

DAYTON POLICE DEPARTMENT
GENERAL ORDER
COURT ATTENDANCE POLICY

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Attending court and responding to subpoenas and court order-ins are serious issues. The work of officers, detectives, and prosecutors comes to fruition in court. Cases are often summarily dismissed because an officer fails to appear. The Department does not only require attendance, but the law mandates it. This policy advises officers of the proper procedures for attending the various courts and conferences they will be subpoenaed and ordered in to.

I. GENERAL INFORMATION**A. DEFINITIONS**

1. Subpoena - A subpoena is a written order from the court that was **personally served** or sent via **certified mail** commanding a person to appear at a court, or other location, under penalty of law.
2. Court order-in - A court order-in is a written order for an employee to appear at a court, or other location that is distributed by Court Detail to the employee via email for their service. Notifications served solely by Court Detail and not served as listed under Subpoena, even if they use the term subpoena, are considered a Court order-in.

B. SUBPOENA

1. All employees of the Dayton Police Department will obey any subpoena they receive unless excused from the appearance by the court or office, which issued the subpoena. The Dayton Police Department cannot excuse personnel served a subpoena from attendance.
2. When employees receive subpoenas, which would require an appearance during their annual "Guaranteed" vacation (as defined in *Article 20, Section 5* of the contract between the *Fraternal Order of Police John C. Post Lodge #44 Officer's and Supervisor's Units and the City of Dayton*), they will immediately notify their supervisor and have them contact Court Detail by email with a copy of the subpoena attached.
 - a. Court Detail will then contact the court that issued the subpoena to notify them of employee's status.
 1. It will be up to the court that issued the subpoena to excuse the employee from appearing.
 2. The officer will re-contact Court Detail either by email or telephone to learn the court's response.
 3. If the court contacts the officer with a new subpoena or cancellation and the case is then rescheduled or the employee is excused, they will notify their supervisor and Court Detail by email of the court case status.
 - b. Personnel attending court under these circumstances will then be entitled to compensation as referenced in Section IV.B.
3. If an officer is subpoenaed by a private attorney or entity and receives a check for witness fees, the check will be endorsed and submitted to the Chief's office within five (5) calendar days of testifying. If the court case is cancelled prior to the officer's appearance, then the witness fee check is to be returned to the issuer.
4. Personnel served with a Subpoena will forward a copy of the Subpoena via email to Court Detail by the next business day, or in the case of a short time notice, at the time of appearance.

C. COURT ORDER-IN



1. All employees will obey any court order-in they receive unless excused from the appearance by Court Detail.
 - a. Personnel receiving a court order-in on a day they are scheduled for local area in-service training are required to attend the Court event. Supervisors may need to reschedule the training if the Court appearance causes too much of the training to be missed. Officers scheduled for out of area training or assignment may have their supervisor provide Court Detail with the details of the training or assignment. Court Detail will forward the information to the Prosecutor to determine if the employee can be excused, the event rescheduled, or a Subpoena issued.
 - b. Court order-ins received in Court Detail will be e-mailed to the individual's e-mail account, and their supervisor's and district / bureau secretary's email account. Personnel are considered served upon receipt of an e-mail from Court Detail notifying them of a court appearance. If the e-mail is returned, Court Detail will notify the work unit supervisors to issue the order-in.
 - c. In the event that e-mail is not functioning, court order-ins will be faxed from Court Detail. Supervisors will issue the faxed Court order-in to the named personnel. Personnel will sign the faxed order-in immediately upon receipt and return it to their supervisor or district / bureau secretary for return to Court Detail.
2. Officers are not to appear for the court order-in under the following circumstances:
 - a. When employees receive court order-ins, which would require an appearance during their annual "Guaranteed" vacation (as defined in *Article 20, Section 5* of the contract between the *Fraternal Order of Police John C. Post Lodge #44 Officer's and Supervisor's Units and the City of Dayton*), they will immediately notify their supervisor.
 - The supervisor will verify the dates of the "Guaranteed" vacation.
 - If verified, the supervisor will email Court Detail notifying them of the conflict by the next business day.
 - b. When an officer receives a court order-in which would require their appearance on an already approved Vacation Day, Compensatory Leave or Personal Leave that is not part of their contractually guaranteed vacation (as defined in the *Article 20, Section 5* of the contract between the *Fraternal Order of Police John C. Post Lodge #44 Officer's and Supervisor's Units and the City of Dayton*), they will immediately notify their supervisor.
 - The supervisor will verify the date(s) of the leave.
 - If verified, the supervisor will email Court Detail notifying them of the conflict by the next business day.
 - These procedures will allow Court Detail sufficient time to contact the issuing agency and advise them that the officer is unavailable.
3. If the Court becomes aware of an employee issued a Court order-in who cannot attend due to contractually guaranteed vacation or other approved absence, they may then have the employee served with a Subpoena to ensure attendance.
4. Personnel are not to attend Grand Jury or Pre-trial Conferences on their days-off unless notified by Court Detail that their attendance is required or they are already in court on a separate trial. When an officer receives a DAY OFF pre-trial conference or Grand Jury appearance notice they are to immediately advise the on-duty supervisor. That supervisor will e-mail or fax that information to Court Detail to reschedule the appearance
5. Personnel requesting leave of any type (Leave must be entered into KRONOS by their immediate supervisors when requested) will be required to personally advise the supervisor entering the leave request of the pending court case(s). Supervisors will enter leave into KRONOS as soon as possible to



- facilitate the Prosecutor's scheduling of Grand Jury and Pre-Trial appearances and minimize the need to reschedule.
6. Unless notified in writing or, in short time notice situations, coordinated thru Court Detail, do not attend pre-trial conferences in the City of Dayton Prosecutor's Office or Montgomery County Prosecutor's Office.

D. ITEMS COMMON TO BOTH SUBPOENA AND COURT ORDER-IN APPEARANCES

1. Court Detail will enter the "CRT" code into an officer's KRONOS schedule to indicate that the officer has a court related appearance scheduled. A comment and a note will be added to the CRT pay code entry for the court type and time. The CRT code is a place marker for court appearances and does not affect the officer's total hours.
2. Supervisors are required to enter their personnel's annual guaranteed vacation "VGA" into the KRONOS Scheduler by March 15th of each year. The VGA pay code works the same as the VAC pay code and also serves as a "place marker" to assist with Court scheduling.
3. If an officer learns that their court case has been re-scheduled and no new subpoena or order-in was issued for that change, then they must contact Court Detail and advise them of that change. The number for the Court Detail is 937-333-1284. If no one is available, the officer will leave the information on voicemail.
4. Subpoenas for trials frequently list a trial date as beginning on a specific date and time. Personnel attending court as a result of that subpoena on a date and/or time after the beginning date / time must have the prosecutor write in the date and time that they attended court and have the prosecutor initial it.
5. Additionally, known cancellation information for upcoming cases is provided on recorded lines after 1630 hours on the previous business day. Officers will be required to check the recorder numbers the day before an appearance so that sufficient time is allowed to know of any cancellations for the following court business day. The Court Detail recorded line for Municipal Court cases is 937-333-1153. The Montgomery County Common Pleas Court case recorded line is 937-225-5757. **No court appearance compensation will be paid if the cancellation was on the recorder prior to the court appearance except for day off court cancellation notice of less than 24 hours.** If Court Detail receives a same day notice of a cancellation, an attempt will be made to notify the affected personnel prior to the appearance time. If no contact is made, the unit secretary and/or on duty supervisor may be contacted to continue the notification attempt
6. Personnel receiving appearance notices from a source other than Court Detail are to contact Court Detail prior to attending that court. Occasionally, personnel will be notified of court appearances but are not actually required to attend unless the document is sent through Court Detail or they authorize attendance. If the officer is on-duty, they may attend but no overtime will be granted for attendance otherwise.

E. UNIFORM

Employees attending court in uniform must wear the complete uniform. See General Order 1.02-1, Appearance, Clothing and Equipment, for further information. In lieu of the police uniform, males may wear a conservative business suit with a tie and females may wear a conservative pantsuit or dress.

No personnel are permitted to be armed while on the second floor (Domestic Relations) of the Court Building, 301 W. Third Street. Armed officers visiting the second floor will be required to leave their firearms at the deputy's station located at the W. Third Street entrance. There are no exceptions.

F. KRONOS CLOCK-IN AND NECESSARY FORMS

All employees, off duty, must punch into KRONOS prior to, or at, the time listed on the subpoena or order-in. Failure to clock in prior to the listed time will be prima facie evidence that the employee was late for court. Employees attending court in other than the Dayton Municipal, Montgomery County Common Pleas, or Dayton located federal courts shall contact the Court Detail supervisor. The KRONOS punch requirement



may be waived by the Court Detail supervisor, but at a minimum the employee will ensure the prosecutor / bailiff of the court signs the employee's attendance forms.

All portions of the Court Attendance Record applicable to the case(s) will be completed.

1. The Investigations Division Commander may request that the Chief exempt certain undercover officers from the requirements listed in this section. The Investigations Division Commander is responsible for ensuring that all Court Attendance Forms are completed and for collecting any documents of persons exempted from this section and forwarding them to Court Detail.
2. Immediately after the scheduled appearance, complete the Court Attendance Record form, submit a copy of the subpoena or order-in and punch out of KRONOS.
3. Officers requesting compensatory time for attending court on their day off are to check the "**Day Off Bonus**" box and check the "**Comp**" box. If an officer is not on their day off but is off duty, he/she will check the "**Off-Duty**" box and not the day off bonus box.
4. Officers requesting overtime pay time for attending court on their day off are to check the "**Day Off Bonus**" box and check the "**Pay**" box. If an officer is not on their day off but is off duty, he/she will check the "**Off-Duty**" box and not the day off bonus box.
5. Personnel will enter the time that they were actually subpoenaed/ordered-in as their starting time on the Court Attendance Record, or the actual arrival time if arriving after the subpoenaed/ordered-in time.
6. If an officer is appearing for the second appearance of the day, they are to check the "**2nd Appearance of the Day**" box on the Court Attendance Record.
7. To receive cancellation pay when entitled as noted in the Labor Agreement, Article 17, Section 5, the officer must at the time they are notified of the cancellation, inform Court Detail of this fact and must submit the appropriate overtime request to the Court Sergeant within three (3) scheduled duty days (inclusive of leave) from the date of the cancelled appearance.
8. "**Comp**" or "**Pay**" must be checked on the Court Attendance Record.

II. OHIO BOARD OF LIQUOR CONTROL

Officers who receive a subpoena via certified mail or personal service from the Ohio Board of Liquor Control will immediately submit a copy of it to their supervisor along with a handwritten memo. The memo will state whether the appearance will be on-duty or off-duty. The supervisor will send a copy of the subpoena and the memo to the Division office. If the appearance will be on-duty, the supervisor will make arrangements for a City vehicle to be used for the trip to Columbus.

Officers will take the subpoena to the hearing. After testifying, they will have the Bailiff time stamp and sign the subpoena. If the appearance is off-duty, complete a Court Attendance Record upon return to duty. After returning from the appearance, the subpoena will be turned in to the officer's supervisor who will verify the information and forward it to the Court Detail Sergeant.

All officers will receive a witness fee (check) after testifying at the Liquor Board. These checks will be endorsed and submitted to the Chief's office within five (5) calendar days of testifying.

A. Off-Duty Officers

Off-duty officers will furnish their own transportation and are eligible to receive mileage compensation from the Board of Liquor Control. Compensation for the appearance is based on actual time at the Liquor Board plus one and one-half hours travel time each way.

B. On-Duty Officers



On-duty officers use City vehicles and are not eligible for mileage compensation. The mileage compensation checks for on-duty appearances are mailed directly to the Department. On-duty officers are not to wait at the Liquor Board for mileage compensation checks.

C. Supervisor's Responsibility

Supervisors may assign an officer to Special Duty for one tour for a Liquor Board appearance. If this is done, the officer would not be eligible for overtime. Officers must be given 3 calendar days' notice of this shift change per the Agreement between the City of Dayton and the FOP, John C. Post Lodge No.44.

III. CALLING OFF SICK FOR A COURT APPEARANCE OR PRE-TRIAL CONFERENCE

All personnel are encouraged to photocopy this section and take it home for reference when illness occurs. If you are unable to comply with a subpoena's or court order-in's instructions due to injury, illness, illness in family, funeral leave or any other non-scheduled absence due to a legitimate verifiable emergency (e.g., involved in auto accident enroute to court):

- A. Contact Court Detail at [REDACTED] at least one hour before the time you were supposed to appear. If no one is available, the officer will leave the information on voicemail. The message must include your name, the reason for your absence, the case number, defendant's name, the courtroom number, the time you were supposed to appear and the date and time that you are calling. If the court case is in Common Pleas, the officer must include the prosecutor's name. Officers are encouraged to note this information on their copy of the subpoena or court order-in in case there are questions at a later date.
1. If the officer received a **Court Order-In**, Court Detail will then check the officer's work schedule and notify the appropriate court or prosecutor to re-schedule an appearance if necessary.
 - **Officers are not permitted to re-schedule court appearances themselves. All re-scheduling must be done through Court Detail.**
 2. If the officer received a **Subpoena**, they will notify Court Detail who will then notify the court that issued the subpoena.
 - **Court Detail will re-contact the officer to advise them if the court has excused their appearance. If the court does not excuse the appearance, then the officer must comply with the subpoena.**
- B. This procedure will be followed regardless of whether you are going to miss a regular work assignment due to the injury, illness, illness in family, or funeral leave which caused you to miss the court appearance. The procedure for calling off for a regular work assignment is a separate issue.
- C. If an officer is on **sick or injury leave**, they are not to appear in court unless they are **personally served a Subpoena by a process server or deputy or by certified mail**, court order-ins are not sufficient to compel the employees attendance while on sick or injury leave. This will include appearances that would normally be on the employee's regular day off.
- If there are mitigating circumstances that would compel the employee to answer the court order-in, they will direct a special report to the Chief of Police addressing the circumstances. The Chief of Police or his designee will determine if the employee will be permitted to answer the court order-in. This process does not apply to Subpoenas that were personally served to the employee by a process server or a deputy.
- D. When an officer receives a court order-in, or the work unit receives the order-in, and is on sick, injury or vacation, compensatory or personal leave or days due and is likely to still be on leave at the time the court order-in designates, their supervisor will email that information to court detail by the next business day.
1. Court Detail will then notify the affected court of the officer's anticipated absence.
 2. The court order-in will then be forwarded to the Court Detail in the usual manner.



3. Officers are not to appear for the court order-in under the above circumstances.

- E. If the work unit receives a subpoena or order-in for an officer is at a different ASN (i.e., TRU), the unit secretary will forward the subpoena or order-in to the officer's current work unit and notify court detail at [REDACTED] of the ASN change.

F. COURT DETAIL'S RESPONSIBILITY

The Court Detail Supervisor will give a person on their staff the responsibility of documenting each instance an employee misses a court appearance due to injury, illness, etc. If an employee misses more than three court cases in a 12-month period, the Court Detail Supervisor will notify the appropriate Division Commander. Repeated instances of missing court may result in personnel being required to provide a Medical Certificate.

IV. COMPENSATION FOR OFF-DUTY COURT ATTENDANCE

Officers will refer to the Agreement between the Fraternal Order of Police, John C. Post Lodge No.44, Officer's Unit and the City of Dayton, Article 17.

Supervisors will refer to the Agreement between the Fraternal Order of Police, John C. Post Lodge No. 44, Supervisor's Unit and the City of Dayton, Article 17.

- A. Personnel that request leave or day due **after** notification of a court appearance will not be paid the day-off overtime premium of an additional four hours. Officers are not to indicate that they are appearing on a regular day off or are on guaranteed leave if they requested the day off after notification of a court appearance.
- B. Personnel attending court on a regular day off, a pre-approved vacation day or their annual "Guaranteed" vacation will be entitled to the additional pay for attending "**Day Off**" court as referenced in the above contractual sections. Personnel attending court on any leave other than regular day off or pre-approved vacation will enter their appearance as "**Off Duty**" attendance and will not receive the "Day Off" premium.
- C. Multiple Court Appearances on a Single Day – when an officer is ordered to appear in court on separate multiple times on a single day, the officer can submit separate overtime or compensatory time requests provided that each appearance is at least **two (2) hours** apart. In any event, an officer can receive the overtime premium for day off court for only one (1) of the appearances, the second appearance will be paid for a minimum of two (2) hours of overtime pay or compensatory time.
- D. Officers are reminded that they may not receive compensation from the City of Dayton for attending court when they are subpoenaed for an activity they performed while acting in the capacity as an employee of an off-duty employer or acting in a private matter that did not arise out of the performance of their official duties.