



SPECIAL ORDER

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SUBJECT
COURT APPEARANCES POLICY

REVISIONS	RESCINDS	EXPIRATION DATE	DISTRIBUTION
Revisions are italicized	Department Manual Directive 202.5, COURT APPEARANCES	12/16/2023	A

Policy

It is the policy of the Detroit Police Department to ensure that subpoenas received by this Department are properly served and that members are appearing in court as directed. It is the duty of all members to appear in court and testify when a subpoena is issued.

Priority of Court Work

A member's court work shall be given the highest priority.

Court Appearance Book

1. Where the need exists, all commands shall maintain a Court Appearance Book with a sufficient number of log pages.
2. Supervisors shall use the Court Appearance Book and/or electronic subpoena at roll call to remind members of scheduled appearances. Supervisors should attempt to contact members on sick leave or furlough of upcoming court appearances. Supervisors shall also use the Court Appearance Book to notify members of cancelled court dates.

Court Notices

Subpoena

A subpoena is a court order directing a member (or a citizen) to be present at the time and place stated. Once a member is served with a subpoena, they are obligated to appear. Failure to appear may result in a member being held in contempt of court by a judge, and may result in dismissal of the criminal charges. Members held in contempt of court by a judge may face civil and/or criminal penalties as well as Departmental discipline.

Court Appearance Notice

1. The general forms of Court Appearance Notices issued to Department members are titled, Appearance Notice (DPD422) and 3rd Circuit Court Criminal Division Subpoena. These and other forms of notices are to be recognized as official Department orders to appear as directed.
2. When an officer in charge of a case issues an Appearance Notice (DPD422) for a member, the time on the notice shall indicate the time court begins (e.g. 9:00 a.m. or 2:00 p.m.) except in those rare instances where a prosecutor requires an earlier appearance. It is the member's responsibility to be in the courtroom ready to testify promptly at the time indicated on the Appearance Notice.
3. If the subpoenaed member has been re-assigned, the officer in charge of the case

- shall forward the entire subpoena package to the member's current command.
4. In cases where a member cannot be served an Appearance Notice, it is the responsibility of the member's commanding officer to notify the officer in charge of the case and return the Appearance Notice with the proper notations, no later than 48 hours prior to the court date, if feasible.
 5. In cases where a 3rd Circuit Court Subpoena cannot be served to a member, the member's commanding officer shall note the reason *properly in accordance with Department practices and procedures* and shall return the entire subpoena package to *the 3rd Circuit Court*. If the subpoena has not been served because the member is no longer with the Department, the member's last known address and any other pertinent information shall be noted *properly in accordance with Department practices and procedures*.

Notice other than Appearance Notice or 3rd Circuit Subpoena Received

In those instances when the subpoena or notice received is not an Appearance Notice or 3rd Circuit Court Subpoena, a supervisor at the member's command shall prepare an Appearance Notice and deliver it to the member along with the subpoena or other notice.

Summons to Jury Duty

When sworn or non-sworn members of the Department are summoned for jury duty, they shall promptly return the summons with a notation indicating employment by the Department. Upon receipt of an actual date the member must appear for jury duty, the member shall promptly notify their commanding officer. If the date for jury duty service falls on a day when the member is scheduled to work other than platoon two, the Department will, upon request of the member, assign the member to platoon two on that date. If the date for jury service falls on a member's scheduled leave day, the member may, according to procedural and contractual provisions for changing a leave day by mutual consent, request a change of leave day. Nothing prohibits members from fulfilling their jury duty responsibilities on a scheduled leave day, furlough day, on their off-duty time, etc.

Verbal Notification

1. If advance written notice cannot be given, the officer in charge of the case or the officer in charge of the Warrant Detail of the 36th District Court, Traffic and Ordinance Division, shall make verbal notification to a supervisor at the member's command.
2. The supervisor shall then be responsible for immediate notification of the member and for making the proper entry in the Court Appearance Book. After receiving verbal notification of a court appearance, an Appearance Notice shall be prepared by a supervisor at the member's command or the place of appearance, whichever is more convenient. The Appearance Notice shall be given to the member, who shall use it to record the time in and out of court.

Notification of Witnesses – Adjournment Prior to Court Date

When the officer in charge of the court case receives appropriate notification of an adjournment prior to the date set for court, it shall be the responsibility of the officer in charge of the case to notify all witnesses of the adjournment.

Notification of Concerned Officer's Supervisor – Adjournment Prior to Court Date

In those instances where the witness is a Department member, the officer in charge of the case shall notify the appropriate supervisor at the concerned member's command. The supervisor receiving a call from the officer in charge of the case regarding the adjournment of a case shall then make a notation in the Court Appearance Book and shall notify the concerned member.

Liquor License Subpoenas

1. The Michigan Liquor Control Commission (M.L.C.C.) prepares all Notification of Liquor Hearings and forwards them to *the Licensing Unit* or Vice along with the necessary subpoenas.
2. *The Licensing Unit* shall prepare an Inter-Office Memorandum (DPD568) in triplicate regarding the liquor hearing. Two (2) copies of the memorandum are forwarded to the commanding officer of the command in which the violation occurred, along with the necessary subpoenas, if any. *The Licensing Unit* retains the third copy of the memorandum.

Serving Liquor License Subpoenas

Subpoenas shall be delivered to the precinct commanding officer, who shall ensure that the subpoenas are served on members and citizens. Proper returns of service shall be made on one (1) copy of the Inter-Office Memorandum, which shall be returned to *the Licensing Unit*. The copies of served subpoenas shall be *retained properly in accordance with Department practices and procedures*. If it is not possible to serve a subpoena, *the Licensing Unit* shall be notified within seven (7) days of the scheduled M.L.C.C. hearing.

Probate Court Subpoenas

Subpoenas ordering appearance before the Probate Court, Juvenile Division, or Mental Division, shall be *retained properly in accordance with Department practices and procedures*. If it is not possible to serve a subpoena, the *Licensing Unit* shall be notified within seven (7) days of the scheduled M.L.C.C. hearing.

Implied Consent Hearings

The Secretary of State shall prepare subpoenas for implied consent hearings and will direct them to the named member through the member's commanding officer.

Parole and Review Board Hearings

1. The Michigan Parole and Review Board shall prepare subpoenas for their hearings and will direct them to the named member through the member's commanding officer.
2. The subpoena will be entered in the Court Appearance Book. An Appearance Notice will then be prepared and delivered with the subpoena to the member. Upon receipt, the member will fill out a form included with the subpoena indicating receipt of the subpoena. The member will then return the form to the Parole and Review Board in the provided stamped, self-addressed envelope.
3. If a member receives notification directly from the Michigan Department of Corrections, the member must immediately present a copy of the notification to

their supervisor. Failure to do so will result in the member receiving no compensation for any off-duty court appearances related to the hearing, but would be allowed to retain any fee paid by the state agency.

4. The Detroit Police Department has the right to change the shift of a member so that their appearance at a parole board hearing occurs while the member is on duty. If, following due notification, the Department does not change the member's shift, the member shall be credited for an off-duty court appearance when the member attends a parole board hearing while off duty.

Citizen Subpoenas

Subpoenas directed to citizen witnesses shall be either mailed by the court or served by members as directed when the subpoenas concern cases handled by this Department.

Appearing in Court

Appearances Scheduled in Different Courts

If a member is scheduled to appear in different courtrooms in 36th District Court, 3rd Circuit Court Criminal Division, or in Federal Court at the same time, the member shall notify the Court before the scheduled session and abide by their advice.

Unable to Appear

When a member is unable to attend court because of sickness or for any other valid reason, the member shall notify their command's watch commander. The watch commander shall notify the court immediately. This notification shall be made by phone. Replying to the Detroit Police Department's subpoena e-mail does not constitute notification.

Appearing in Uniform

1. When appearing in court to testify, sign warrants, or for other official duties, members shall wear the prescribed police uniform, unless exempted by proper authority.
2. Members shall not wear the police uniform when appearing on a personal matter in any court of criminal or civil jurisdiction as a defendant, plaintiff, or witness.

Appearing in Non-Sworn Clothing

A member that is exempted by proper authority from wearing a uniform, or is otherwise prohibited from wearing a uniform, (e.g. restricted duty) shall wear appropriate business attire and present a neat and well-groomed appearance when appearing in court.

Supervisor Verifying Court Appearance Notice

A supervisor is assigned to the sign-in room at 36th District Court. The supervisor's primary duty is to administer and control the court appearance record for 36th District Court and 3rd Circuit Court. This includes checking members in and out of court by using an electric time clock, verifying the need for appearance, and issuing appearance notices to members following appropriate verbal notification.

Reporting to Sign-In Room

1. Members appearing at 36th District Court or 3rd Circuit Court shall first report to the sign-in room at 36th District Court and present their Appearance Notice. After

verifying the need for the member's appearance, the supervisor will time stamp and sign the Appearance Notice. When a member appears late for a scheduled court appearance, the appearance notice shall be stamped "LATE." If the member appears in plain clothes for the scheduled court appearance, the Appearance Notice will be stamped "PLAIN CLOTHES." After getting their Appearance Notice stamped, the member shall sign in on the Court Sign-In Sheet. The member shall promptly report to the specified courtroom and report to the officer in charge of the case or the assistant prosecuting attorney.

2. Upon completion of the appearance, members shall return to the sign-in room immediately and have their Appearance Notice stamped and signed out by the appropriate supervisor, and shall sign out on the Court Sign-In Sheet (DPD74). If the appearance is completed after regular court hours (4:00 p.m.), members shall go to the 36th District Court's security supervisor to have their Appearance Notice signed out.

Failure to Appear in 3rd Circuit Court Criminal Division

Whenever a member fails to appear as scheduled in 3rd Circuit Court Criminal Division, the Prosecutor's Office will forward a memorandum to the assistant chief of the Office of Neighborhood Policing, who will forward the memorandum to the member's deputy chief. The appropriate deputy chief will assign the member's commanding officer to conduct an investigation. Upon completion of the investigation, a report shall be prepared on an Inter- Office Memorandum (DPD568) detailing the reason for the absence and any action taken. The completed report will be forwarded through official channels to the assistant chief of the Office of Neighborhood Policing.

Failure to Appear in 36th District Court

Whenever a member fails to appear as scheduled in 36th District Court, Traffic and Ordinance Division, the Court will forward two (2) copies of a report on "Case Dismissed, No Officer" to the member's commanding officer. The commanding officer shall initiate an investigation to determine the reason for the member's failure to appear as scheduled. Upon completion of the investigation, the commanding officer shall indicate on the report the reason for the member's failure to appear as scheduled and the extent of corrective or disciplinary action taken, if applicable. One (1) copy shall be placed in the member's command personnel file. A copy of the report will be forwarded through official channels to the member's deputy chief, who shall review the report for appropriateness of action.

Location Not Equipped with a Time Clock

When a member is directed to appear at a location which does not have a time clock (e.g. License Appeal Board, Probate Court, Michigan Liquor Control Commission, etc.), the member shall have the Appearance Notice signed and the time entered by a ranking member, if one is present. If no ranking member is present, the member shall make the time entry.

Disabled Sworn Members

1. Members carried disabled must attend court when subpoenaed, if possible. If the member cannot attend court, the entire subpoena package shall be returned to *the* 3rd Circuit Court. An indication shall be *noted properly in accordance with*

Department practices and procedures that the member is disabled and unable to attend court.

2. If there is doubt as to whether or not a member is able to attend court, Police Medical shall be contacted by the member's commanding officer for a determination.
3. Members carried disabled are already being paid while off duty, therefore will not receive court time for their appearance in court.

Suspended Member Court Procedures

A member suspended with pay shall appear in court pursuant to the policies and procedures in this directive, including honoring an Appearance Notice. Failure to do so may subject the member to further disciplinary action. A member suspended without pay is required to appear in court, as is any other citizen, when properly subpoenaed by the court, but is not required to honor an Appearance Notice.

When a supervisor receives notice that a member is being suspended without pay, the supervisor shall check the Appearance Book to determine if the member has a pending court date during the period of the no-pay suspension. If this situation exists, the supervisor shall notify the officer in charge of the case that the member is under suspension. When a supervisor receives an Appearance Notice or a 3rd Circuit Court Criminal Division Subpoena that requires a member suspended without pay to appear in court during a period of suspension, the supervisor shall inform the officer in charge of the case that the member is under suspension.

If a suspended member's appearance is necessary, the officer in charge of the case shall ensure that the proper subpoena is secured and served to the member within a reasonable amount of time of the member's appearance. A member suspended without pay, who is subpoenaed to appear in court, shall not be reinstated onto the payroll nor shall the member be given credit for an off-duty court appearance. In complying with the court's subpoena, a member suspended without pay is entitled to the statutory witness fee.

Return of the Court Appearance Notices

Upon completion of the Appearance Notice, the member shall deliver a copy of their Appearance Notice to their watch commander or, if applicable, a supervisor at their command on their next regular tour of duty. If a member is on furlough or other extended leave, they shall promptly deliver the Appearance Notice to their command through Department mail or in person.

Witness Fees

1. Members who receive witness fees shall notify their commanding officers in writing.
2. All fees received shall be turned over to the Office of Departmental Financial Services, which shall keep them in a special account for the use and benefit of the Department. Commanding officers may permit members to retain witness fees when attendance in court is during off-duty hours.
3. The retention of a witness fee while the member is on duty or when compensatory time for court appearance is granted could cause the member to

be in violation of the Michigan State Statute governing embezzlement by a public official, thereby subjecting them to Department disciplinary action as well as legal action.

Civil and Legal Processes

Accepting Summonses, Complaints, and Subpoenas

Each member named in a lawsuit may be notified by personal service, certified or registered mail of summonses, complaints, and other civil processes. No members shall accept service of any summons, complaints, subpoena, etc. on behalf of another member. When a process server, bailiff, or other officer of the court having jurisdiction in civil matters presents a subpoena for service, they shall be directed to the member's command.

Notifying City Law

Whenever a member receives a subpoena in connection with a civil suit against the City or a City employee, the member shall immediately inform City Law.

Appearance at City Law

Members who are sued as a result of the performance of their assigned Department duties shall immediately appear in person at City Law. There, the member will sign the Recommendation for Legal Representation Form (DPD645) and turn over all summonses, complaints, subpoenas, and other papers regarding any lawsuits against themselves and the City of Detroit. The members may be required to prepare a description of the incident in question.

Investigation of Incident

1. City Law will designate a command to investigate the incident. The designated command will receive a memo from City Law with information regarding Department members named in the suit, the date of the incident, the plaintiff's name, and complaint.
2. The investigating command will be required to prepare a Recommendation for Legal Representation Form (DPD645).

Recommendations

1. The Chief of Police shall forward recommendations to City Law, and a copy of the report containing the recommendation of the Chief of Police shall be forwarded to the executive director of the Board of Police Commissioners.
2. City Law shall forward its report and recommendation together with that of the Chief of Police to the Law Department.

Cooperation with Legal Counsel

1. Members will be provided outside legal counsel subject to the provisions of collective bargaining agreements. If outside legal counsel is retained by the city to represent the city or city employees in a civil action, all Department members shall cooperate fully with them.
2. Members are advised to take advantage of this opportunity for legal counsel whenever necessary. Members who fail to follow this procedure may have to seek their own counsel and personally pay for any resulting damages.

Preparation

Effective courtroom performance is founded upon experience and diligent preparation. Before taking the stand, a member should be thoroughly familiar with all reports that they have prepared, and all statements or depositions the member made.

Discussing Case

It is common procedure for the trial court to exclude all witnesses from the courtroom while others are testifying. This is to ensure that the testimony of one witness does not influence the testimony of another. The case should not be discussed with anyone other than the prosecutor, in or about the court building, as persons within hearing distance may be connected in some way with the case. Prior to the court coming to order, members should locate the defendant in the courtroom for subsequent identification to the court.

Courtroom Demeanor

Members shall adhere to the following guidelines when testifying:

- a. Always tell the truth;
- b. Members shall maintain an objective attitude toward the defendant while testifying. Members shall speak in a clear, conversational tone of voice. If, for any reason, the question is not understood, the member should ask the examining attorney to repeat the question;
- c. Members shall try to avoid the use of police jargon (e.g. CCW, RA, etc.) while testifying;
- d. Only factual information may be stated. Members shall not state opinions nor guess at answers when testifying. If the answer is not known, members shall so state to the examining attorney;
- e. Members shall not interrupt or argue with the defense attorney. Members shall rely upon the assistant prosecuting attorney and judge to object and rule upon court procedure. If one of the attorneys makes an objection while a member is testifying, the member shall cease speaking immediately; and
- f. If the assistant prosecuting attorney has not brought out testimonial information, which the member considers important to the case, the member shall wait until excused from the stand, then pass a written message to the assistant prosecuting attorney.

Completion of Testifying

When a member finishes their testimony and is excused from the witness stand, they should leave the courtroom as soon as possible after having their Appearance Notice signed, unless instructed otherwise by the officer in charge of the case.

Updates to the Department Manual are forthcoming.

JAMES E. WHITE
Chief of Police