

ALAMEDA COUNTY SHERIFF'S OFFICE WARRANTS, RECORDS AND CRIME ANALYSIS POLICY & PROCEDURES	NUMBER: 2.15	PAGE: 1 of 3
	RELATED ORDERS: CALEA 82.1.1d Calif. Evidence Code 1560 & 1561 POST Standards – Records Management	
	ISSUED DATE: January 1, 1999 REVISION DATE: <i>July 7, 2017</i>	
CHAPTER: Operations	SUBJECT: Subpoena Duces Tecum Procedures	

I. PURPOSE: To establish procedures for accepting and complying with Subpoena Duces Tecums that are received by designated Unit personnel.

II. POLICY: Subpoenas Duces Tecum received by the Department will be honored when valid on their face and in compliance with statute requirements.

III. DEFINITIONS:

- A. **SUBPOENA DUCES TECUM:** An order directing a person or a business to produce papers, documents, books, or other things at a hearing as evidence in accordance with Code of Civil Procedure Section 1985.
- B. **CUSTODIAN OF RECORDS:** The custodian of records of the Department is the Sheriff.
- C. **CUSTODIAN OF RECORDS DESIGNEE:** The person(s) designated to accept Subpoenas Duces Tecum other than the Sheriff is the Records Unit Commander or the Records Supervisor.

IV. PROCEDURE:

A. **ACCEPTANCE OF SUBPOENAS:**

- 1. A Subpoena Duces Tecum shall be complied with only after it has been served on the Sheriff or authorized designee.
- 2. Service of a subpoena may be in person or by mail as long as it is in compliance with the Code of Civil Procedures.

3. The designated custodian shall check each accepted Subpoena Duces Tecum to determine:
 - a. Subpoena is timely; that is, the date of the hearing in a civil case is at least twenty days (20) subsequent to the date of service, or five days (5) in a criminal matter.
 - b. Subpoena is specific in its description of records to be produced.
 - c. Affidavit sets forth the materiality of the requested records to the case.
 - d. Requirements of Civil Code of Procedure Section 1985 are met.
 - e. Documents requested are not personnel records. Requests for personnel records shall be referred to the Management Services Division's Personnel Officer.
 - f. Request for records is limited to those maintained by this Unit.
 - g. Subpoenas for evidence, criminalistic, jail, or civil records shall be referred to the respective units for service.
 - h. *The appropriate fee is collected when applicable to process all subpoenas. No documents will be released until the fee has been paid in full.***
4. On receipt of the subpoena, it shall be time stamped. If the subpoenas are received at the ETS public counter, they will be time stamped by the receiving clerk and forwarded to the Records section.

B. WITNESS FEES IN CIVIL CASES:

Subpoenas Duces Tecum for civil cases shall not be accepted unless the witness fees described in Government Code Section 68097.2 have been deposited with the Clerk of the Court having jurisdiction in the matter, and the subpoena has been marked with the receipt number and Court Clerk's signature.

Civil Subpoenas will be directed to the Internal Affairs Unit for processing and dissemination.

C. COMPLIANCE WITH SUBPOENA DUCES TECUM:

1. Upon determining the Subpoena Duces Tecum is valid and lawful, the designated custodian shall comply with Evidence Code Section 1560.
2. The designated custodian shall:

- a. Copy the requested records.
- b. Prepare for signature, a letter certifying the records are a true copy of the originals as described in Evidence Code Section 1560.
- c. Submit the records and certification letter to the Unit Commander for review and signature.
- d. Enclose the copies of the records and the declaration letter in a sealed inner envelope and attached copy of Subpoena Duces Tecum to the outside of said envelope.
- e. Enclose sealed inner envelope in an outer envelope, seal, and mail it to the Clerk of the Court or hearing officer within five (5) days of service receipt in criminal cases or within fifteen (15) days in civic cases.
- f. Prepare invoice for services rendered in accordance with Records Fee Schedule.

D. SUBPOENA REVIEW:

1. Before the requested information can be released, it must be reviewed to insure that compliance is within guidelines prescribed by applicable law.
2. Upon examination of the records, the reviewer may determine certain information requires further legal scrutiny before being released.
 - a. Under such circumstances, the Unit Commander may consult with the Division Commander and County Counsel before forwarding information pursuant to the subpoena.
 - b. County Counsel shall ultimately decide if information is not to be released.