

**NOTHING IN THIS GUIDE IS INTENDED AS OR SHOULD BE CONSTRUED AS A WAIVER OF ANY PRIVILEGE OR AS AGREEMENT TO, OR PERMITTING THE RELEASE OF, DOCUMENTS THAT MAY NOT OTHERWISE BE REQUIRED TO BE RELEASED OR THAT ARE OTHERWISE PROHIBITED FROM RELEASE BY LOCAL, STATE, OR FEDERAL LAW.**

**NOTHING HEREIN IS TO BE CONSIDERED AS LEGAL ADVICE.**

**NON-POLICE CITY DEPARTMENTS:** This Guide applies only to documents and testimony from the Tulsa Police Department, which includes the Public Safety Communications Center (911) and the Laboratory, and its employees. This Guide does not apply to other City of Tulsa departments or entities.<sup>i</sup>

## **GUIDE TO OBTAINING DOCUMENTS AND TESTIMONY FROM TULSA POLICE DEPARTMENT**

NOTE: THIS GUIDE APPLIES ONLY TO CASES WHERE THE SUIT DOES NOT INVOLVE CLAIMS AGAINST THE CITY AND/OR CITY EMPLOYEES IN THEIR CAPACITY AS CITY EMPLOYEES.

- If the City or its employees are being sued for a reason involving their City employment, and you do not know which attorney has been assigned to the case, contact City Legal at 918-596-7717 for assistance or e-mail [legal@cityoftulsa.org](mailto:legal@cityoftulsa.org).
- **Service of summons** must be on the individual employee and is not otherwise addressed herein.

**A. TO OBTAIN IN-COURT TESTIMONY AT A HEARING OR TRIAL FROM A TULSA POLICE EMPLOYEE DUE TO OBSERVATIONS/ACTIONS THEY MADE/TOOK AS PART OF THEIR EMPLOYMENT<sup>ii</sup>:**

1. **Subpoenas for testimony of TPD employees in both civil and criminal cases:** deliver the subpoena in person to the Chief's Office at 600 Civic Center, Tulsa, OK 74103, OR e-mail the subpoena to [TPDChief@cityoftulsa.org](mailto:TPDChief@cityoftulsa.org)
  - The e-mail must include as an attachment an actual subpoena, in proper form, with clerk certification when required by law. Do NOT send an e-mail that simply says, "I want Officer ABC to testify." That is not a subpoena and will be ignored.
  - Mailing of subpoenas for testimony is not preferred as these often are lost in the mail and do not get to the officers in a timely fashion. If you choose to mail a subpoena, it must be mailed certified, return receipt requested with **restricted delivery** to the person named in the subpoena. (*See 12 O.S. § 2004.1(B) applicable to criminal subpoenas by 22 O.S. § 712*).
  - Please include the best contact information of the subpoenaing attorney for the employees/Officers to contact you.
2. **Former Employees/Officers:** The City cannot accept service of subpoenas for former employees. For former employees, TPD will typically attempt to contact the former employee to assist you in serving them, but we cannot always make contact. When TPD cannot obtain contact, we will notify you, and you will have to find and that you will be required to find that individual and serve them on your own.

3. City Legal cannot accept service of any subpoenas.
4. Records window staff in the Municipal Police Building cannot accept service of subpoenas.
5. The City Clerk cannot accept service of subpoenas *for testimony* for other employees.
  - Serve only subpoenas duces tecum at the City Clerk's Office (see Subsection C).
6. When sending a subpoena for testimony, include the TRACIS and/or lab number(s) on the subpoena if known. If not known, include the date, time, and location of the incident, and name of suspect and/or victim, and any other relevant information that will assist the employees and/or Officer(s) in determining about which case you are seeking testimony.
  - To ensure you obtain the information that you want, please do not simply send a subpoena with only your court's case number as TPD's systems do not regularly associate records to a specific court-case number as there may be multiple case numbers in various courts or refiles under different numbers and so forth. If you provide only a court case number, TPD will not guarantee that you are receiving all of the information you believe you are requesting or sufficient testimony.

**B. FOR DEPOSITION TESTIMONY OF A TULSA POLICE EMPLOYEE (FOR THOSE CASES THAT ARE NOT AGAINST THE CITY OR ITS EMPLOYEES<sup>iii</sup>):**

1. If the case is not against the City of Tulsa or its employee(s), send your request for deposition to [legal@cityoftulsa.org](mailto:legal@cityoftulsa.org) and include "Deposition of EMPLOYEE NAME(S)" in the "Subject" line, and someone from City Legal will work with you to arrange an appropriate date, time, and location for deposition of the employee.
  - Requests need not be via subpoena initially, and the City will work with the attorneys to schedule a mutually agreeable time for such depositions.
2. In the request for deposition, include the TRACIS number(s) (if known). If not known, include the date, time, and location of the incident, and name of suspect and/or victim, and any other relevant information that will assist the employees/Officer(s) in determining about which case you are seeking testimony.
  - To remove guesswork and to ensure you obtain the information that you want, please do not simply send a request or deposition subpoena with only your court's case number as TPD's systems do not regularly associate files to a specific court-case number as there may be multiple case numbers in various courts or refiles under different numbers and so forth. If you provide only a court case number, TPD will not guarantee that the employee/Officer will be prepared to provide useful testimony during your deposition which may require rescheduling.

**C. TO OBTAIN POLICE RECORDS VIA SUBPOENA DUCES TECUM IN CASES WHERE THE CITY OF TULSA IS NOT A PARTY (INCLUDING CRIMINAL CASES, COLLISIONS, PROTECTIVE ORDERS, ETC.)**

1. There must be a valid, open case from which the subpoena issues, and it must be in proper form based on civil and criminal statutes related to subpoenas.
  - If an attorney has entered an appearance in the case for an individual party, a subpoena duces tecum from that individual party (e.g., issued by

the criminal defendant rather than by his/her attorney of record) will not be honored.

2. All subpoenas duces tecum must be served on the City Clerk, City of Tulsa, 175 E. 2<sup>nd</sup> Street, Suite 260, Tulsa, OK 74103 (*see 11 O.S. § 22-103*).
  - Do not subpoena an officer and ask the officer to bring records to court as the officers do not have access to all of the various records within TPD; only a request served on the City Clerk will ensure you receive all of the correct documents. If you need an officer's testimony in addition to records, send a subpoena to the officer as noted in Subsection A and send a separate subpoena duces tecum to the City Clerk.
  - You may include an "Attention to:" line to the TPD Records Custodian or for multiple department record custodians or just to "Records Custodian" if you are not sure which department maintains the records you seek. City Legal will review the subpoena and ensure that properly served subpoenas are sent to the proper department(s) to obtain the records listed in the subpoena. For example, some records that you seek in relation to an Officer may be maintained by the Human Resources Department or you may seek records from multiple departments, and City Legal will distribute the subpoena to all of the proper departments depending on what is included in the request.
3. The subpoena duces tecum must be either 1) personally served or 2) mailed certified, restricted delivery, return receipt requested to the City Clerk's Office at the above address to be considered validly served. *See 12 O.S. § 2004.1 (applicable to criminal subpoenas under 22 O.S. § 712)*.
  - City Legal cannot accept service of any subpoenas.
  - No one at the Tulsa Police/Municipal Courts building, including staff at the Records window and the Chief of Police, can accept service of subpoenas duces tecum.
4. Subpoenas duces tecum must be served on all opposing parties pursuant to statute and must allow time for opposing parties to object (*see 12 O.S. § 2004.1(B) > applicable to criminal subpoenas as stated in 22 O.S. § 712*).
5. Timing & Video Requests: Please serve subpoenas allowing for sufficient time for production of records based on the type of records and volume of records you are requesting.
  - Video: Requests for video (e.g., body-worn and dash camera footage) should be made as early as possible as it may take several weeks<sup>iv</sup> to produce all video you need for your case.
    - The time lag is due to a combination of factors including the way the video system works (which requires downloading of the video then conversion into a non-proprietary MP4 format that is easily viewed by most players), the limited number of individuals who work in the video system unit, and an increase in the workload in providing video due to the *McGirt v. Oklahoma* ruling (which requires TPD to produce all videos related to major crimes to the US Attorney's Office within 48 hours as opposed to providing them at trial discovery as is common in the State system thus resulting in production of all video even in cases that reach a plea prior to trial setting).
  - Failure to provide sufficient time for production will result in a motion to

quashbeing filed.

6. Records involving juveniles: cannot be produced via subpoena duces tecum due to the Oklahoma Children's Code. You must obtain a court order per that code (*see 10A O.S. § 1-6-102 and 103*) unless you meet one of the exceptions listed in those statutes.
  - If you do meet an exception, please state the exception in your subpoena or in a separate letter included therewith. Please include some type of proof that you hold the position that falls within the exception.
  - Records involving juveniles are typically redacted so if you need unredacted records, make sure the court order states that the records shall be provided unredacted.
7. Criminal cases where records are part of the standard discovery for the subject case: cannot be obtained via subpoena and should be sought from the applicable Prosecutor's Office. Such subpoenas will result in a Motion to Quash being filed (*See, City of Norman v. Honorable Scott Brockman, PR-2018-1282 (03/11/2019)*).
8. If the records sought are not part of the standard discovery for the subject criminal case, in State Court, they may be sought at the District Court Level through either 1) subpoena duces tecum or 2) through agreement with the District Attorney's Office.
  - Note that requesting the records via subpoena rather than through a Prosecutor's Office will not prevent the Prosecutor's Office from knowing about the request or receiving a copy. A subpoena duces tecum must be served on the Prosecutor's Office as noted above, and a copy of any records provided to the defense will be provided to the Prosecutor's Office automatically.
  - In State Court, records sought via subpoena at any level prior to District Court arraignment will result in a motion to quash being filed (*see 22 O.S. § 2001-2002 giving the prosecution the right and obligation to turn over records prior to DCA*).
  - Records sought related to employment which are outside of the normal course of discovery, including *Brady-Giglio* materials sought in a criminal case via subpoena duces tecum rather than through the Prosecutor's Office, must be obtained through a Motion for Discovery to the Prosecutor's Office and Court Order. The City will release such documents only with a Court Order and Protective Order in place.
  - Records released via subpoena will be redacted as required by law.
  - Records released via subpoena will be subject to a production fee.

#### **D. OPEN RECORDS ACT ("ORA") REQUESTS FOR LAW ENFORCEMENT RECORDS**

1. Go to the following website to find the ORA request form, directions, and additional information for Tulsa Police Department: <https://www.tulsapolice.org/records.html>.
  - Not all law enforcement records are released under the ORA, and those police records not listed in the ORA Law Enforcement Section are not subject to release (*see 51 O.S. §24A.8 for a list of police records that must be released*).
    - Police reports (TRACIS reports) are not subject to release under the ORA.
  - Arrest and Booking sheets may be released by TPD; however, the official signed and notarized Arrest and Booking Sheet is typically found in the court case, and TPD's copy of the record may not have the signature and notarization.
  - Records released under the ORA will be redacted.
  - Records released under the ORA will be subject to a production fee.

- For non-Law Enforcement Records from other City departments, go to this site for further information:  
<https://www.cityoftulsa.org/government/departments/finance/public-records/>.

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<sup>i</sup> In order to obtain information about subpoenas for testimony and documents from non-police City departments or entities, please contact City Legal at 918-596-7717. For Open Records Act requests to other City departments or entities, please check the following website for more information: <https://www.cityoftulsa.org/government/departments/finance/public-records/>.

<sup>ii</sup> If you are seeking testimony from a Tulsa Police employee about non-work-related matters (e.g., seeking testimony from a police officer regarding her observations of whether or not her brother exercised visitation as part of a child-custody proceeding), the Tulsa Police Chief cannot accept service in that situation because the officer is being sought in their personal capacity.

<sup>iii</sup> If the case is against the City of Tulsa or its employee(s), send your request for deposition to the City Legal attorney who is handling the case or call 918-596-7717 or e-mail [legal@cityoftulsa.org](mailto:legal@cityoftulsa.org) if you are not sure who is handling the case.

<sup>iv</sup> The time lag may increase or decrease depending on the number of court cases and so forth. The time lag for video has ranged anywhere from two to five weeks depending on the number of requests and staffing levels.