



# Wilmington Police Department

## Directive: 5.18

### Courtroom Testimony, Procedures, and Compensation

CALEA Standards:



#### **I. Purpose**

The purpose of this directive is to create guidance and rules for Officers of the Wilmington Police Department concerning courtroom testimony, procedures for court, subpoena service, and compensation for court standby.

#### **II. Procedures**

##### **A. Testifying in Court**

##### **1. Personal Appearance and Courtroom Demeanor**

Employees appearing as witnesses shall wear the prescribed uniform or appropriate civilian attire. Appropriate civilian attire for men is a business suit or sports jacket with shirt and tie. Appropriate civilian attire for women is a suit, dress, or pantsuit. Uniformed employees required to wear the uniform during normal duty hours shall wear the prescribed uniform when appearing as witnesses during normal duty hours.

Officers shall conduct themselves with dignity and not engage in loud conversations, even if court is not in session. Officers will refrain from continually moving about in the courtroom or slouching in chairs while waiting to testify.

Officers shall avoid any action that would indicate a special interest in securing a conviction or give an outward appearance of dissatisfaction with decisions. A position of an impartial public official seeking justice is the only position justified.

Officers are not required to speak with any defense attorney unless sworn and giving testimony while court is in session, or at the direction of the District Attorney's Office.

##### **2. Courtroom Testimony**

Before appearing in Court, officers shall organize and read their notes and consider the manner in which they intend to testify. Notes should be taken to court. Any notes taken on the stand are subject to review by a defense attorney. Officers who are in doubt about how to present something which is relevant to a case should discuss the matter with the Assistant District Attorney before the trial.

**a.** Officers shall follow these rules when testifying:

- i. Tell the truth.
- ii. Be respectful.
- iii. Talk in customary manner.
- iv. Speak clearly, slowly, and loud enough to be heard.
- v. Do not answer a question until it is understood.
- vi. Answer questions concisely.
- vii. Speak in response to a question. Do not volunteer information which has nothing to do with the question which has been asked.
- viii. Sit erect on the witness stand; do not slouch, fidget, or assume an unnatural position.
- ix. Do not distort or conceal any facts.
- x. Correct, without delay, any mistakes in testimony.
- xi. When testifying before a jury, questions should be answered with divided attention between the jury and the person asking the question.
- xii. When testifying before a judge, questions should be answered with divided attention between the judge and the person asking the question.
- xiii. Do not give the impression to the court that there is any animosity toward the defendant or his counsel.
- xiv. Avoid loss of temper.
- xv. Do not try to be humorous or sarcastic.
- xvi. Take and leave the witness stand with dignity and confidence.

## **B. Courtroom and Subpoena Procedures**

### **1. Vacation, and Training, Requests for WPD Officers**

- a. Officers will respond to a subpoena from a federal or state court as a first priority activity and shall promptly inform his/her superior officer of the subpoena.
- b. Officers will respond to the first subpoena served when they are ordered to report to two separate courts of equal rank at the same time. Officers shall respond to a subpoena from a federal court or a superior court in preference to conflicting subpoenas from a lower court, even though the latter is served first. However, in all

cases, officers shall promptly notify the second court of the subpoenas served from the first court.

- c.** If unforeseen emergency circumstances prevent an officer's scheduled and/or subpoenaed attendance in court, he/she shall, by the fastest means available, notify court officials, and request a delay in the case(s) until a specified time.
- d.** Routinely, any leave request must be submitted to supervisors 4 weeks in advance for approval. Employees making vacation requests that lack the 4 weeks in advance period will be required to check with the Court Liaison and the court calendar to assure that there are no conflicts prior to requesting supervisory approval for vacation time.
- e.** All individuals must report approved leave to the WPD Court Liaison. The WPD Court Liaison will record the approved leave on a calendar in the DA's Office.
- f.** Leave will not be approved if an officer is scheduled to be in court on the requested leave date(s).
- g.** All officers with preset District Court dates are expected to be in court on those dates, which are scheduled 3 months ahead of time. Trainings and vacations must be scheduled around court.
- h.** Failure to appear as required, without notifying the proper authority in a timely manner, may result in disciplinary action

## **2. Subpoenas and Officer Court Appearances**

- a.** The DA's Office will prepare subpoenas for trial 6 weeks in advance of trial dates. (This does not apply to attorneys who can take out subpoenas from the Clerk of Courts Office or when the Judge orders the Officer to be subpoenaed.)
- b.** The WPD Court Liaison will stamp a date on all subpoenas by which the subpoena must be served or returned to the DA's Office. This date will be ten days prior to the start of trial.
- c.** In the case of civilian subpoenas, if the witness cannot be located the DA's Office will ask the charging officer/lead detective to locate the witness for trial.

**d. Officer Subpoenas and Court Appearances**

- i.** If an officer is presented with a subpoena to be served on an officer, it shall be served.
  - ii.** If the date conflicts with the officer being on approved leave it shall be served on the officer. The officer will then need to contact the DA's office to let them know of the conflict.
  - iii.** Do not mark "Vacation" or "Training" and then check unserved on the subpoena. If that officer is standing in front of you then he/she is able to be served.
- e.** Telephone standby can only be approved by the DA's Office for Superior Court and by the WPD Liaison and a WPD Supervisor for District Court. The latter will only be approved due to a personnel shortage.

**3. Grand Jury**

- a.** All Officers are responsible to complete and submit a summary of the facts for their Grand Jury case (DO NOT attach Pistol notes, create a summary). Summaries are due to the court liaison by noon the Wednesday prior to Grand Jury week. If you fail to submit your summary on time, you will be required to attend the Grand Jury. Additionally, the court liaison is required to inform you and your supervisor of the missed deadline and your required court attendance.
- b.** From time to time Grand Jury will fall on an officer's time off. This is an important part of the officer's job and they will be compensated for it.

**4. Discovery and DA's Reports**

- a.** All officers, upon making a felony arrest, shall provide full disclosure of the investigative file in Superior Court, pursuant to NCGS 15A - 901, to the District Attorney's Office and shall submit a DA's Report within fourteen (14) days of the arrest. All felony arrests involving a juvenile should be completed and forwarded to the DA's Office within forty-eight (48) hours.
- b.** The DA's Office will issue the 1<sup>st</sup> request for discovery at the time of arrest via e-mail to the officer, copying the WPD Liaison.

- c. A second request for discovery will be issued if it is not received by the due date. This request will be sent via e-mail to the officer, copying their Deputy Chief and the WPD Liaison.
- d. The investigating officer is responsible for compiling the reports of all officers who respond to a scene or are involved in a case in any way.

**5. Correspondence between DA's Office and WPD Personnel**

- a. All official correspondence sent to WPD personnel by letter or email by the District Attorney's Office will be copied to a Deputy Chief; The Deputy Chief will forward the correspondence to the appropriate division commander. The only exception is FIRST discovery requests.

**C. Compensation**

- 1. Departmental Personnel receiving court subpoenas with **court appearance instructions** will provide the appropriate court liaison with a telephone number where they can be reached. The court liaison will notify the employee when they are to report to court or are no longer under subpoena. The court liaison will document the date and time regarding contact or attempted contact with the employee.
- 2. Standby compensation time will be in accordance with City Policy 202.
- 3. The Officer will keep up with their court time and notify their supervisor so they can add it to the City's timekeeping system.