

Subpoenas and Court Appearances

318.1 SUBPOENAS AND COURT APPEARANCES PURPOSE AND SCOPE

This policy establishes the guidelines for department members who must appear in court.

318.2 SUBPOENAS AND COURT APPEARANCES POLICY

Unified Police Department members will respond appropriately to criminal or civil subpoenas and any other court-ordered appearances. Failure to do so may result in contempt of court charges and / or UPD disciplinary action.

318.3 SUBPOENAS

Only department members authorized to receive a subpoena on behalf of this department or any of its members may do so.

Criminal subpoenas may be served upon a member in accordance with U. R. Crim. P. Rule 14 by personally delivering a copy of the subpoena to the member.

Civil subpoenas may be served upon a member personally, by leaving a copy at the member's residence with a person of suitable age and discretion who resides there, or by delivering a copy to an agent authorized by appointment or by law to receive process. If a process server seeks to serve a member with a subpoena, the process server will be directed to the member's precinct for service at the beginning or end of the member's next scheduled shift. The member may also sign an acceptance of service in lieu of personal service. Precinct staff are not authorized to accept subpoenas on behalf of officers. The subpoena may also be served by mail or commercial courier service (U. R. Civ. P. Rule 45; U. R. Civ. P. Rule 4). Civil subpoenas shall not be accepted without properly posted fees (U. R. Civ. P. Rule 45).

318.3.1 SPECIAL NOTIFICATION REQUIREMENTS

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 Chief Legal Counsel or the prosecutor shall notify their immediate supervisor without delay regarding:

- (a) Any civil case where the UPD or one of its members, as a result of their official capacity, is a party.
- (b) 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 their official capacity, is a party.
- (c) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.
- (d) Any civil action stemming from the member's on-duty activity or because of their association with the UPD.

Unified Police Department of Greater Salt Lake
Law Enforcement Policy Manual

Subpoenas and Court Appearances

- (e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the UPD.

The supervisor will then notify the Chief and the appropriate prosecuting attorney as may be indicated by the case. The Chief should determine if additional legal support is necessary.

No member shall be retaliated against for testifying under subpoena in any matter.

318.3.2 CIVIL SUBPOENA

Members appearing for a deposition or court in a civil proceeding shall notify their commander as soon as possible. Members will be entitled to compensation as allowed below.

The department should seek reimbursement for the member's compensation through the civil attorney of record who subpoenaed the member, if allowed by law.

318.3.3 OFF-DUTY RELATED SUBPOENAS

Members receiving valid subpoenas for off-duty actions not related to their employment or appointment will not be compensated for their appearance. Arrangements for time off shall be coordinated through their immediate supervisors.

318.4 FAILURE TO APPEAR

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

318.5 STANDBY

To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the department.

If a member on standby changes their location during the day, the member shall notify the designated department member of how they can be reached. Members are required to remain on standby until released by the court or the party that issued the subpoena.

318.6 COURTHOUSE PROTOCOL

When appearing in court, members shall:

- (a) Adhere to all department regulations concerning dress, appearance, and conduct.
- (b) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.
- (c) Dress in the Class B department uniform or business attire.
- (d) 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.

Unified Police Department of Greater Salt Lake
Law Enforcement Policy Manual

Subpoenas and Court Appearances

- (e) Comply with any court restrictions on display or presence of firearms in the court.
- (f) Members will represent the department with appropriate courtroom demeanor.
- (g) Unless requested by the prosecutor, members will not sit at the council table, nor will they discuss the case in the presence of the defendant, other courtroom participants, the media, or the public.
- (h) Ensure all testimony is responsive, accurate, and complete. Upon understanding the nature of a question, the answer should be well-thought out, direct, and concise. Attorneys should be addressed as "Sir" or "Ma'am", the Judge as "Your Honor."
- (i) Notes and reports should be reviewed before entering the courtroom.
- (j) Informal conversations with other law enforcement personnel will be conducted away from the immediate courtroom area.

318.6.1 TESTIMONY

Before the date of testifying, the subpoenaed member shall review the relevant reports and become familiar with the content to be prepared for court.

318.7 FALSE STATEMENTS AND PERJURY

1. No member shall knowingly misrepresent any matter, sign any false statement or report, commit perjury, or give false testimony before any court, grand jury, or official hearing.
2. False statements and perjury are punishable by criminal prosecution and / or UPD disciplinary action.

318.8 LEGAL OPINIONS

1. Members desiring formal legal opinions from the Chief Legal Counsel / District Attorney's Office shall submit such requests, in writing, through the chain of command to their Commander / Administrator. The Commander / Administrator shall approve and submit or deny any such requests.
2. Members are encouraged to contact the Chief Legal Counsel / District Attorney's Office for informal legal advice and interpretation of laws on an informal basis. This type of contact does not require approval.

318.9 REFERRALS TO THE DISTRICT ATTORNEY'S OFFICE

1. The District Attorney's Office will not accept citizen referrals. All information must be submitted by law enforcement personnel after a thorough investigation. If sworn members have questions regarding case prosecution, they should contact an investigator or a deputy district attorney.

Unified Police Department of Greater Salt Lake
Law Enforcement Policy Manual

Subpoenas and Court Appearances

318.10 COURT COMPENSATION

1. Members will receive their regular rate of pay for a court or hearing appearance as a juror / witness subpoenaed by a government agency when the appearance is required during the member's regular scheduled working hours. Members are not entitled to the witness / jury fee while receiving their regular rate of pay.

2. Members will receive compensation for court or official hearing appearances as a witness, subpoenaed by a government agency while off-duty, using the following criteria:

a. Off-duty appearances will be considered time worked and documented on a timecard. The member will be compensated from the time of the required appearance until the time they are released by the prosecutor or other authority. Minimum compensation is for three hours. If a member is required to stay past three hours, the actual time worked will be paid. Travel time to and from appearances is not time worked.

Example: If a member is at court, off-duty, and is required to stay for four hours, the member will be paid for four hours (actual time worked).

b. When a member is required to appear on two or more separate appearances in one day, they are eligible to receive compensation for each appearance only if the time lapse between subpoenas is at least three hours.

Example: If a member is required to appear in court at 0900 hrs, then required to appear on a separate subpoena at 1300 hrs, the member will be paid for two court appearances.

c. If the member is required to appear on a subpoena, before a regular shift, the subpoena must reflect the member's appearance was required at least three hours before the regular shift to receive the minimum three hour pay. Otherwise, the member will be compensated for the time actually worked.

Example: If a member is scheduled to report on duty at 1500 hours, any subpoena must reflect that the member was required to report at or prior to 1200 hours to receive the three-hour minimum.

d. If a member is required to remain in court past the end of their regular shift, the member will be paid for actual time worked.

e. Compensation will not be made for cases not arising out of the member's official duties, such as off-duty employment or personal matters. Members are entitled to receive and retain witness fees from the Court when they are not compensated by the department. State law prohibits the receiving of more than one witness fee daily.

Unified Police Department of Greater Salt Lake
Law Enforcement Policy Manual

Subpoenas and Court Appearances

3. Court preparation time for cases arising out of the member's official duties will be considered time worked. Court preparation will be completed on duty whenever possible. Supervisors will determine whether court preparation will be completed on-duty or off-duty.
4. Compensation requests for off-duty court appearance and off-duty court preparation time for cases arising out of the member's official duties will be recorded on the timecard.
 - a. Actual time spent at court must be documented on the timecard.
 - b. Pay will be determined consistent with UPD Policy and Procedure: Overtime and Compensatory Time.
5. Any income earned from a member's secondary employer for court appearances during the member's UPD scheduled working hours shall be turned over to UPD Finance.