

**COUNTY OF RIVERSIDE, CALIFORNIA**  
**BOARD OF SUPERVISORS POLICY**

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<b>LAWSUITS AGAINST THE COUNTY, ITS EMPLOYEES AND OFFICIALS; ACCEPTANCE OF SERVICE OF GOVERNMENT CLAIMS, SUMMONSES/COMPLAINTS, AND CIVIL SUBPOENAS</b>	<b>B-33</b>	<b>1 of 8</b>

**Policy:**

**A. Accepting Service of Government Claims, Summonses/Complaints, and Civil Subpoenas**

County of Riverside employees must exercise care when presented with any documents concerning legal actions in which the County or its employees are involved. Only the Clerk of the Board of Supervisors (COB) may accept service of government claims and summonses and complaints on behalf of the County of Riverside, any County agency, and County officials sued in their official capacity. Generally, service of a government claim or summons and complaint on a different County department would not be considered to be valid service.

Service of a government claim may be accomplished by service upon the COB's Office by personal delivery or by mail, only. There is no legal requirement that the contents of a government claim be in English. Service of a summons and complaint should be accomplished by personal service only, although the law does provide an exception for service by mail in a limited circumstance. Please contact County Counsel's Office if a summons and complaint is served by mail upon the County, a County agency or those employees sued in their official capacity.

Subpoenas which identify a particular employee of the County or County agency may only be accepted by the named person, although certain exceptions apply for a sheriff, deputy sheriff, marshal, deputy marshal, district attorney personnel, probation officer, building inspector, and firefighter. Subpoenas for County records, regardless of the location of those records, are directed to the appropriate agency or department that maintains the records sought. Subpoenas for records are usually directed to a department's custodian of records. Subpoenas addressed to a "person most knowledgeable" (PMK) or a "person most qualified" (PMQ) may be accepted by the appropriate County department that employs an individual that can testify most knowledgably about the subject-matter identified in the subpoena. Please contact County Counsel's Office for assistance in responding to such subpoenas.

Failure to appropriately handle government claims, summonses, complaints and/or civil subpoenas could place the County and its employees at risk or disadvantage in legal proceedings. Failure to follow required procedures may be cause for discipline, up to and including termination.

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**B. Definitions**

- **Government Claim** – a document that may serve as a precursor to civil litigation against the County and its employees. It alleges why the County is responsible for the Claimant’s injuries and damages.
- **Summons** - a legal document that notifies an individual or entity that a lawsuit has commenced and that the individual or entity served must respond to the complaint.
- **Complaint** - a legal document that sets forth the basis for the claim(s) in a lawsuit and the relief being sought by the plaintiff (one who commences a lawsuit to obtain a remedy for an alleged injury to his or her rights).
- **Civil subpoena** - an order issued by a court for a person to appear and testify at a deposition or trial, and/or for the production of records.
- **Defendant** - the person or entity that is being sued.

**C. Government Claims**

Government claims come in many different formats. It may appear on a County generated form, a legal pleading, or a regular piece of bond paper. It may be computer generated or handwritten. Regardless, only the COB is authorized to accept a government claim. Refer all such persons attempting to present a government claim to the COB’s Office.

**D. Summons and Complaint**

**1) When the County of Riverside is named as a defendant in a Summons and Complaint**

If a marshal, process server, or other person attempts to serve a Summons and Complaint on the County of Riverside, the process server must be referred to the Clerk of the Board (COB). The COB is the only County office or department that may accept service on behalf of the County of Riverside.

**2) When County employees are named as defendants in a Summons and Complaint**

Certain law enforcement employees, like the Sheriff, may be named as defendants in a civil lawsuit in their “individual” capacity and/or their “official” capacity. When a summons and complaint names an employee as a defendant in his or her “individual” capacity, only the employee may accept service on his or her behalf, unless he or she has delegated that authority to someone else. If an

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employee is served in his or her “official” capacity, then the COB is authorized to accept service on behalf of that named employee.

If a summons and complaint names certain County employees as defendants in a lawsuit, but does not specify whether the employees are being sued in their official capacity, the process server should be directed to serve the employee personally, unless other arrangements have been made to accept service.

Under no circumstance may an employee accepting service for himself/herself also accept a summons and complaint on behalf of the County. Instead, the process server must be referred to the COB.

If the person serving a summons and complaint simply leaves the document at your service counter, please contact County Counsel’s Office immediately.

When a lawsuit is anticipated, an employee may make arrangements through the Risk Management Division or County Counsel’s Office to designate the COB, County Counsel, panel counsel, or another person to accept service of process on his/her behalf. This can be handled on a case-by-case basis.

Certain classes of jobs may be served with process by other means. In particular, sheriff, deputy sheriff, marshal, deputy marshal, district attorney personnel, probation officer, building inspector, or firefighter may be served personally (like other employees), or service may be made by the following means:

- a. By serving two copies on the employee’s immediate superior; or
- b. By serving an agent designated by that immediate superior to receive that service.

Please direct any questions in this regard to County Counsel’s Office, or otherwise refer to your department policy.

**3) When a County employee alone is a defendant in a Summons and Complaint**

**a. A Work-Related Complaint**

If the complaint, naming only a County employee, is based on the employee’s conduct within the course and scope of his or her employment with the County, the employee must accept the complaint and contact the COB and provide a copy of the documents served by the next business day. For example, if a complaint alleges that a County employee was negligent in the performance of his or her official job duties, this would be an example of a work-related complaint. Again, if a lawsuit is anticipated, arrangements can

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be made through the County Counsel's Office or the Risk Management Division for alternative means to accept a summons and complaint.

**b. Non-Work-Related Complaints**

If the complaint naming the employee is based on conduct occurring outside the course and scope of his or her employment with the County, the employee shall act on his or her own behalf without involving the County. In such circumstances, the COB is not an agent authorized to accept service of the summons and complaint. Examples of non-work related complaints may occur when an employee is sued for child support, child custody, dissolution of marriage, private vehicle accident, or a homeowner dispute. A quick review of the complaint will usually reveal the substance of the allegation against the individual and whether it occurred on or off-duty.

**c. Accepting Service on Behalf of Another Employee**

A County employee asked by the process server to accept service of a Summons and Complaint on behalf of another County employee should not do so, unless directed otherwise by County Counsel's Office.

If the original claim is being handled by the Risk Management Division, Risk Management can assist with alternative means to accept the summons and complaint.

**E. Civil Subpoenas for Testimony and/or Production of County Records**

**1) Subpoenas for Testimony**

Such subpoenas may be titled as a "civil subpoena for personal appearance at trial or hearing" or "deposition subpoena for personal appearance." These subpoenas require an employee to appear and testify under oath at trial, tribunal, hearing or deposition. Such subpoenas must be served personally on the individual identified in the subpoena, unless other arrangements are made through the County Counsel's Office or the Risk Management Division for someone else to accept service.

**2) Subpoenas for County Records**

Such subpoenas may be titled as a "deposition subpoena for production of business records" or a "civil subpoena duces tecum." Employees must not accept subpoenas for County records unless specifically authorized to do so. Subpoenas

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for County records, regardless of the location of those records, must be directed to appropriate department or agency that maintains the records. The person with such authority at the department will review the subpoena and accept it as appropriate. Any questions should be directed to County Counsel's Office.

**3) Subpoenas for Testimony and Records (related to County employment)**

Such subpoenas may be titled as a "civil subpoena (duces tecum) for personal appearance and production of documents," or "deposition subpoena for personal appearance and production of documents and things." If an employee is served with a subpoena for his/her testimony and to produce records in his or her capacity as an employee or agent of the County, he or she must accept the subpoena, provided other statutory requirements are met. Questions regarding such service may be directed to County Counsel's Office.

Occasionally, there may be instances when a *deposition subpoena* identifies a category of information instead of a specific person to provide testimony. These subpoenas typically are framed as a "Person Most Knowledgeable" (PMK) or "Person Most Qualified" (PMQ) subpoena and call for a person to be designated by the department to testify on certain subjects identified in the subpoena. These types of subpoenas should be served on the department as if it were a records subpoena. The department may need to designate a certain person or persons who can testify as to those specific categories identified. Please contact County Counsel's Office for assistance in this regard.

*Please note that subpoenas to appear at trial must identify a specific person and must be served upon that person.*

**4) Subpoenas for Testimony (not related to County employment)**

When an individual is served with a civil subpoena for an event that he/she did not perceive or investigate as a County employee, he/she must accept the subpoena without County involvement. That is, neither the County nor any other County employee should accept such a subpoena on behalf of the named individual. Examples may include private civil actions, criminal cases, and civil harassment cases.

**F. Statutory Fees and Expenses**

The County is entitled to certain fees when its employees are subpoenaed to testify concerning an event or transaction he or she perceived or investigated in the course of his or her duties, to which the County is not a party. If the subpoena requires an

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employee to testify at deposition, trial, tribunal or other hearing, the subpoenaing party must tender to the County a statutory fee of \$275 for each day that the employee is required to remain in attendance pursuant to the subpoena. This amount represents a deposit towards the employee’s salary and traveling expenses. The employee and employee’s department should keep track of the employee’s time away from the office in order to bill or refund the subpoenaing party for the employee’s time and travel expense. The deposit must be tendered when the subpoena is served, or else the subpoena is not effective.

If the subpoena requires the production of business records only (not testimony), then the County is entitled to all reasonable costs against the party serving the subpoena. Generally, this provides for \$0.10 per page (8.5” x 14” or smaller) for copies and reasonable clerical costs in locating and making the records available to be billed at the maximum rate of \$24/hour per person, computed on the basis of \$6 per quarter hour or a fraction thereof, as well as actual postage charges, and the actual cost, if any, charged to the witness by a third person for the retrieval and return of records held offsite by that third person. The County can demand those costs when it delivers the records to the requesting party. The County is under no obligation to deliver the records until payment is made. However, if the County makes the records available for copying by the subpoenaing party or a deposition officer where the records are maintained, the only fee for complying with the subpoena will not exceed \$15 and the actual cost, if any, charged to the witness by a third person for the retrieval and return of records held offsite by that third person.

<b>Government Claim</b>	
<b>Parties</b>	<b>Required Action</b>
<b>County of Riverside and/or County employees</b>	Refer person to COB.
<b>Summons and Complaint</b>	
<b>Parties Named in Summons and Complaint</b>	<b>Required Action</b>
<b>County of Riverside</b>	Refer process server to the COB.

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<p><b>Employee, work-related</b></p>	<p>Named employee must accept summons and complaint in his/her individual capacity and contact COB as soon as practicable, providing a copy of the documents by the next business day. If employee is sued in his/her official capacity, COB may accept service. Certain classes of employees (identified above) may have alternative service arrangements.</p>
<p><b>Employee, non-work-related</b></p>	<p>Named employee must act on his or her own behalf without involving the County. COB not authorized to accept service for employee.</p>
<p><b>If named employee is absent</b></p>	<p>Do not accept service on behalf of another employee. Contact County Counsel's Office for instructions as necessary.</p> <p>If the original claim is being handled by Risk, Risk can assist with alternative means to accept the summons and complaint.</p>
<p><b>Subpoena for Records</b></p>	
<p><b>Type of Record</b></p>	<p><b>Required Action</b></p>
<p><b>County business records</b></p>	<p>Staff must direct the process server to appropriate County department for consideration by person authorized to accept service.</p>

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<b>Subpoena for Testimony</b>	
<b>Type of Testimony or Record</b>	<b>Required Action</b>
<b>Employment-related</b>	Named employee may accept service subject to payment of statutory deposit. Contact County Counsel's Office with questions.
<b>Non-Employment-Related</b>	Subpoenas for individuals served in their individual capacity and not as employees or agents of the County must be served on the named individual. The County nor any of its employees will accept service on behalf of the individual.

**Reference:**

Minute Order 3.4 of 05/22/18