



CIVIL PROCESS SERVICE AND FEES GENERAL ORDER #18.00

Adopted: 08/04/2006

Replaces: Sheriff's Office G.O. #4712

POLICY

State and federal civil process shall be served and executed in accordance with law.

A. SERVICE OF CIVIL PROCESS ON STANFORD UNIVERSITY DEPARTMENT OF PUBLIC SAFETY EMPLOYEES

1. Service in state civil lawsuits
 - a. Personal service requires delivery to the defendant personally or to the defendant's agent authorized to accept service on behalf of the defendant. Personal service is complete at the time of delivery. The time to respond begins at that moment.
 - b. Service by mail is also permitted in California. A defendant must be mailed a copy of the summons and complaint, two copies of the notice and acknowledgement, and a return envelope. If service is not acknowledged within 20 days, the defendant may be held liable for extra expenses incurred.
 - c. Substitute service is a combination of personal service and service by mail. It involves the delivery of the summons and complaint to the defendant or his or her agent personally and mailing a copy as well. Substitute service is limited by a number of factors, including:
 1. The *Stanford University Department of Public Safety* will not accept substitute service for the *Sheriff's Office, the County of Santa Clara, or Stanford University.*

2. Completion of substitute service occurs only when copies of the documents served are mailed to the party being served.

2. Service in federal civil lawsuits

- a. Federal Rule of Civil Procedure 4(c) provides that service may be provided pursuant to the laws of the state in which the district court is held or by mailing a copy of the summons and complaint to the person to be served together with a notice and acknowledgment of service. Most federal suits are served on the defendant by mail.
- b. If service is not acknowledged within 20 days following service, the court may order the defendant to pay the costs of personal service. Defendants have 20 days after acknowledging service in which to answer, file a motion to dismiss or take other appropriate action.

3. Accepting federal and state civil process

- a. Personal service is authorized provided the deputy or employee being served is available for personal service at the time the attempt is made.
 - 1). If the deputy/employee is not available at the time of attempted service, the person attempting to serve the process shall be directed to return at a favorable time.
 - 2). Valid legal procedure insists upon the conditions in subtopic A.3.a.1 above.
- b. If service is made by substitute service, the immediate supervisor of the deputy/employee being served can receive the summons and complaint.
 - 1). The supervisor accepting the substitute process shall make it clear to the person serving the process that personal service is not being accepted or acknowledged, only substitute service.
 - 2). Personal service must answer within 30 days.
 - 3). Substitute service must answer within 40 days.
- c. Upon receiving a summons and complaint by either personal or substitute service, the document(s) received shall be delivered immediately to the *University and Department's legal counsel*.

4. Procedure upon receipt follows:

- a. Do not sign the acknowledgment form; forward the unsigned acknowledgment along with the document(s) to the *University's legal counsel*.
- b. Employees who do not wish that the *University's legal counsel* provide defense are directed to forward a copy of the document(s) directly to the *University's legal counsel*.
- c. Significant complaints are to be hand-delivered to the *University's legal counsel* on the same day received.
- d. Forward copies of all document served to the division commander.

Note: Civil process served on the County of Santa Clara or *Stanford University* is not to be accepted at the *SUDPS*. Such service requires leaving a copy of the summons and complaint in the office of the person authorized to be served on behalf of the entity: the Clerk of the Board of Supervisors on behalf of the County and the *University's legal counsel on behalf of Stanford University*.

B. CIVIL SUBPOENAS

1. Procedure regarding civil subpoenas for deputies or other *SUDPS* personnel:
 - a. Whenever a deputy sheriff is required to witness before any court or tribunal, or to appear for the taking of a deposition, in any civil action or proceeding in connection with matters regarding an event or transaction which a deputy perceived or investigated in the course of their duties, a subpoena requiring a deputy's attendance may be served by delivering a copy either to the deputy personally or to the deputy's immediate supervisor.
 - b. No attendance as a witness under the above is required outside of the residing state of the witness.
 - c. If service is made on the immediate supervisor as in *A.3.b.* above, that person is to accept service and immediately notify the witness deputy. If, at the time of service the supervisor believes they will encounter difficulty, or be unable to notify the deputy as above, they are to so advise the server of the subpoena, and may refuse to accept service.
 - d. If the supervisor accept service and is subsequently unable to notify the deputy, they are to notify the person or attorney listed on the subpoena that contact with the deputy was not feasible, and to provide reason for the

incomplete service. If neither party can be contacted, the court shall be notified accordingly.

- e. If the witness deputy cannot appear for reasons beyond their control, the deputy shall notify the person or attorney listed on the document, or contact the court/tribunal of his or her inability to appear, and state the reason(s).
- f. The witness deputy may arrange with the person or attorney listed on the subpoena to appear at an alternate time or on the basis of some notice both parties can agree upon. Any such agreement is to be as specified as possible, thereby eliminating any probability of misunderstanding or party-unavailability which may result in a contempt of court judgment.

2. Procedure regarding civil witness fees for deputies

- a. The person requesting service of a subpoena for a deputy sheriff is required to deposit \$150.00 with the *Department's Fiscal Unit* before the service of the subpoena. The same amount must also be deposited for each subsequent day the deputy is to appear as a witness.
- b. The court may, for sufficient reason, waive the requirement for a second (or subsequent) \$150.00 deposit.
- c. Any person who pays or offers to pay any money or other form of enumerations for the services of any deputy sheriff, and any deputy sheriff who asks or receives any such enumerations, except as stated herein, is guilty of a misdemeanor.

3. Procedure regarding receipts -- subpoena fees

- a. Upon receipt, the *Department's Fiscal Unit* shall issue a paper receipt, including the following information:
 - 1). Name and address of party paying the fee.
 - 2). Check/draft number
 - 3). Case number of the incident.
- b. Use only an official *Department* receipt for all transactions of this nature.
- c. All used receipt books are to be *retained in* the fiscal office.



- d. All fees collected shall be deposited with the county treasurer using a regular county affidavit and record of deposit to account for each deposit.
 - e. Forward the original and one copy of both the receipt and subpoena to the deputy's division *lieutenant* for personal service.
4. Procedure regarding payment refund on claims
- a. Requires that the party requesting the subpoena, and officer's appearance, submit a letter directing that the subpoena be released and that all revenues be refunded.
 - b. The division/section and/or officers receiving such a letter shall forward the request to the *Department's Fiscal Unit* for refund.
 - c. The letter of instructions must contain the name and address of the party requesting the refund.
5. Procedure regarding the appearance of the deputy
- a. Before appearing, the witness deputy is to make their supervisors aware of his or her appearance.
 - b. Deputies are to be on time for their appearance, prepared to testify, and bring all subpoena document or records to the hearing.
 - c. Take a "true" copy of the original record. Do not take the original record to avoid submittal into evidence at court. The original must be maintained and submitted to *Department* records. Further, it is strongly recommended that the attorney requesting the subpoena be contacted prior to the hearing it may save a personal appearance if sufficient information can be obtained via the telephone.



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