




Clayton County Police Department

PROCEDURES

Subject COURT – ATTENDANCE, CONFLICTS, DEMEANOR & PREPARATION		Procedure # C13
Authorizing Signature 	Effective 10-03-2024	<input type="checkbox"/> New <input checked="" type="checkbox"/> Amended <input type="checkbox"/> Rescinds
		Total Pages 6

I. PURPOSE

To provide procedures regarding court attendance, conflicts, demeanor and preparation for all departmental personnel when pre-arranged, scheduled, subpoenaed or otherwise ordered to appear in court.

II. POLICY

It is the policy of the Clayton County Police Department (CCPD) that all personnel will honor and fulfill all court obligations for cases, criminal and/or civil, which were investigated and/or brought forth by this Department, or are related or connected to departmental investigations or official business. Such court obligations include, but are not limited to, court proceedings on dates and times that are pre-arranged, scheduled in advance or required by subpoena or order. Employees will arrive on time for all court appearances, be prepared to testify and act in a professional manner while in any courtroom.

III. DEFINITIONS

Failure to Appear: When an employee fails to attend court when pre-arranged, scheduled, subpoenaed or otherwise ordered to do so; or when an employee is tardy for a court appearance, that was pre-arranged, scheduled, subpoenaed or ordered, to the extent that the affected case was dismissed, dropped or nolle prossed due to the absence of the employee as a witness.

Tardy (for Court): When an employee does not arrive in court before or by the pre-arranged, scheduled, subpoenaed or ordered court date and time of the case in question, but the case was not dismissed, dropped or nolle prossed due to the absence of the employee as a witness.

IV. PROCEDURES

A. Responsibilities

1. Supervisors will ensure that employees under their command receive subpoenas promptly.
2. Each employee is responsible for determining if they are scheduled for court by monitoring subpoenas they received, date(s) and time(s) they chose to appear, or responding to other notifications to attend made by the appropriate court official(s).

3. All personnel are responsible for the following: submitting complete and accurate documentation to the courts, the preservation of evidence and the proper presentation of facts in judicial proceedings.

B. Receiving Subpoenas

1. Supervisors are responsible for maintaining a log of all subpoenas received and processed for each employee within their command/supervision. For each subpoena processed, the date the subpoena was entered in the log, along with the corresponding court case number, shall be noted in the log.
2. All employees are required to obtain subpoenas in a timely manner from their shift and/or unit, upon being notified. For each subpoena received, employees shall sign and date the designated subpoena log to acknowledge receipt.

C. Honoring Subpoenas

1. Subpoenas from the Office of the Solicitor General or State Court
 - a. For State Court Jury Trials only, employees are automatically placed on call, upon receiving the subpoena. It is the subpoenaed employee's responsibility to contact the Office of the Solicitor General, immediately upon receipt of a subpoena, to ensure the subpoenaed employee's contact information is up to date for on-call purposes.
 - b. For all other State Court appearances, employees must appear in court on the date and time for which they are/were subpoenaed. Other State Court appearances include pre-trial motions, bench trials, traffic court, etc.
2. Subpoenas from the District Attorney's Office or Superior Court
 - a. For Superior Court Trials only, a subpoenaed employee may be placed on call, if the employee:
 - 1) Contacts the District Attorney's Office immediately upon receipt of a subpoena to ensure their contact information is up to date, and to request being placed on call for the trial; and
 - 2) Is capable of responding to and/or arriving at the Superior Court within a maximum of two (2) hours, upon being called in.
 - b. For all other Superior Court appearances, employees must appear in court on the date and time for which they are/were subpoenaed. Other Superior Court appearances include pre-trial motions, Grand Jury, etc.
3. Subpoenas for/from the District Attorney's Office for Grand Jury
 - a. Employees are required to attend Grand Jury hearings on the date and time for which they are/were subpoenaed.
 - b. Employees will receive a courtesy e-mail from the District Attorney's Office, reminding them of their court time.
4. Subpoenas for/from Magistrate Court
 - a. Employees are required to attend preliminary hearings on the date and time for which they are/were subpoenaed.
 - b. Employees will receive a courtesy e-mail from the District Attorney's Office, reminding them of their Preliminary Hearing court date and time.

- c. Officers are required to attend preliminary hearings on the date and time for which they personally chose to appear, and personally indicated on the *Warrantless Arrest Affidavit (WAA)*, unless the defendant makes bond or formally waives the hearing, or a Magistrate Judge has dismissed the charge(s) due to a lack of probable cause.

Hearing information may be obtained directly from the Clayton County Sheriff's Office (CCSO) at 770-477-4413 or the Magistrate Court of Clayton County at 770-477-3444. It is the responsibility of the concerned officer to verify accurate information.

- d. If an individual requires assistance prosecuting their case, it may be arranged through the District Attorney's Office at 770-477-3450 or the Office of the Solicitor General at 770-477-3380.
- e. Employees will not get any other type of notification from the District Attorney's Office or the Office of the Solicitor General regarding a courtesy reminder in reference to a subpoena (e.g. text message or call), except for an e-mail.

5. Subpoenas from the Defense

- a. Whenever an employee is subpoenaed by the defense in a criminal case, or for a civil matter, they will promptly notify their concerned Division Commander via the chain of command.
- b. Whenever an employee is subpoenaed by the defense in a criminal case brought forth by or related to a departmental criminal investigation, they will notify their immediate supervisor and the prosecutor or investigator assigned to the case.

D. Court Attendance

1. Employees must appear in court on all set cases and in cases where a subpoena has been issued, except as provided throughout this policy. If court appearances are in conflict, it is the employee's responsibility to contact the proper court officials to resolve the conflict.
2. Employees will be punctual in reporting to court on the date and time listed on the subpoena, or as directed by the court, or prosecutor's office.

There will be a Sign in Sheet for employees at the prosecution table. Employees must check in with the appropriate court official, upon arrival to court.

3. Employee's will ensure that court officials are notified by the fastest means available if their arrival in court is delayed due to an unforeseen emergency.
4. Employees must remain in court until they are excused by the court.
5. On-duty employees must promptly return to their assignment once excused by the court.

E. Court Compensation

Refer to CCPD SOP: *C2: Attendance, Leave & Overtime*.

F. Court Conflict

It is acknowledged that employees may have planned leave approved by a supervisor in advance of any pre-arranged, scheduled, subpoenaed or ordered court appearance. Due to the potential for conflicting dates and times, employees are required to immediately complete and submit a *Court Leave Conflict Notification Form* once they are approved to utilize planned leave of any kind.

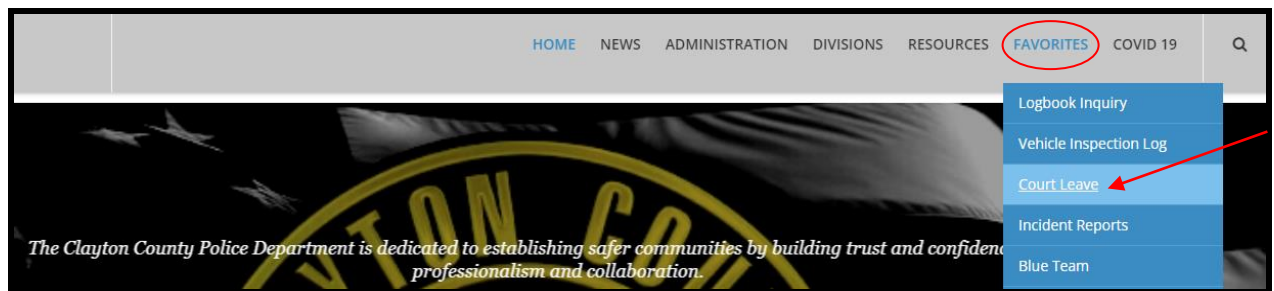
1. All employees, regardless of duty assignment or rank, sworn or non-sworn, will **only** utilize the currently-authorized Clayton County Court Leave Conflict Notification System web

application to properly file their *Court Leave Conflict Notification Form*. No other method (e.g., facsimile, e-mail, text message, hand delivery) is accepted by the courts or approved by this Department. All personnel will adhere to this procedure to ensure accountability.

The Clayton County Court Leave Conflict Notification web application is available for use through *the Buzz* Clayton County Employee Portal (<https://buzz.claytoncountyga.gov/>).

Any technical issues or difficulties must be addressed through the Clayton County Department of Information Technology (DoIT).

The Clayton County Court Leave Conflict Notification web application can also be accessed from the CCPD's intranet site (shown below) or by clicking on the following link: (<https://clcn.claytoncountyga.gov/>).



2. In order to submit a *Court Leave Conflict Notification Form* properly, it must be completed to its entirety, including specifying the reason for the conflict, and submitted according to the requirements of this policy.
3. The *Court Leave Conflict Notification Form* **must** be properly submitted electronically no later than fourteen (14) total days before the pre-arranged, scheduled, subpoenaed or ordered court appearance for it to be accepted and honored by the Court(s).

Any *Court Leave Conflict Notification Form* submitted less than fourteen (14) total days prior to a court appearance may not be granted. If an employee attempts to submit notification less than fourteen (14) total days prior to the court appearance, they are required to first contact the concerned prosecutor's office to obtain its approval, and second, contact the concerned court office to obtain its approval.

4. After properly submitting a *Court Leave Conflict Notification Form*, an employee may still receive a subpoena or order to attend court on a date and time that conflicts with their conflict notification. If such circumstances occur, the employee will notify their immediate supervisor and contact the subpoenaing authority or concerned court(s) to inform them of the previously-submitted *Court Leave Conflict Notification Form*.

If an employee failed to submit or failed to properly submit a *Court Leave Conflict Notification Form*, they will adhere to the instructions and/or orders of the subpoenaing authority and/or concerned court(s).

5. In circumstances in which an employee has pre-arranged or scheduled a court proceeding by personal decision or selection (e.g., an officer selects a Magistrate Court hearing date and time when executing an arrest and utilizing a *Warrantless Arrest Affidavit*, etc.), or were already served with a subpoena or order to appear, they are prohibited from submitting a *Court Leave Conflict Notification Form* for the court date(s) and time(s) they personally decided or selected and they are expected to appear in court and/or adhere to the instructions and/or orders of the concerned prosecuting office and/or court(s).

G. Notification of Tardiness

It is acknowledged that employees may be late for court while in performance of official County business. In order to maintain efficient communication with County courts and/or prosecuting authorities during such circumstances, employees are required to contact the subpoenaing authority or concerned court(s) when they will be tardy for a court appearance that was pre-arranged, scheduled, subpoenaed or otherwise ordered. However, it is noted that each tardy incident and the circumstances will be treated on a case-by-case basis by the Court and/or prosecuting authority and notification of tardiness does not guarantee that the affected case will either proceed or be dismissed, dropped or nolle prossed.

1. Employees may contact the office of the concerned court and/or prosecutor's office via telephone or via a third party in person. Employees may also contact the assigned prosecuting attorney or investigator, or the subpoenaing authority. Refer to *Appendix A* of this procedure for the current list of *Clayton County Courts & Prosecutors Office Phone Numbers*. In addition, phone numbers and/or contact information for assigned prosecutors and/or their investigators are generally provided on all Clayton County-issued subpoenas.
2. Employees who are on duty and in the process of conducting official County business beyond their control, and are unable to attempt contact on their own may request that an officer assigned to a departmental Watch Office, or any other available employee contact the concerned court or prosecutor's office on their behalf.
3. Employees are responsible for researching and obtaining the contact information for any court, prosecuting office or subpoenaing authority not readily available.

H. Failure to Appear

Whenever it is alleged that an employee of this Department has failed to appear in court as pre-arranged, scheduled, subpoenaed or otherwise ordered to do so, an internal investigation will be conducted in accordance with CCPD SOP: *E1: Internal Affairs Investigations*. Each failure to appear incident and the circumstances will be treated on a case-by-case basis.

1. If the findings of the internal investigation determined that the employee did appear in court, or the reason for their absence is excused, the findings will be forwarded through the chain of command to the employee's Division Commander, and if the Division Commander concurs with the findings, the case will be closed using the proper disposition as listed and defined in CCPD SOP: *E1: Internal Affairs Investigations*.
2. If the findings of the internal investigation determined that the employee failed to appear in court and there is no reasonable excuse for their absence, corrective measures and/or disciplinary action shall be taken. Refer to CCPD SOP: *B11: Disciplinary Procedures* regarding corrective measures and disciplinary action, and also CCPD SOP: *B11: Appendix A, Discipline Guide*.
3. Investigative files from failure to appear allegations shall be maintained like all other internal affairs investigations as outlined in CCPD SOP: *E1: Internal Affairs Investigations*.

I. Courtroom Demeanor & Attire

1. When appearing in any court, all personnel represent the Department and County, and shall act and dress in a professional manner at all times, including while testifying, waiting to testify and/or acting as a spectator in a courtroom. Refer to CCPD SOP: *D2: Dress Code & Grooming Standards*, regarding court dress and attire requirements.

2. Disruptive behavior such as talking, laughing, shouting or creating other loud disturbances will not be tolerated.
3. Additionally, in cases where court proceedings are held in a virtual environment, employees shall select a private and professional setting free from distraction.

J. Court Preparation

1. All personnel appearing in any court, if pre-arranged, scheduled, subpoenaed or otherwise ordered to do so, shall report to court prepared to testify. Preparation includes, but is not limited to, obtaining a copy of the related *Incident Report(s)* and/or documentation, and reviewing such reports or documentation prior to reporting to the court.
2. All personnel appearing in court as a witness or spectator shall turn off or power off all communication devices prior to entering any courtroom.

K. Testimony

1. Employees must answer all questions in a truthful, professional and courteous manner.
2. Employees must be careful to avoid giving opinion as testimony, providing concise, fact-based answers.

V. COURT LIAISON

- A. A departmental Court Liaison can be designated by the Chief of Police to assist with communication between the Department and the courts, as well as ensure court attendance and appearances for all departmental personnel, when they are pre-arranged, scheduled, subpoenaed or otherwise ordered to appear in court.
- B. The Court Liaison will have the following duties and responsibilities:
 1. Should any departmental personnel be tardy or failure to appear (FTA), it is the responsibility of the Court Liaison to assist the Court with contacting those personnel.
 2. Attend Magistrate Court Preliminary Hearings to ensure that all departmental personnel are accounted for and/or present for court.
 3. Function as the departmental point of contact for all courts that contact the Department, regarding the court appearance of departmental personnel.
 4. Notate which departmental personnel are tardy or FTA, as well as the reason for their tardiness or FTA.
 5. Compile a list of tardy and FTA personnel, along with the reasons for being tardy or FTA, and email it to the Assistant Chief, Deputy Chief, concerned Division Commanders and the OPS Commander.
 6. Check database of court conflicts and if discrepancies occur they shall be cross referenced with submitted correspondence.

VI. CANCELLATION

This policy amends and supersedes the following standard operating procedure(s): *C13: Court Attendance, Conflict, Demeanor & Prep*, dated November 27, 2019.