

**TEXAS DEPARTMENT OF CRIMINAL JUSTICE
PAROLE DIVISION**



**POLICY AND
OPERATING PROCEDURE**

NUMBER: PD/POP-4.2.6

DATE: 3/16/00

PAGE: 1 of 3

SUPERSEDES: N/A

SUBJECT: SERVING SUBPOENAS

PURPOSE: To provide the filed officer with instructions on the service of subpoenas for hearings.

PROCEDURE:

- I. Subpoenas are processed for issuance for those witnesses essential to determining the facts in dispute and those witnesses providing testimony to mitigating circumstances or character who are unable to appear without a subpoena. Letters or affidavits may be introduced at the hearing in lieu of live testimony for mitigating and character issues.

The officer shall determine which witnesses are needed to support the alleged violations by reviewing all appropriate documents, e.g., PSV-32, PSV-48, offense report, affidavit, statements, etc. The list of approved witnesses (excluding addresses and phone numbers) shall be provided to the attorney or offender within three days prior to a preliminary hearing and five days prior to a revocation hearing. If an attorney is representing the offender, the officer shall obtain the names of the offender's witnesses from the attorney.

If the offender has been convicted in a court of law for any offense other than a moving traffic violation punishable by fine only, copies of the complaint, information, indictment, and judgement and sentence will be sufficient to prove the allegation. Only those witness providing testimony to mitigating circumstances or character who are unable to appear without a subpoena (e.g., needed for employment purposes) shall be subpoenaed.

II. SUBPOENA REQUEST

- A. The officer shall complete a Request for Subpoena form (BPP-SR.001) via electronic mail (EFORM) for all witnesses appearing at the hearing. The officer shall submit the Request for Subpoena from to a parole panel analyst within one day of scheduling the hearing. A copy of the Request for Subpoena form may be found in the Parole Division policy 4.2.1.

- B. The Request for Subpoena form shall include the offender's name and TDCJ/PIA number, hearing type (i.e., preliminary, revocation, or summons), witness classification (i.e., fact, Mitigation, or character), witness name, address, and phone number.
- C. The board analyst presents the completed Request for Subpoena from to the parole panel and returns the board decision via electronic mail to the parole officer within one working day. The board may authorize the issuance of the subpoena, deny the subpoena, or specify another action to be taken. The parole officer shall present a copy of the BPP-SR.001 to the hearing officer at the hearing convenes.
- D. Subpoenas are not required for Parole Division (PD) employees. PD employees are expected to attend all hearings for which their personal attendance has been deemed necessary without the need for subpoena issuance.
- E. The officer shall request a subpoena for a preliminary hearing only in rare circumstances (for example, if a case has been dismissed).

III. SUBPOENA ISSUANCE

- A. At least three days before a preliminary hearing and five days before a revocation hearing, or as soon as the officer receives the returned Request for Subpoena form from the board, the officer shall serve the subpoena in person to each witness. The officer shall complete the officer's return on both the original subpoena and the copy before the original is given to the witness.
 - 1. The officer shall enter the day, month, year and time the subpoena is being served to the witness.
 - 2. The name of the witness to whom the subpoena was given shall be entered by the officer upon verification of the person's identity.
 - 3. The officer shall enter the name of the county in which the witness was served the subpoena.
 - 4. The name of the witness to whom the subpoena was given shall sign the subpoena.
 - 5. The officer shall keep a copy of the subpoena for the hearing.
- B. If the subpoena is for a law enforcement officer who works for an agency which has an established procedure for subpoena service other than the procedure described above, the officer shall use that procedure.
- C. If the officer is unable to serve a subpoena, the officer shall make a second attempt on the next business day. If the officer is unable to serve the subpoena on the second attempt, the officer shall advise his or her supervisor and keep the original subpoena for the hearing.

- D. If the subpoena is to be served on someone who is outside the officer's area of supervision, an agent officer shall issue the subpoena. The agent officer shall provide a copy of the subpoena to the supervising officer.
- IV. The officer shall bring to the hearing the original subpoenas if they were not served and copies of all served subpoenas.

Victor Rodriguez
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