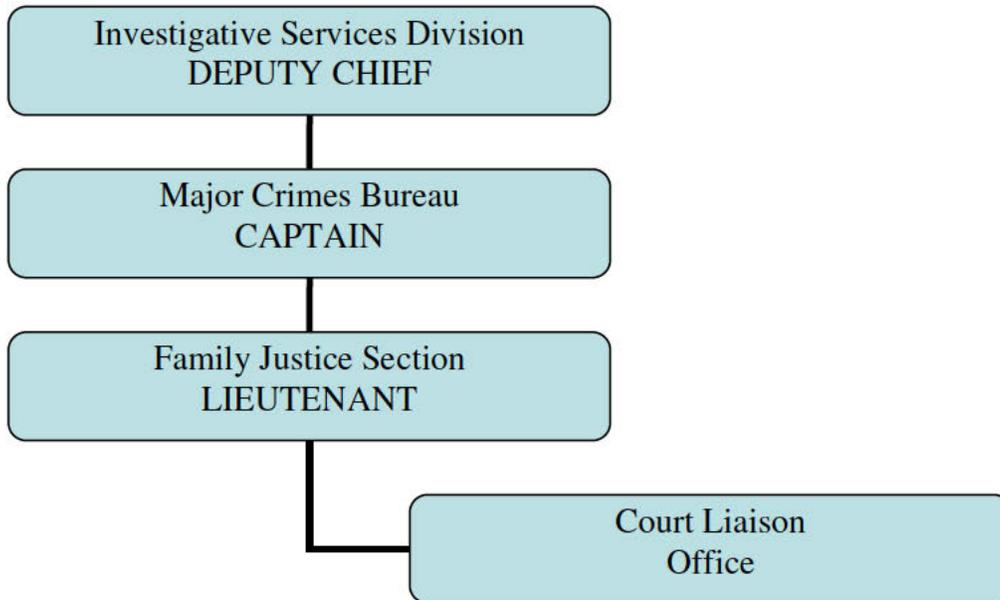
### Goals

1. To ensure that proper service can be accomplished prior to acceptance of notices.
2. To promptly distribute notices to the members' work units.
3. To track the progress of legal proceedings in which notices were served.
4. To notify members of the final dispositions on their legal proceedings.

### Objectives

1. To process and distribute 100% of the criminal subpoenas issued electronically by the District Attorney's Office within 24-hours of issuance.

## **ORGANIZATIONAL CHART**



## **I. GENERAL INTRODUCTION**

The Court Liaison Office (CLO) was established to coordinate the appearances of all Department members at the legal proceedings associated with their employment. (Reference Procedure #348, Court Appearance and Subpoenas)

This Unit is staffed with three administrative clerks who perform their duties under the direction of an Administrative Sergeant, who is also responsible for the Prosecutor Liaison Office (PLO). CLO is assigned to the Criminal Investigations Bureau of the Investigative Services Division. This section is managed by an administrative lieutenant under the leadership of a Captain, who is accountable to the Deputy Chief of the Division.

This document shall serve as a guide to the practices and procedures that are the daily routine of the CLO, and it is reviewed annually to ensure accuracy and completeness.

An annual review of the unit will be completed to justify the unit's continuance.

## II. **WORK ASSIGNMENTS BY POSITION**

There are three *principle* assignments designated for the Administrative Clerks assigned to CLO. The primary functions of each include, but are not limited to, the following:

### A. **OUTSIDE REQUESTS' POSITION (SR ADMIN CLERK)**

- *Serving as the lead worker within the unit*
- Providing training for new and temporary employees
- Receiving visitors
- Distributing all incoming mail
- Coordinating the assignments of “will-appear” officers
- Ordering office supplies and maintenance requests
- Processing court-related overtime requests (*if directed by supervisor*)
- Processing “Duces Tecum” subpoenas (for police records & related materials)
- Processing legal requests for citizens and outside attorneys
- Processing civil subpoenas and other legal notices
- *Updating the unit's Call-Up Listing (if directed by supervisor)*
- Notifying Dept. members when a “Go” is received for a proceeding
- *Notifying co-workers of court case dispositions received from the DA's Office*
- Preparing worksheets for “Non-Appearances” *or other subpoena issues*
- Assisting other positions as needed
- Performing other duties as required by unit supervisor

### B. **LOGGING POSITION (ADMIN CLERK II)**

- Downloading, copying, and distributing all court subpoenas issued by the DA
- Logging, copying, and distributing all Traffic Court subpoenas
- *Processing of Trials by Declaration Forms*
- Verbally serving “Short-Notice” appearance requests
- *Verbally serving members due to the non-return of court appearance notifications*
- Coordinating out-of-town appearances
- *Returning undeliverable subpoenas/notices*
- Filing original subpoenas and appearance notices
- Filing notification forms
- Notifying Dept. members when a “Go” is received for a proceeding
- *Notifying co-workers of court case dispositions received from the DA's Office*
- Preparing worksheets for “Non-Appearances” *or other subpoena issues*
- Assisting other positions as needed
- Performing other duties as required by lead worker or Unit supervisor

C. **COURT & CONFLICTS' POSITION (ADMIN CLERK II)**

- Obtaining missing court case dispositions *for* the previous day's *court* calendar
- *Updating the previous day's Court Case Dispo Log by 9:00 a.m.*
- *Creating a Court Case Dispo Log for the current day's calendar by 9:00 a.m.*
- *Transferring all "Trailed" Cases to the proper Trailed Log*
- Preparing Court and Appearance Logs for the next court day's calendar
- *Obtaining and recording early dispositions from DA personnel & their RMS*
- *Processing court conflicts and notifying the proper personnel*
- *Logging, copying, and distributing all DMV Duces Tecum & Appearance Notices*
- *Updating the current Court Case Dispo Log by 5:00 p.m.*
- Notifying Dept. members when a "Go" is received for a proceeding
- *Notifying co-workers of court case dispositions received from the DA's Office*
- Preparing worksheets for "Non-Appearances" *or other subpoena issues*
- Assisting other positions as needed
- Performing other duties as required by lead worker or Unit supervisor

### **III. GENERAL PROCEDURES**

#### **A. NOTIFICATION OF MEMBERS WHEN A “GO” IS RECEIVED**

The advisement of Department members to appear for in-progress proceedings is the task of highest priority for this unit, and it shall supersede all other CLO functions unless directed otherwise by the unit supervisor.

1. Receipt of a Go  
Immediately upon the receipt of a Go for any proceeding, the receiving clerk shall log the appropriate times on the court appearance log sheet.
2. Notifications  
If a Go is received for a member who worked the previous night, notification may be delayed until two hours before the appearance time to allow for additional rest. Otherwise, members shall be notified as soon as possible.

Time notations for all efforts/contacts shall be noted on the log sheet, along with the name of anyone who received the message (other than the member). When phone attempts are unsuccessful, a Patrol response to the member’s residence may be necessary, and the results of this activity should be conveyed to the unit supervisor *via the Worksheet for Late or Missed Court Appearances form.*

3. Non-Appearances/Tardiness:  
If the member fails to appear for the proceeding or is late, this information shall be recorded on the Worksheet for Late or Missed Court Appearances form, and promptly forwarded to the unit supervisor for further review and appropriate action.

#### **B. DISTRIBUTION OF SUBPOENAS AND OTHER APPEARANCE NOTICES**

The majority of the subpoenas and appearance notices received by this agency are generated by the DA’s Office. In lieu of sending us hard copies of the subpoenas, the DA’s Office permits us to access their database, which allows us to download and print their subpoena data on a daily basis. The remaining appearance notices are received either in the mail or by courier. Every effort should be made to distribute all subpoenas and notices within 24 hours of receipt.

1. Receipt of Late Notices  
Notices from defense attorneys which are presented less than five days in advance of the proceeding may be legally refused pursuant to PC 1328(e). (Procedure 348, Court Appearance and Subpoenas, Section G, Receipt of Subpoena’s)

Notices of this nature from the DA’s Office are automatically *sent to a “shared” folder for downloading by CLO personnel.* Prompt service must be attempted due to an agreement with their office to allow our members a full hour response time

when needed in court. If this effort is unsuccessful, or if the member is unavailable due to the short notice, the late notice must be returned to the DA's office with the appropriate comment.

2. Logging

Although the Subpoena Retrieval computer program automatically logs the DA subpoena data at the time of receipt, manual logging will be required for all notices received by other means. In addition, verbal notifications must also be manually logged, and automated entries for cases that are "trailed" must be electronically transferred to the Appearance Log for the *trailing* date. Logs should be retained for *a minimum of* one full year.

3. Distribution

Prior to distribution, all notices must be marked with the member's area of assignment. With the exception of the subpoenas distributed on the date of electronic receipt, all notices must be date stamped on the day of distribution. Two copies of each notice must then be made.

One copy shall serve as the CLO file copy, and the second copy will be the member's copy. Both copies should be stapled together and sent to the member's area of assignment. The member is responsible for signing and returning the first copy (notification form) as proof of service. (Procedure 348, Court Appearance and Subpoenas, Section E, Distribution and Service of Criminal Subpoena and Other Notices)

4. Filing

With the exception of the electronic subpoenas retrieved from the DA's database, all original Appearance Notices shall be filed alphabetically by the member's last name in the corresponding monthly file drawer. The notification forms (returned copies) should be filed according to the appearance date, and stored with the corresponding Appearance Logs.

The alphabetically filed original Appearance Notices may be discarded 60 days after the scheduled appearances, and the notification forms (returned copies) may be destroyed after *60* days. The Appearance Logs must be retained for a full year.

C. ***THE COURT CASE DISPO LOG***

*The disposition status for every court case listed on the Appearance Log shall also be noted on the Court Case Dispo Log. The Dispo Log is posted in the PowerDMS Program to allow all Department members the ability to check the status of any ongoing court case online. The log is initially posted prior to 0900 hours on the given court date (in the event of an Early Dispo), and updated at the conclusion of the day. Any late dispositions require posting upon receipt, as members are on-call for the proceeding until a final disposition is obtained.* (Procedure 348, Court Appearance and Subpoenas, Section D, Court Appearances)

**D. VERBAL SERVICE DUE TO THE NON-RETURN OF NOTIFICATIONS**

*If time and/or staffing allows, efforts shall be made to verbally notify members who are scheduled for legal proceedings the next court day if the notification form is not returned.*

**E. COURT APPEARANCE CONFLICT NEGOTIATIONS**

Members who have a date conflict *with a scheduled court appearance* are required to note this on their returned notification form, and CLO personnel shall make *an* effort to negotiate a change with the DA's Office. Members **cannot be released** until CLO obtains an approval from the DA's Office. (Procedure 348, Court Appearance and Subpoenas, Section I, Conflicts)

**F. THE COURT'S RECORDS MANAGEMENT SYSTEM (ODYSSEY)**

*Select personnel from our agency (including the CLO staff) have been authorized to access the local court's Records Management System. To accomplish this task, the new employee must register at [REDACTED]*

*After verifying authorization, the local courts will provide the requestor access to its user-friendly website, where information may be sought for both criminal and civil cases. Other Department members wishing to access this program must submit a request through their chain-of-command to the CLO supervisor, explaining the reason for the need.*

## **IV. SPECIFIC WORK TASKS**

### **A. PROCESSING OVERTIME REQUESTS FOR LEGAL PROCEEDINGS**

*All members entitled to overtime associated with a legal proceeding shall submit an OTTO Request to his/her supervisor as soon as possible after the date in question. The request shall contain the defendant's full name, the prosecuting DA's name, and the courtroom number in the Comments section. Court overtime requests approved by super-visors are forwarded electronically to CLO for verification prior to processing by the Business Office for payment. (Procedure 348, Court Appearance and Subpoenas, Sections T & X, Compensation for Court Time)*

### **B. PROCESSING "TRIAL BY DECLARATION" FORMS**

Defendants scheduled for Traffic Court have the right to request a written statement from the citing officer in lieu of a physical appearance in Court. This written request *is sent to CLO*, logged, and forwarded to the appropriate officer with a cover memo explaining the procedures for handling. When returned by the officer, the response (declaration) is forwarded back to the Traffic Court after the *corresponding* log entry is completed. This log should be retained for a year. (Procedure 348, Court Appearance and Subpoenas, Section N, Trial by Declaration)

### **C. PROCESSING DUCES TECUM SUBPOENAS**

Duces Tecum subpoenas are associated with legal proceedings requiring copies of *material items* such as police records, recordings of 911 tapes, and police photos. *Upon receipt of the subpoena, it is date/time stamped, and a copy is sent to the appropriate unit(s) for processing. The items in question are then reviewed by the Department's Legal Advisor for release purposes. If approved, processing fees may be applicable (check or money order, no cash), and are generally collected at the time the items are picked up at CLO. The fee is forwarded to the Business Office with a copy of the Duces Tecum subpoena. The original subpoena and any log record shall be retained by CLO for a minimum of two years.*

*If not approved by the Legal Advisor, the party requesting the evidentiary items must be notified. Any fee which may have been collected in advance for processing may or may not be returned, at the direction of the Legal Advisor.*

### **D. PROCESSING CIVIL SUBPOENAS**

These subpoenas are generally hand-delivered by a representative from an attorney's office, and must have an appearance date scheduled at least 5 days in advance. Prior to acceptance, however, the member's availability must be verified from CLO records to ensure that there are no known conflicts with long-term absences, training obligations, or other scheduled absences. The subpoena must be accompanied with a check or money order for \$275 (no cash), and the requesting party shall be issued a receipt upon request.

A copy of the face sheet of the subpoena shall be sent to the Business Office with the check or money order, and a copy of the receipt (if applicable). The subpoena is then logged in the Civil Subpoena Log, stamped as an “Automatic-Go” or “On-Call” as requested by that attorney, and forwarded to the member, following the same procedure as established for criminal subpoenas.

Verification of notification must be completed prior to the appearance date to ensure proper service. Non-Appearances or tardiness are handled in the same manner as criminal subpoenas. The logs should be retained for one year.





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# APPENDIX A

## **Court Appearance & Subpoenas**



### **348.11 PURPOSE AND SCOPE**

This policy has been established to provide for the acceptance of subpoenas and to ensure that members appear when subpoenaed, or are available to appear in court when requested and present a professional appearance.

**A. Court Case Status/Dispositions**

Court Standby – *The status of being on-call for court and available* by phone to respond as needed. The member must be able to appear at the proceeding within a maximum of one hour of being notified, and must be completely prepared to participate, including proper attire, reports, and evidence. [Any deviation from these conditions must be approved in advance by the Court Liaison Office (CLO).]

When a member does not contact the CLO, he/she shall be automatically placed on “Court Standby” status. A member shall retain this status until such time as he/she is needed for the proceeding, released by the CLO, goes on-duty, or until 1700 hours. When a case “trails” to *a different* court day, the options shall remain the same with the exception of the appearance time *or location*, which may be adjusted by the requesting authority.

Trailing Cases - Cases often “trail” to the following day or for several days after the scheduled proceeding. Members are not released from their appearance notice simply because they did not appear on the date indicated. Members are under obligation to appear as needed until released. It shall be the member’s responsibility to continue checking on the case until released.

Trailed Cases with Specific Dates - When a case has been “trailed” to a specific date, the member will be temporarily released from the case until the date in question, at which time the court appearance obligation will resume. No subpoena will be re-issued, and the member should change the date on their subpoena accordingly.

Automatic Goes - All traffic citation cases, parole revocation hearings, DMV hearings, ABC hearings, *school expulsion hearings*, and scheduled depositions shall be considered as “automatic goes,” and the appearance notices will be stamped accordingly. Unless otherwise notified, members shall appear on these matters as directed in their notices.

Cases with Dispositions - When a case has been disposed of (i.e., pled, dismissed, *or* continued), the member will be released from the case. New subpoenas will generally be issued for continued cases; if uncertain, CLO should be contacted for verification.

Cases without Dispositions - When the disposition on a case is not known one hour prior to the scheduled appearance time, the member may choose to “Will Appear” by *contacting CLO to obtain the current status of their case, and to receive a work assignment (either at HQ or a specified location). Members shall appear in courtroom attire, or uniform, at their appearance time to perform assigned duties, and they are subject to being released at any time.*

Motor officers appearing in uniform *for a “Will Appear” assignment* may use their assigned motorcycle and are authorized to engage in traffic enforcement activities. However, they must first check in with CLO and the Duty Office prior to engaging in traffic enforcement, or members can choose to use the “Court Standby” process outlined above.

Members Going Off-duty - Members going off-duty with an unresolved appearance notice will be subject to *being on-call for court until released from “Court Standby” status by CLO.*

**B. Coordination of Appearance at Legal Proceedings**

It shall be the responsibility of the CLO to coordinate the mandatory appearances of members at legal proceedings resulting from their employment with the City, regardless of whether or not members are to appear on or off-duty. These proceedings shall include criminal court appearances, traffic court

appearances, juvenile court hearings, parole revocation hearings, DMV hearings, Alcohol Beverage Control hearings, civil service hearings, depositions, and any legal proceeding (criminal, civil, or administrative) conducted as part of any judicial process.

### **C. Court Subpoenas**

Members are expected to cooperate with the prosecution to ensure the successful conclusion of a case. This applies to civil and criminal subpoenas.

### **D. Court Appearances**

Members who respond to a proceeding without CLO approval will not be compensated. The CLO reserves the right to cancel or to continue the appearance dates and times as directed by the requesting authority, provided such cancellation or continuance is made before the member appears at the requested appearance location *or a "Will Appear" assignment*.

It shall be the member's responsibility to continue to check on his/her case until released. Members will not be released from an appearance obligation simply because they were not needed on the date indicated. The "Court Case Disposition *Log*" will be updated at the beginning and the end of each court day (0900 hours and 1700 hours) *and posted to PowerDMS* to facilitate this process.

### **E. Distribution and Service of Subpoenas and Other Notices**

Service of a subpoena requiring the appearance of any Department member in connection with a matter arising out of the member's course and scope of official duties shall be coordinated by the delivery of two copies of the subpoena to CLO [Government Code §68097.1 and PC §1328(c)]. CLO is responsible for the initial receipt and proper distribution of all criminal subpoenas and other appearance notices, regardless of the type of proceeding.

The original notice and a copy will be forwarded to the member's immediate supervisor or briefing officer, who shall be responsible for serving the notice in a timely manner.

Upon being served, the member shall:

- Sign and date the original notice immediately upon receipt;
- Indicate any date conflict(s) in the space provided, or on an attached memo;
- Provide an explanation if it is believed that the member's testimony is not needed;
- Return the notice to the supervisor or designee, who shall forward it to the CLO by the conclusion of the shift;
- Retain the member's copy in a suitable location to serve as a timely reminder of the obligation; and
- Utilize one of the copies provided as a downtown-parking permit for the designated appearance. This permit will be valid only in the Underground Garage at Van Ness and Tulare Avenues. The permit must *not be visible within the parked vehicle, but* simply shown to the parking attendant *if requested* upon exiting.

When the supervisor or briefing officer is unable to serve an appearance notice because the member is on vacation, extended days off, or other extended leave, the supervisor shall return the notice to the CLO as soon as possible with a brief explanation as to why the notice could not be served. The supervisor or briefing officer shall not file or otherwise retain an appearance notice while awaiting the return of a member who is absent for any reason other than regular days off.

### **F. Valid Subpoenas**

No subpoena shall be accepted for a member unless it has been properly served and verified to have originated from a recognized legal authority.

**G. Receipt of Subpoena's And Other Appearance Notices by Means Other Than CLO**

The CLO may refuse to accept a subpoena received less than five working days prior to the appearance date [PC §1328(e)]. When this occurs, the member may be served directly by a process server or by phone.

When a member is directed to appear by a subpoena or other document received through the mail, by process server, or by carrier other than the CLO, the member shall notify the CLO of the document by the end of the next business day. The member shall provide the CLO with all pertinent information, including the type of proceeding, the defendant's name, the date of the appearance, the location of the appearance, the charge, the attorneys involved, etc. Members are required to appear as requested when notified through these methods, the same as if they were served by the CLO.

Members may be requested to appear for judicial proceedings via telephone or in person by representatives of the DA's Office, the City Attorney's Office, or other authority. When this occurs, the person making the request shall be advised to contact the CLO immediately, who will in turn notify the member of his/her need to appear. Members who appear on such direct requests shall notify CLO if not advised.

When a member is directed by a judge, superior member, or any member of the CLO to appear for a proceeding, even though no appearance document was issued, the member shall respond as directed. When the directive is received from a source other than the CLO, the member shall notify the CLO of the directive and all pertinent information immediately upon receipt.

Members receiving notices of appearance may voluntarily place themselves on "Court Standby" status, subject to the conditions outlined above.

**H. Days Off and Planned Absences**

Prior to the beginning of each work week or detail month, it shall be the responsibility of each commander to submit to the CLO a list of the regular days off of all members under their command, with the exception of Patrol, whose work schedules are available on the network.

It shall be the responsibility of members to forward copies of scheduled vacations, or planned absences of more than two consecutive work shifts, to the CLO at the earliest possible time to facilitate the proper distribution of notices received during the scheduled leave. Furthermore, each supervisor shall notify the CLO when any member under their supervision is terminated, retired, suspended, off injured, on temporary duty, or out-of-town training.

**I. Conflicts**

When a member believes that testimony is not needed, or that a date conflict exists with a requested appearance, the CLO will attempt to negotiate a change on the member's behalf. This information should be noted on the original notice, or an attached memo, when it is returned to the CLO as an acknowledgment of receipt.

Regardless of efforts made by the CLO, there may be times when the member will be required to appear in court, even when on vacation, in training, or during other scheduled absences. Regular days off or inconveniences (*i.e., child care or in-town training obligations*) do not constitute a conflict for the purpose of negotiating a change in appearance. Members are under obligation to appear for all proceedings, including those in which a conflict has been indicated, until they are released.

Members shall not contact any deputy DA, public defender, private attorney, clerk, staff member, bailiff, parole officer, judge, or any person associated with the judicial system in any way whatsoever to negotiate a change in their court appearance, to determine if or when the member is needed, or to be released from appearing. Nothing in this paragraph is intended to prevent contact with the requesting authority for the purpose of discussing the member's pending testimony so long as appearance times and conflicts are not discussed.

**J. Off-Duty Related Subpoenas**

Members receiving valid subpoenas for actions taken off-duty not related to their employment with the Department shall comply with the requirements of the subpoena. Members receiving these subpoenas are not compensated for their appearance and arrangements for time off shall be coordinated through their immediate supervisor.

**K. Failure to Appear**

Any member who fails to appear (or who fails to appear at the designated time) for any legal proceeding conducted as part of any judicial process, after being served with a notice to appear (or after being ordered to appear by a superior member, deputy DA, city attorney, or member of the CLO) is subject to disciplinary action.

**L. Release by Means Other Than CLO**

When a member is directly released from a hearing or judicial proceeding by a deputy DA, public defender, city attorney, or any attorney, clerk or staff member associated with a case, the member shall immediately notify the CLO of the release, advising (by name) who authorized the release and why.

**M. Illness, Injuries, or Emergencies**

When a member is ill, injured, or encounters an emergency that prevents a requested appearance, the member shall notify the CLO at the earliest possible moment so that all involved parties can be notified of the member's inability to appear as requested. Mere absence from regularly scheduled work shall not constitute notification as required by this provision.

**N. Trial by Declaration**

When a traffic court defendant requests a trial by declaration, the CLO shall forward a Declaration of Officer for Trial by Declaration Form to the reporting member. Upon receipt of the form, the member shall provide all pertinent information, including speedometer calibration, and return the form to the CLO during the same shift in which it was received.

**O. Jury Summons for Civilian Members**

On-duty Members

- Upon receipt of a summons for jury duty, the summoned member shall expeditiously notify his/her immediate supervisor.
- When possible, civilian members shall place themselves on-call for jury duty so that they may be assigned work which will benefit Departmental operations while still satisfying court mandated on-call response times.
- The supervisor of a member assigned to the Patrol Division shall contact the Duty Office to arrange for a work assignment while the summoned member is on-call. Supervisors of members assigned to other divisions of the Department shall make arrangements within their respective divisions for summoned members to perform work during their on-call status.
- When a member is required to appear by the Jury Commissioner, but is subsequently released during the course of the work day, the member shall report back to his/her assigned duty station until needed again, until the end of the work day, or until he/she is completely released from the summons, whichever comes first.
- Members shall receive their regular wages or salary during the time they are required to be absent from their assigned duties due to a jury summons, but shall turn over to the Fiscal Affairs Bureau any fees, including mileage allowances, received for such attendance or service. *An OTTO Request* covering the missed work time shall be completed and submitted to the Fiscal Affairs Bureau with the Court Time Verification Card (issued by the Jury Commissioner's Office) attached.

Shift Adjustment

The Department will allow a summoned member assigned to a night shift to temporarily flex his/her work hours, at the request of the member, to a day shift workweek. The flexed hours shall cease when the member is released from the summons.

### Work Day Adjustment

The Department will not approve a modification of a member's workdays during the time the member is obligated to respond to a jury summons.

### **P. Courtroom Protocol**

Members must be punctual when appearing in court and shall be prepared to proceed immediately with the case for which they are subpoenaed.

### **Q. Courtroom Attire**

Uniformed members who are subpoenaed to testify in court during duty hours shall appear in court in uniform, except that caps and helmets shall not be worn or carried. On request of the prosecuting attorney, members may change into civilian clothes to testify, but shall return to uniform subsequent to the court appearance.

On-duty, non-uniformed members shall wear conservative, professional clothing when testifying in court or during other related proceedings for which the appearance is coordinated by the CLO. Male members shall wear suits or sports coats and ties.

Off-duty members have the option of appearing in professional clothing as indicated above, or to appear in uniform. Should members testify they are to follow the uniform provisions of this order. Those appearing in uniform may be assigned duties as outlined above.

Undercover members are not required to change clothes for preliminary hearings, parole hearings and other non-trial proceedings.

### **R. Preparation for Testimony**

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

### **S. Courthouse Decorum**

Members shall observe all rules of the court in which they are appearing and shall remain alert to changes in the assigned courtroom where their matter is to be heard.

### **T. Compensation for Court Time**

If the member appeared on his/her off-duty time, he/she will be compensated in accordance with the members Memorandum of Understanding (MOU).

### **U. Court Time Defined**

Off-duty appearances resulting from the performance of duties as a member of this Department shall be compensated as court time under the following guidelines:

- When the appearance is in response to a subpoena or other appearance notice, or at the direction of a court, superior member, prosecuting attorney, city attorney, defense attorney, or member of the CLO, to attend any court hearing, deposition, or other legal proceeding as a witness;
- When the appearance is in response to a request by a prosecuting attorney, defense attorney, or court to confer on an investigation or a pending court proceeding. This shall include requests by a city attorney (or attorneys representing the City) in civil proceedings, and attorneys representing other governmental agencies in civil proceedings, but it shall not include requests by other attorneys involved in civil proceedings. (Attorneys involved in other civil proceedings should be instructed to meet with the desired member during that member's normal duty hours. No compensation will be paid for conferences of this type unless special arrangements have been made, and compensation has been authorized by the CLO supervisor.);
- For off-duty telephone conversations between a member and any deputy DA, deputy public defender, private attorney, judge, court clerk, or any person associated with the judicial system,

when the contact is initiated or requested by such person in the judicial system. Compensation for member-initiated off-duty contacts when not requested by any of the above parties will not be authorized without prior approval of the CLO supervisor; and

- When the time spent is not the result of the member's former employment.

For the purpose of this order, time in attendance shall be defined as the difference in time, in 1/10th hours, from the time the member begins a proceeding or conference to the time the member's presence is no longer required.

#### **V. Local Proceedings**

Notwithstanding the general provisions for overtime, as identified in FMC §2-1514, members shall be compensated for all judicial proceedings (criminal, civil, and administrative) consistent with their respective MOUs.

#### **W. Out of Town Proceedings**

The same provisions for local judicial appearances shall apply to out of town appearances with the exception of travel time. For the purpose of out of town proceedings, "actual time" shall mean the sum of travel time and time in attendance. When this sum exceeds the applicable minimum number of hours as established with the member's MOU, the greater time shall be compensated. Compensation shall be determined as follows:

- When the appearance is scheduled on a regular work day, only the actual time spent in excess of the normal number of daily work hours shall be compensated;
- When the appearance is scheduled during a regular day off, a vacation, or a day of compensatory time off, the amount of time allowed shall be the actual time spent in attendance plus travel, or the applicable minimum number of hours set forth by the MOU, whichever is greater;
- When the scheduled appearance requires an overnight stay, compensation time shall be calculated on each day in accordance with the prior two guidelines;
- When the appearance is made on a regular day off, a vacation, or a day of compensatory time off, a maximum of 8 hours compensation per day will be allowed for those days during which the member must remain out of town. However, if the "actual time" as defined in the first paragraph of this section exceeds 8 hours on any given day, the "actual time" shall be compensated for;
- When a member is required to stay out of town through the weekend, the member's days off for the week shall be changed to Saturday and Sunday, if possible. The member will not be compensated for non-duty days while out of town. The Department is not responsible for returning members home for the weekend; and
- Agencies requesting members to appear out of town for a court hearing or legal proceeding are generally responsible for travel arrangements, room, and meals for the member. Members shall not be compensated for using their private vehicle or other personal means of transportation unless prior arrangements have been made with the supervisor of the CLO. The CLO is responsible for coordinating all out of town court appearances.

#### **X. Reporting of Court Time**

All members required to make an appearance as defined in Section U, Court Time Defined, shall submit *an OTTO Request to his/her supervisor as soon as possible after the appearance*. The *OTTO Request* shall contain the defendant's full name, the prosecuting DA's name, and the courtroom number in the "comments" section for verification purposes, and must be accurately completed to avoid a delay in processing.

*Inaccurate OTTO Requests* will be returned to the member for correction prior to being approved by the CLO.

#### **Y. Reporting of Civil Appearance Time**

Appearances associated with civil proceedings *generally* do not qualify for reimbursement through the *OTTO System*. A separate "Civil Appearance" compensation form will be attached to the appearance

notification at the time of service, and this form shall be completed and returned to the CLO for processing, regardless of whether the appearance was on-duty or off-duty. The City will be compensated if the appearance was on-duty; the member will be compensated if the appearance was off-duty.

**Z. Reporting of Court Standby Time**

Members who qualify for “Court Standby” compensation pursuant to their MOU shall submit a completed *OTTO Request to their supervisor* immediately upon their return to work. The *OTTO Request* shall contain the defendant’s full name, the prosecuting DA’s name, and the courtroom number in the “comments” section, and must be *reviewed* by a supervisor responsible for verifying that the scheduled appearance was on a regular day off or was pre-approved time-off. *Inaccurate OTTO Requests* will be returned to the member for correction prior to being approved by the CLO for processing.

**AA. Reimbursements From Other Agencies for Travel Expenses**

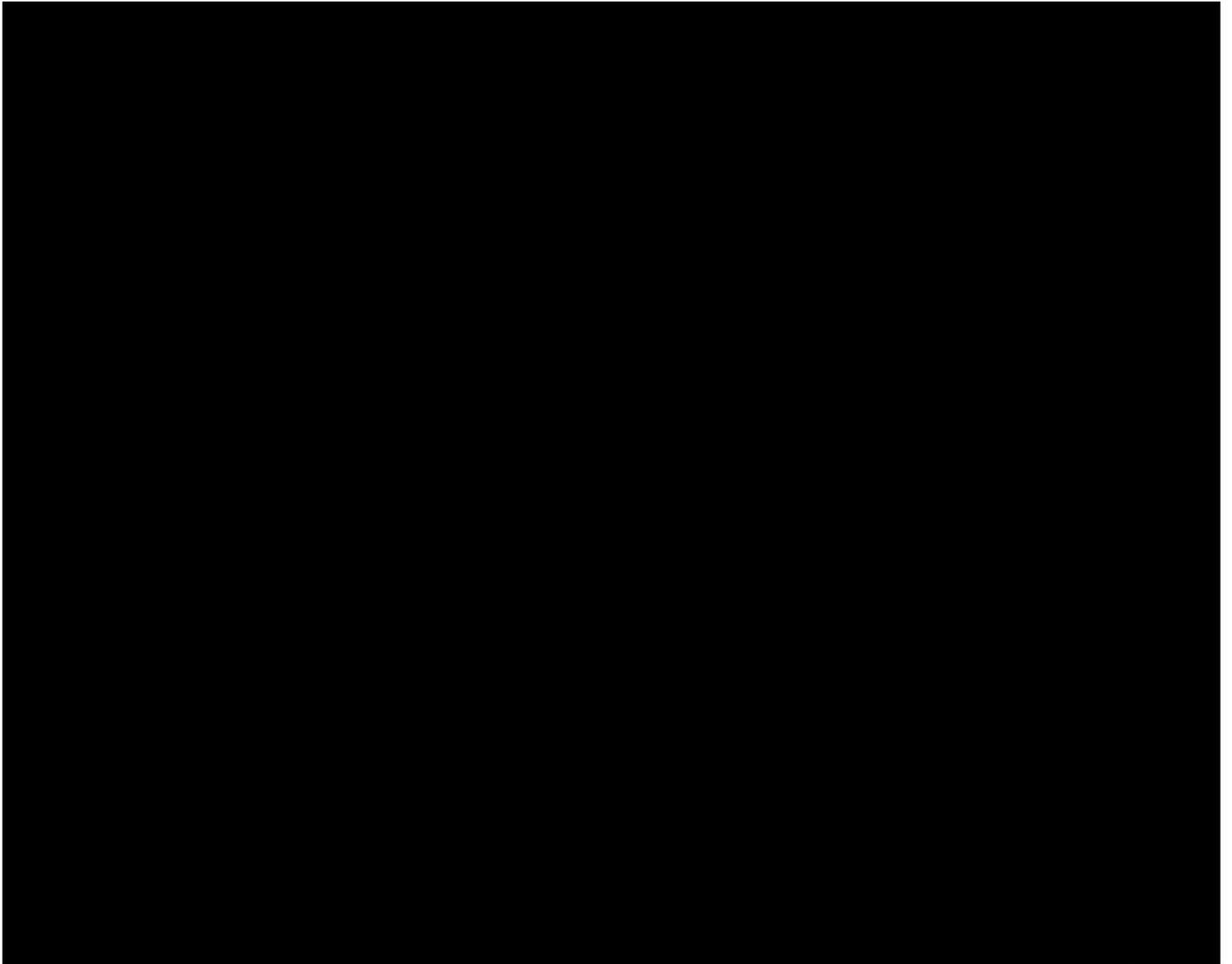
Any witness fee(s) paid to a member by any agency other than the City shall be turned over to the Fiscal Affairs Bureau. Any travel fees paid by any outside agency which were paid or advanced by the City shall also be turned over to the Fiscal Affairs Bureau. Witness and travel fees paid to members who are not compensated by the Department for their appearance are exempt from this requirement.

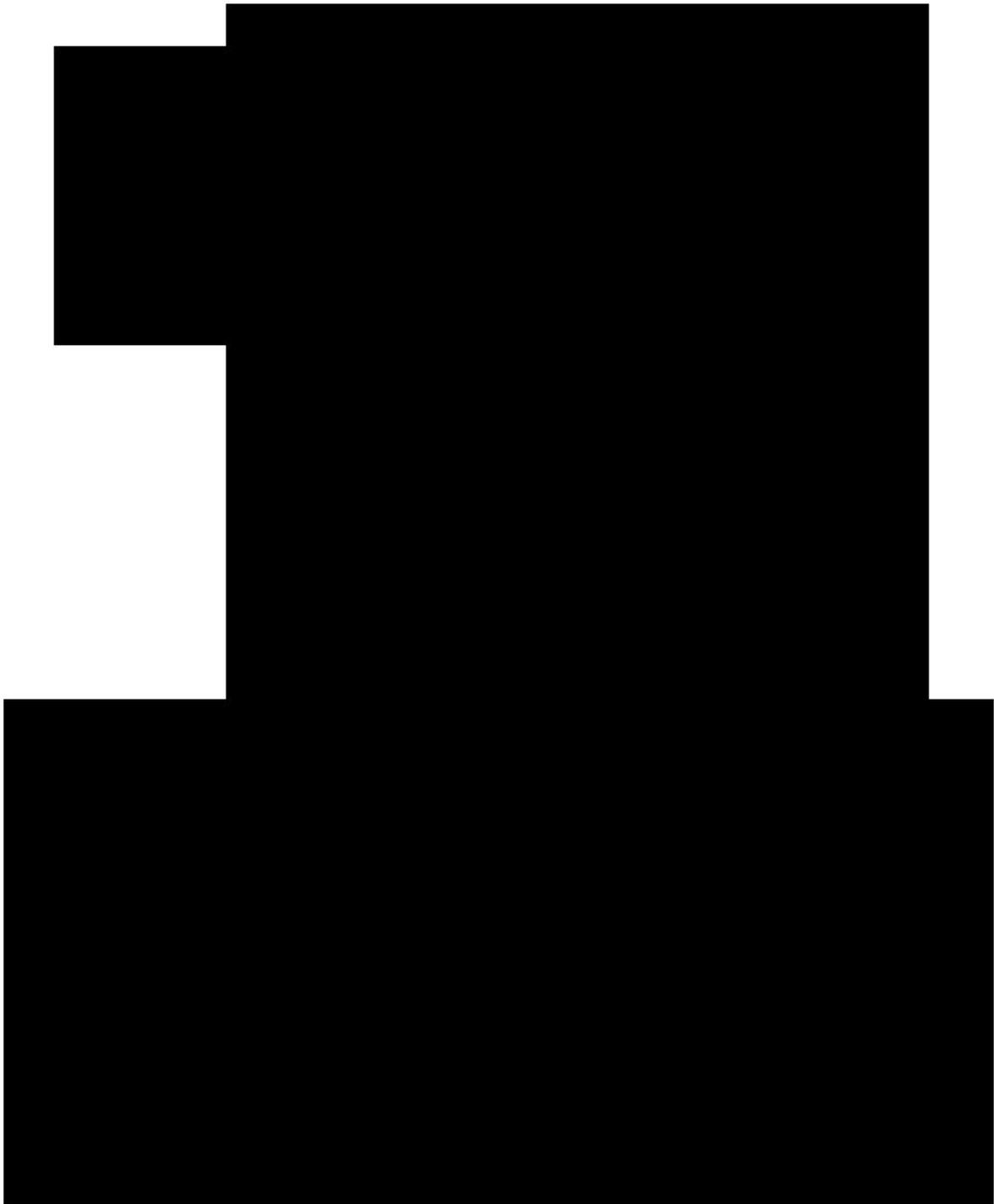
**AB. Testifying Against the Interest of the People of the State**

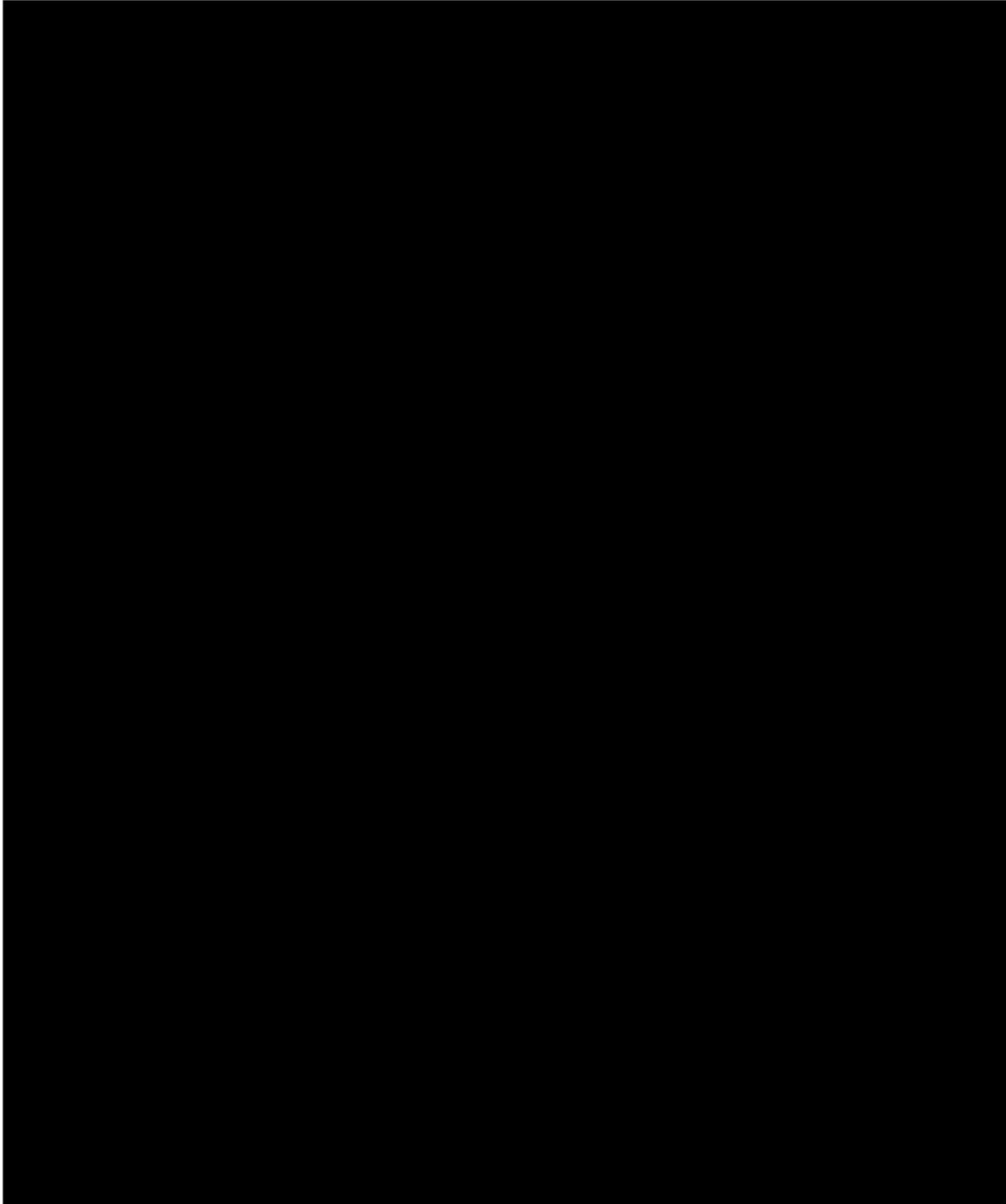
Any member or employee who is subpoenaed to testify, who has agreed to testify, or who anticipates testifying or providing information on behalf of or at the request of any party other than the People of the State of California, any county, any city, or any of their officers and employees in which any of those entities are parties, will notify their immediate supervisor without delay. The supervisor will then notify the Chief of Police, District Attorney’s Office in criminal cases, County Counsel or City Attorney, as may be indicated by the case.

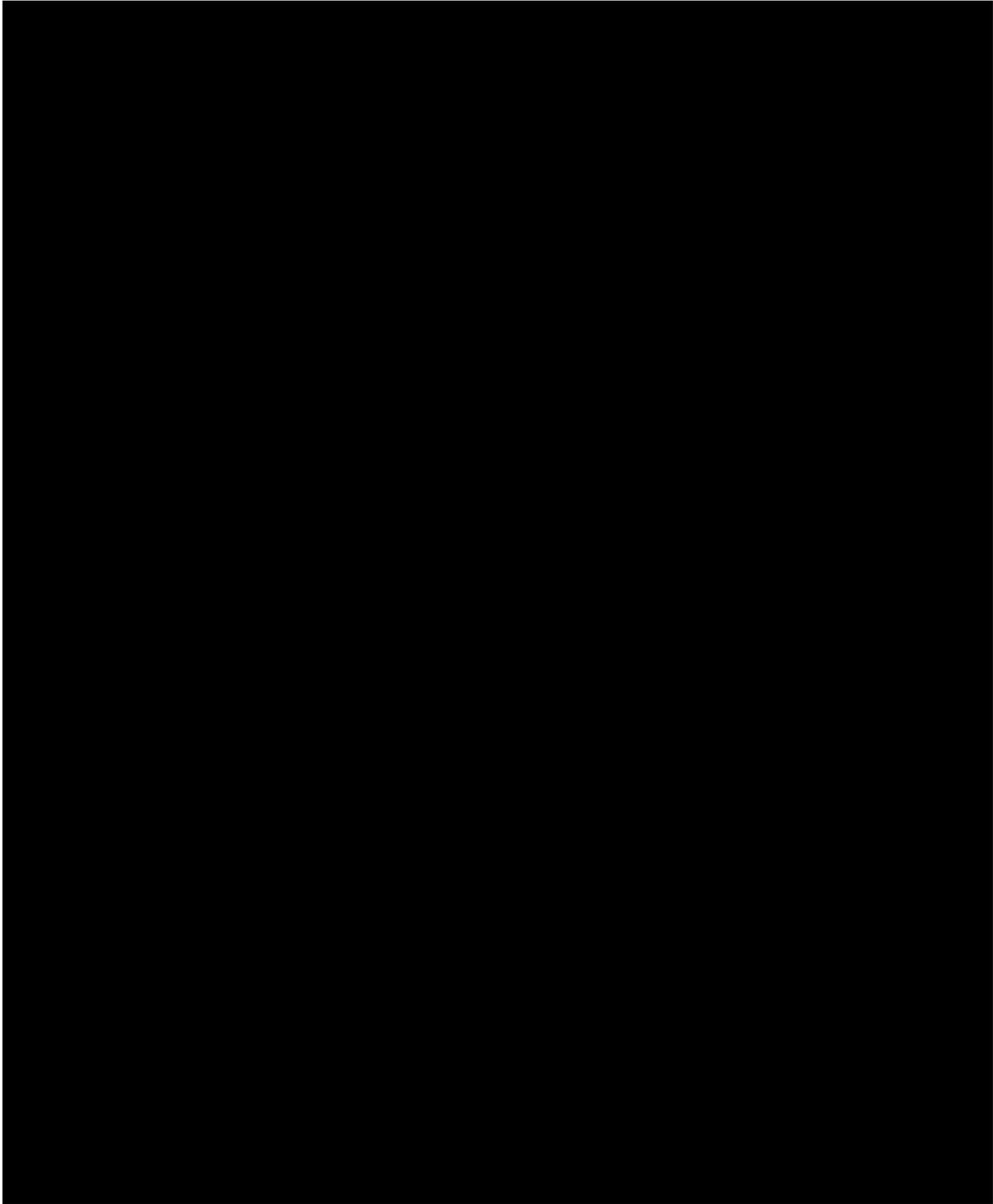
This includes, but is not limited to the following situations:

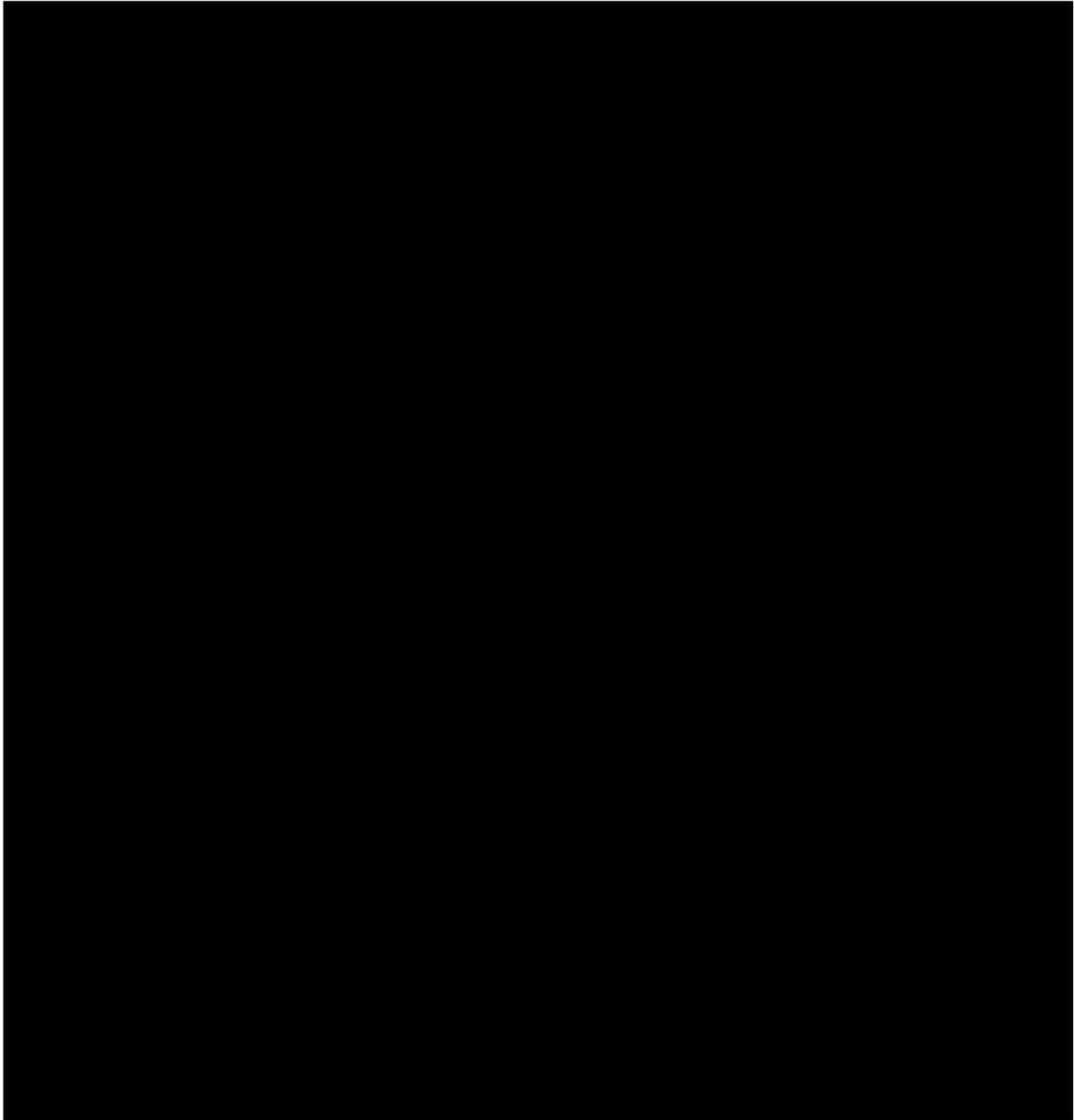
- Providing testimony or information for the defense in any criminal trial or proceeding;
- Providing testimony or information for the plaintiff in a civil proceeding against any county, any city, or their officers and employees; or
- Providing testimony or information on behalf of or at the request of any party other than any County, city, or any county or city official in any administrative proceeding, including but not limited to personnel and/or disciplinary matter.

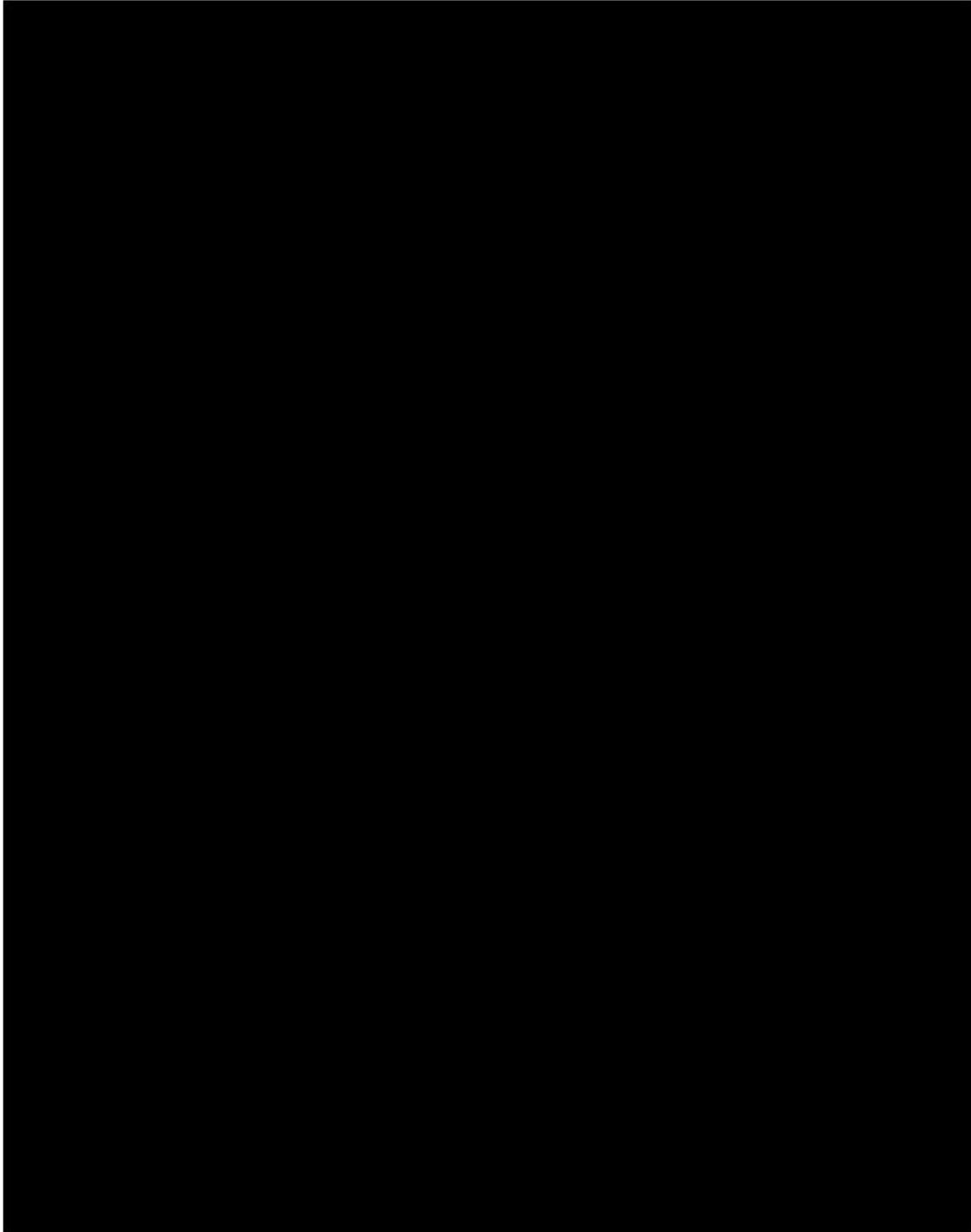


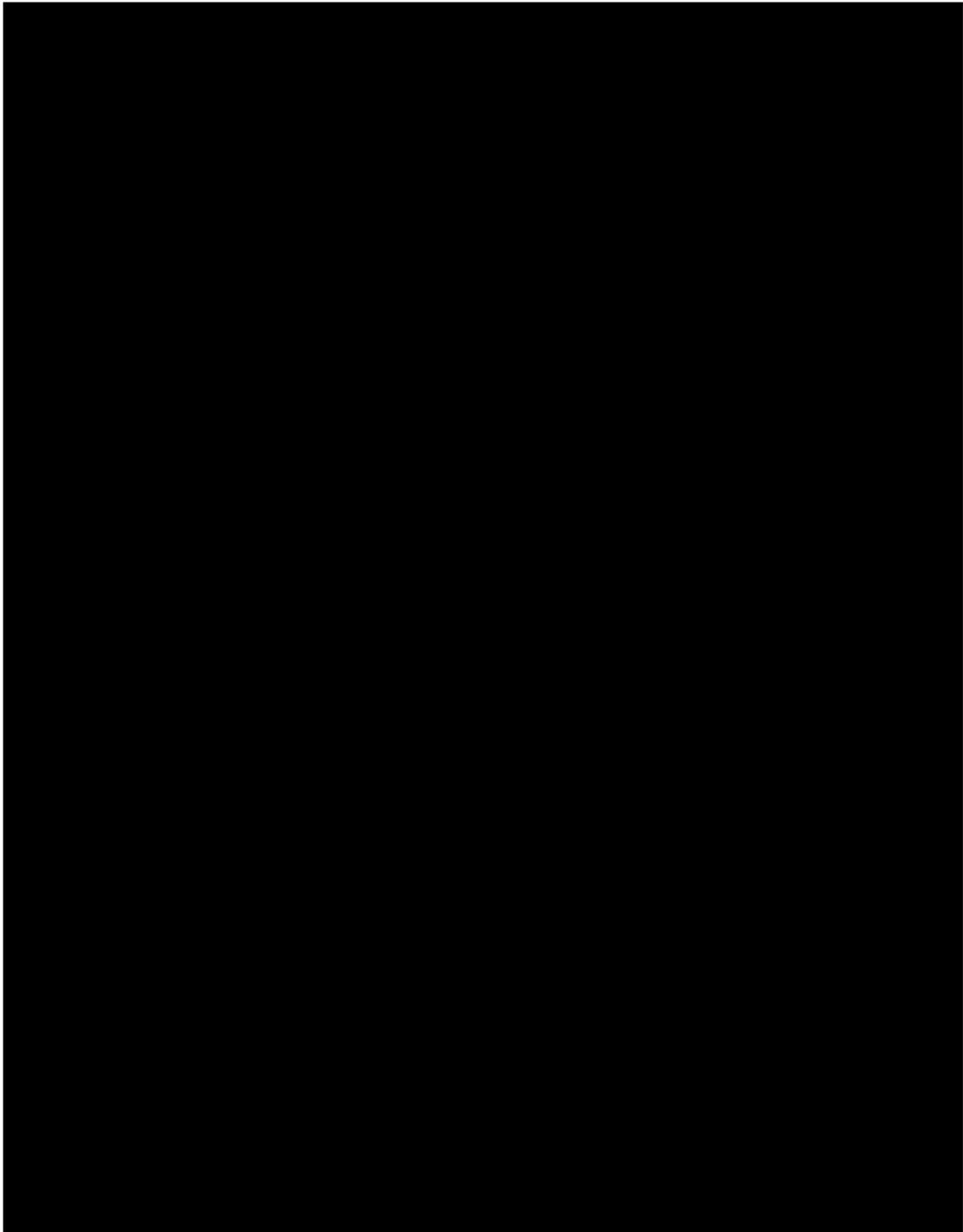












# APPENDIX B



*Fresno Police Department*



# *Roll Call Training Bulletin*

Bulletin # 94-15

SEPTEMBER 27, 1994

Ed Winchester  
Chief of Police

## PROPOSITION 115 TESTIMONY

Proposition 115 allows officers to provide hearsay testimony at specified court hearings. An officer may meet the requirements for providing the hearsay testimony in any one of four ways:

- (a) When an officer has a combined total of five years of law enforcement experience;
- (b) When an officer graduated from a POST certified academy after September 1990 (POST mandated Proposition 115 training be included in basic academy curriculum, however officers may need to confirm the training actually was included);
- (c) When an officer attended the Fresno Police Department Advanced Officer Training in 1991 (the required training was provided to Fresno police officers by a Fresno County Deputy District Attorney); or
- (d) When an officer has attended any POST certified Proposition 115 training.

When an officer qualifies to provide hearsay testimony based on POST training, the officer must testify specifically that the course concerned the "investigation and reporting of cases and testifying at a preliminary hearing" and that the course was certified by POST.

Officers who do not qualify to provide hearsay testimony may meet the Proposition 115 requirements by viewing a POST videotape which is maintained in the Personnel & Training Unit.

## **WORKSHEET: Late or Missed Court Appearances**

(Internal Use Only)

**Date:**

**Type of Proceeding:**

**Dept:**

**Member:**

**Time GO received:**

**From whom:**

**Time needed:**

**Times of calls, by whom, and results (No answer; Msg left on machine or with whom?)**

**Cell phone:**

**By whom:**

**Results:**

**By whom:**

**Results:**

**By whom:**

**Results:**

**By whom:**

**Results:**

**Home phone:**

**By whom:**

**Results:**

**By whom:**

**Results:**

**By whom:**

**Results:**

**By whom:**

**Results:**

**Other (desc):**

**By whom:**

**Results:**

**By whom:**

**Results:**

**By whom:**

**Results:**

**By whom:**

**Results:**

**If field response was required, by whom, time of request, time of contact, and results:**

**Type of impact on the Court and/or the DA's Office:**