



Approved:
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Subject:

604. Subpoenas and Court Appearances

Effective:
September 11, 2018

Effective:
December 14, 2020

CALEA Standards: 74.1.1, 74.1.2, 74.2.1

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604.1: PURPOSE AND SCOPE

This policy establishes the guidelines for department members who must appear in court. It will allow the Albany Police Department to cover any related work absences and keep the Department informed about relevant legal matters.

604.2: POLICY

It is the policy of the Albany Police Department that members will respond appropriately to all subpoenas and any other court-ordered appearances.

604.3: SUBPOENAS

- a. Only department members authorized to receive a criminal or civil subpoena on behalf of this department or any of its members may do so.
- b. A subpoena may be served upon a member by one of the following ([ORS 136.595](#); [ORCP 55](#)):
 - 1) Personal service;
 - 2) Accepted by an authorized member on behalf of a currently employed officer who is within the state at the time of service and is delivered at least 10 days prior to the hearing date specified on the subpoena.
 - A. Attendance at trial is related to the officer's work performed in the course of employment as a peace officer.
 - B. The subpoena clerk shall make a good faith effort to notify the subpoenaed officer of the date, time and location of the court appearance. If the officer cannot be notified, the subpoena clerk will promptly notify the court of the inability to contact the officer.
 - 3) By mail (civil subpoena only), if the service conditions of [ORCP 55\(D\)\(3\)](#) are met.
- c. A civil subpoena being served upon a member as an expert witness may be personally served upon

the member or member's immediate supervisor ([ORS 44.552](#)). Records clerks may accept the subpoena and forward it immediately to the member or the member's immediate supervisor.

- d. Subpoenas shall not be accepted unless accompanied by the appropriate witness fees as allowed by law ([ORS 44.415](#); [ORS 44.554](#); [ORCP 55 \(D\)\(1\)](#)).

604.3.1: SPECIAL NOTIFICATION REQUIREMENTS

- a. Any member who is subpoenaed to testify, agrees to testify or provides information on behalf of or at the request of any party other than the City Attorney or the prosecutor shall notify his/her immediate supervisor without delay regarding:
- 1) Any civil case where the City or one of its members, as a result of his/her official capacity, is a party.
 - 2) Any civil case where any other city, county, state or federal unit of government or a member of any such unit of government, as a result of his/her official capacity, is a party.
 - 3) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.
 - 4) Any civil action stemming from the member's on-duty activity or because of his/her association with the Albany Police Department.
 - 5) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Albany Police Department.
- b. The supervisor will then notify the Chief of Police and the appropriate prosecuting attorney as may be indicated by the case. The Chief of Police should determine if additional legal support is necessary.
- c. No member shall be retaliated against for testifying in any matter.

604.3.2: CIVIL SUBPOENA

- a. The Department will compensate members who appear in their official capacities on civil matters arising out of their official duties, as directed by the current [collective bargaining agreement](#).
- b. The Department should seek reimbursement for the member's compensation through the civil attorney of record who subpoenaed the member.

604.3.3: OFF-DUTY SUBPOENAS

- a. Members receiving valid subpoenas for off-duty actions not related to their employment or appointment will not be compensated for their appearance.
- b. Arrangements for time off shall be coordinated through the employee's immediate supervisor.

604.3.4: SERVICE OF SUBPOENAS

- a. Community Service Officers who have subpoenas to be served will complete an [Attempted Subpoena/Citation Service: Form A98](#) that is attached to each subpoena by Records personnel. The form will be completed after each separate attempt and shall include:
- 1) Name and address of attempted service;
 - 2) Date and time;
 - 3) Name of Officer;
 - 4) Reason for non-service (e.g., not at home).
- b. Unserved subpoenas will be returned to Municipal Court/City Attorney by Records personnel with the record of attempted subpoena attached.

604.4: FAILURE TO APPEAR

Any member who fails to comply with the terms of any properly served subpoena or court-ordered appearance, including properly served orders to appear that were issued by a state administrative agency, may be subject to discipline.

604.5: STANDBY

- a. To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the Department.
- b. If a member on standby changes his/her location during the day, the member shall notify the designated department member of how he/she can be reached.
- c. Members are required to remain on standby until released by the court or the party that issued the subpoena.

604.6: COURTROOM PROTOCOL

When appearing in court, members shall:

- a. Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.
- b. Dress in class 'A' or class 'B' uniform, business attire or as directed by the prosecuting attorney.
 - 1) Business attire for male employees consists of a button style shirt with collar, tie, slacks or suit which are moderate in style.

- 2) Business attire for female employees consists of dresses, slacks, skirts, blouses, or suits which are moderate in style.
 - 3) Shorts are prohibited when appearing in court.
- c. Observe all rules of the court in which they are appearing and remain alert to changes in the assigned courtroom where their matter is to be heard.

604.6.1: TESTIMONY

Before the date of testifying, the subpoenaed member shall request a copy of relevant reports and become familiar with the content in order to be prepared for court.

604.7: OVERTIME APPEARANCES

When a member appears in court on his/her off-duty time, he/she will be compensated in accordance with the current collective bargaining agreement.