



**MYRTLE BEACH POLICE DEPARTMENT
ADMINISTRATIVE REGULATIONS
& OPERATING PROCEDURES**

Subject: Subpoenas & Service of Civil Process

Number: 269-B

Effective Date: February 13, 2014

Revised Date: May 19, 2021

**Rescinds: Service of Civil Process 269
Service of Civil Process 269-A**

**Dated: February 13, 2014
October 12, 2018**

Approved By:

I. PURPOSE

To establish procedures and guidelines with regard to service of subpoenas requiring the appearance of any employee in connection with a matter arising out of the employees course and scope of official duties and to ensure that all personnel are notified of their attendance obligations and/or materials needed in the presentation of a case.

II. DISCUSSION

Employees who receive subpoenas at their place of employment are subject to the provisions of this policy. Employees should be aware that their compliance is mandatory on all cases for which they have been properly subpoenaed. Personnel scheduled to appear in court must appear and be prepared to testify. Subpoenas (Court Notices) are court orders directing police department personnel to attend court or other legal proceedings. Therefore, subpoenaed personnel are obligated to attend court as directed by the subpoena. No subpoena shall be accepted for an employee of this department unless it has been properly served. This policy applies to civil and criminal subpoenas. Officers who fail to appear without making proper notification or following procedures outlined in this directive are subject to disciplinary action.

NOTE: For the purpose of this directive, the terms “personnel” and “police personnel” shall refer to all sworn and non-sworn personnel subject to duty-related court subpoenas.

- III. AGENT OF SERVICE:** The Support Services Captain or designee shall be the only Agent of Service in the receipt of subpoenas. The person or entity serving the subpoena shall make an appointment with the Support Services Captain or designee to complete service on behalf of the named individual.

IV. PROCEDURE

A. Personal Appearance Subpoenas

1. All employees will complete an Authorization of Subpoena Service form authorizing or declining to allow the Support Services Captain or designee to accept service on their behalf. The original Authorization of Subpoena form will be kept in the employee's personnel file.
2. Receiving subpoenas – Subpoenas delivered to the department will be received by the agent of service if allowed under the provisions of this policy and with authorization from the named employee. After receiving the subpoena, it will be immediately forwarded to the employee by email, with a copy of the email to the employee's Division Commander. The original will be sent to the employee's division commander by inner office mail to provide to the named employee on their next duty day or as soon as possible.
3. Serving subpoenas – After initial service of the subpoena to the agent of service, Division Commanders shall be responsible for ensuring that their employees have acknowledged receipt of all distributed subpoenas and received the original.
4. If the named employee is unable to appear in court as directed by a previously served subpoena, the employee shall, as soon as reasonably possible, inform the issuing authority of the expected absence. In the event the named employee is unable to inform the issuing authority, it is the responsibility of the Division Commander, as soon as reasonably possible; to inform the issuing authority of the named employees expected absence.
5. Denial of subpoenas – In cases in which a subpoena is presented for service to the Support Services Captain or designee less than three business days prior to the date listed for an appearance, the agent of service may inform the process server to serve directly to the named witness. If the named employee is not on-duty, the supervisor may inform the process server of the next available duty dates for the named employee.
 - a. If the process server is unable to provide necessary information to confirm adherence the provisions of this policy, the agent of service may decline to accept service.
6. Recording subpoenas – Upon receipt of the subpoena, agent of service will maintain an electronic log to record:
 - a. Date received
 - b. Employee number of agent of service receiving the notice
 - c. Subpoenaed officer's name, employee number, and shift assignment
 - d. Court date

B. Evidentiary Subpoenas

1. Receiving subpoenas - The Support Services Captain or designee will process all subpoenas for evidence.

2. Agent of service and/or the FOIA coordinator will conduct the appropriate logging of the subpoena. The subpoena will be sent by email to the Commander of the Division whom the case is assigned and the FOIA Coordinator will maintain the original.
3. Recording subpoenas – Upon receipt of the subpoena, the FOIA Coordinator shall be responsible to maintain an electronic log of the record:
 - a. Date received
 - b. Case Number
 - c. Date records need to be produced by
 - d. Disposition: date/time and method of service (in person, email, or phone)