

Nye County Sheriff's Office		Policy & Procedures Manual
Policy 0094 Service of Subpoenas upon Peace Officers		Approved 01/16/2017 SAW Effective 01/16/2017 Published: 12/25/2015 Revision #1: 01/16/2017, 07/22/2021
Prepared by: Capt. Boruchowitz, Reviewed by: Undersheriff Eisenloffel, Collaborated with: NCLEA, NCEA, NCASS, NCSA. Approved by: Sheriff Wehrly		

This policy establishes the procedure for providing orderly and safe acceptance of service of certain subpoenas on peace officers employed by the Nye County Sheriff's Office pursuant to NRS 289.027 and in accordance with NRS 50.225.

NRS 174.315(4) allows a peace officer to accept delivery of a subpoena in lieu of service via electronic means by providing a written promise to appear that is transmitted electronically.

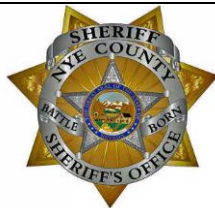
Procedure

When properly served, the Nye County Sheriff's Office will accept subpoenas for service upon peace officers employed by the Nye County Sheriff's Office.

When any entity or person desires to have the Nye County Sheriff's Office serve subpoenas upon peace officers employed by the Nye County Sheriff's Office, the following process shall be followed.

- All subpoenas shall be sent to the Nye County Sheriff's Office Civil Unit in Tonopah via e-mail (sheriff@co.nye.nv.us)
- Each individual subpoena to be served will be charged a fee per individual subpoena, unless the requesting entity is a government agency in which case no fee will be charged.
 - All subpoenas to be served shall be accompanied by a \$25 fee for each day the witness is being subpoenaed to be in court. Should the subpoena require a peace officer to travel, mileage and per-diem costs will be required pursuant to NRS 50.225.
 - The fee is to be paid either by cash, check to the records unit or credit card either in person, over the phone or via e-mail. (If a credit card is utilized a merchant processing fee will be added to the fee above)
 - Any subpoena received without the proper fee will not be served.
- Upon receiving the subpoena, the receiving employee will enter each subpoena into the records management system.
- After entry, the receiving employee will send the subpoena to the employee via Nye County e-mail system stating, "I am delivering to you via e-mail the attached...(eg; subpoena(s) to testify in court, subpoena to produce records). Pursuant to current NCSO policies, a paper copy will NOT follow. By replying to this e-mail with "yes" you will be promising to appear at the time, date and location listed in the attached subpoena(s). If you are not available to appear as subpoenaed, please notify us at once, specifically including both the reason and duration of your unavailability, so that a request may be sent to the court asking to reset this case for a more convenient time. Do you promise to appear at the time, date and location listed in the attached subpoena(s)?"
- Employee shall acknowledge receipt by stating yes and accept service via County E-mail by the end of their next work shift or an explanation for unavailability.
- Upon receipt of the accepted service, the employee will forward the return of service to the source of the legal process.

Service by Nye County District Attorney's Office

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The Nye County District Attorney's Office will serve subpoenas on NCSO Peace Officers electronically via a calendar invite transmitted through the Nye County official electronic mail system with the subpoena attached. This calendar invite will be sent to the employee via e-mail and the employee shall acknowledge the calendar invite within one work shift.

The employee will type "Accepted" in the "comments to organizer box" and then click Accept on the calendar invite. Doing so will notify the District Attorney's Office of the employee's accepted service.

By accepting the calendar invite the employee is accepting delivery of the subpoena via electronic means pursuant to NRS 174.315 and is promising to appear at the time, date and location listed on the subpoena that is attached to the calendar invite.

This acceptance will add the court date to the employee's calendar.

Requirement to accept service

Members of the agency shall accept all subpoenas legally served on them for attendance at court or quasi-judicial procedures. Any questions on the validity of a subpoena or the need to attend will be directed either to the prosecuting entity handling the case or to the Nye County District Attorney.

Duces Tecum

Duces Tecum is a Latin term meaning "bring with you." A subpoena *Duces Tecum* is a court order requiring parties who are summoned to appear in court to bring with them some document or item of evidence. Members are not the official custodians of records or Department property, and unless authorized, shall not take records or other materials, other than evidence, for presentation in court. Any subpoena *duces tecum* served on a member for presentation of a Sheriff's Office record shall be immediately brought to the attention of the Custodian of Records in Tonopah, who will assist the member in responding to the subpoena.

In most situations, Sheriff's Office records can be obtained by a subpoena *duces tecum* served on the appropriate custodian of records in Tonopah.

Questions on acceptance of or compliance with a subpoena *duces tecum* shall be referred to the Nye County District Attorney's Office.

Peace Officer's Only

Subpoena's served on non-Peace Officer Employees will not be affected by this policy. Service on non-peace officers is governed by NCSO Policy #1026.

END OF POLICY NUMBER 0094



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BY ORDER OF:

**SHARON A. WEHRLY,
SHERIFF**