



COURT, *DEPOSITION*, & *HEARING* PROCEDURES

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I. PURPOSE

The purpose of this policy is to ensure that department members are present and prepared for legal proceedings and to provide departmental enforcement of lawfully issued subpoenas which compel members' appearance, testimony, and production of evidence.

II. POLICY

It is the policy of Anne Arundel County Police to contribute to the successful prosecution of violations of law. This is accomplished by members ensuring that they schedule and attend court when directed or subpoenaed to do so, and that the member is properly prepared to act as a resource and witness for the State or any other lawful prosecutorial authority. The Anne Arundel County Police Department and its members recognize that a subpoena is a court order and any member failing to obey such an order may be subject to action by the issuing authority.

III. PERSONAL SUBPOENA MANAGEMENT

The police department uses the iSubpoena software application as the agency's Subpoena Management Program (SMP) for managing employees' court schedules and for electronic delivery and service of subpoenas.

IV. CREATING AND UPDATING COURT SCHEDULES

Twice each year, the Court Liaison is responsible for distribution of a memorandum containing instructions for sworn officers to create a District Court schedule in the SMP.

A. Officer Responsibilities

This sub-section applies to all sworn officers ranked Lieutenant and below.

1. All officers, regardless of assignment, are required to submit a court schedule in compliance with the Court Liaison's instructions.
2. Officers are responsible for updating their schedule in the SMP in a timely manner to account for newly approved leave (including long-term medical leave), training, or other events which may impact their availability for court. Officers must provide the District Court Clerks at least 90 days' notice of any court schedule changes which cause the officer to be unavailable for previously scheduled court availability.
3. Officers are responsible for ensuring that sufficient availability for court is entered into the SMP.

B. Supervisor Responsibilities

1. Supervisors are responsible for timely review and approval or denial their subordinates' initial and updated court schedules created in the SMP, in accordance with the procedures and directives issued from the Court Liaison.
2. In cases where a subordinate is unable or unavailable to update SMP schedules, supervisors are responsible for entering updates for approved leave, training, and other events into their subordinate's SMP calendar.

V. COURT, DEPOSITION, & HEARING PREPARATION AND ATTENDANCE

1. Members who are subpoenaed and appear in court, deposition, or other hearing are required to be prompt and prepared, with all available, relevant documentation and evidence required to prosecute the case.
2. Members are responsible for reviewing all relevant documents and evidence prior to testifying.
3. Members testifying as a prosecution witness are required to provide any assistance and conduct any follow-up requested by the prosecuting authority in preparation for the prosecution of any case the member is involved with. This may include meeting with the prosecutor before the court convenes to discuss the case, when appropriate.
4. Members' attire for court, depositions, and hearings must be in compliance with the directives regarding court attire under Index Code 0500: Uniforms, Equipment, & Grooming and Appearance Standards.

VI. RECEPTION AND RESPONSE TO SUBPOENAS

A. General Directives

1. Member Responsibilities

- a. Each work day, members are responsible for responding to any new subpoenas issued in the SMP to indicate the member's availability to attend as subpoenaed.
- b. Members who receive hard-copy/paper service of subpoena or electronic service directly via county email must immediately enter the subpoena into the SMP if system permissions allow, or forward the subpoena to a supervisor with for immediate entry into the SMP.
- c. Members who receive multiple subpoenas for different court or hearing locations at the same date and time must notify the prosecuting authority for each subpoena to resolve the conflict. Absent direction from the prosecuting attorneys, members must be present for Maryland District Court cases.

2. Supervisor Responsibilities

- a. Supervisors receiving hard-copy/paper subpoenas directly or from subordinates must immediately enter those subpoenas into the SMP.

3. Commanders Responsibilities

- a. Commanders are responsible for ensuring that their subordinates are regularly reviewing responding to subpoenas in the SMP in compliance with this policy.
- b. Commanders are responsible for notifying the Court Liaison of any subordinate who may be unable to comply with subpoenas due to extenuating or emergency circumstances that limit the member from such compliance. The member's commander is responsible for following the direction of the Court Liaison in reference to the matters for which the member is subpoenaed.

B. Prosecution Witness for Criminal Cases, Traffic Cases, and Civil Citation Cases

Members who receive subpoenas to appear as a prosecution witness must respond to the subpoena in the SMP indicating their availability for the event or comply with the Section VII of this policy to request a postponement or excusal from that court date.

C. Defense witness for Criminal Cases, Traffic Cases, and Civil Citation Cases

Members who are subpoenaed by a defendant for a criminal, traffic, or civil citation case, must notify the Office of the State's Attorney—preferably, the assistant state's attorney assigned for the next court date. Members must follow the direction of the Office of the State's Attorney in such cases.

D. Administrative Subpoenas and Civil Lawsuit Subpoenas, Complaints, and Summonses

1. **Administrative Hearing Subpoenas:** When a member of the department receives a subpoena as a witness for civil trial for which the department nor any department member is a party, the member is required to adhere to the instructions provided on the subpoena, including attendance requirements.

2. **Civil Trial Subpoena:** When a member of the department receives a subpoena as a witness for civil trial for which the department nor any department member is a party, the member is required to adhere to the instructions provided on the subpoena, including attendance requirements.
3. **Subpoena to Deposition:** Any member of the department who receives a subpoena to give a deposition in a civil case where the any department member, the department itself, or the county itself may be a party to the case, the member must immediately advise his/her supervisor and provide a copy of the subpoena to the department's legal advisor. The department member must follow the instructions of the department legal advisor with regard to the subpoena.
4. **Civil Complaints and Summonses:** When a member of the department receives a civil court complaint and summons that arises from department employment and names the member as a defendant, the member must immediately provide the department's legal advisor a copy of the complaint and summons.

VII. EXCUSED ABSENCES AND POSTPONEMENT REQUESTS

A. Excused Absences

Members may only be excused from compliance with subpoenas under one or more of the following circumstances:

1. A sworn supervisor evaluates the court case, determines that the member is not a required witness, and notifies the prosecuting authority that the member will be absent.
2. The prosecuting authority, court, or hearing authority notifies the member that the member is excused from appearing.
3. The member has an emergency and complies with the procedures in this policy under subsection VII.C.
4. The prosecuting attorney places the officer on standby status and the officer abides by the requirements of being placed on standby.

B. General Postponements

1. General Directives

- a. Members are not excused from court, depositions, or hearings until notified by a judge, the subpoenaing party (including the Office of the State's Attorney), or the member's supervisor.
 - b. Members must follow the directives for postponement or excusal in this policy to make arrangements for postponement or excusal from pending cases. In cases where the member is medically or otherwise unable, the member's commander is responsible for coordinating with the Court Liaison to request postponement or excusal for the member.
 - c. The following are not legitimate reasons for excusal or postponement under this section:
 - i. Court scheduled on a court date not selected as on officer's court schedule submitted under Section IV of this policy.
 - ii. Court, hearings, or depositions scheduled on the member's regular day off.
 - iii. Court, hearings, or depositions scheduled on a day the member is working a midnight or evening watch.
 - iv. After a subpoena is issued to a member, the member is granted leave for the date of that subpoena.
2. **District Court--Minor Traffic Court and Parking Citation Cases:** A member's request for postponement for a minor traffic or parking citation case must be submitted at least 21 business days before the scheduled court date. The request must be submitted to the District Court via email to the Court Liaison on a Request for Postponement Form (PD 422). A member's failure to submit at least 21 business days prior to the court date, failure to fully complete the form, failure to provide a detailed and legitimate reason for postponement, or failure to provide a supervisor's signature may be grounds for a denial of postponement or excusal.
 3. **District Court—Major Traffic and Criminal Cases:**
 - a. A request for postponement is automatically submitted to the Court Liaison upon a member indicating a conflict for the case in the SMP at least 21 calendar days before the court date.
 - i. The notes for the conflict must indicate the following:
 - (1) Whether the member is a charging officer or not.
 - (2) A legitimate reason for a member's excusal or a postponement of the case.

- (3) If the reason for the conflict is approved training, the member must include the type of training, location of training, hours of training, and availability of the member to respond to court if required.
- b. Requests for postponement submitted to the Court Liaison by a member indicating a conflict in the SMP with less than 21 calendar days before the court date will be rejected.
- c. A member may request a postponement via their direct supervisor with less than 21 calendar days before the court date. It is the responsibility of that supervisor to determine if the officer may be excused under Section VII.A.1 or to request the member's excusal or postponement of the case from the case's assigned Assistant State's Attorney.
4. **Circuit Court Cases:** A member's requests for a postponement or an excused absence for criminal Circuit Court cases must be directed to the case's prosecuting attorney.

C. Emergency Postponements & Excusals

Unexcused absence policies may apply if the member is not excused from attendance.

When a situation or circumstance arises within 3 business days of a subpoenaed appearance which will prevent an employee from complying with the subpoena, the following procedures must be followed:

1. District and Circuit Court:

- a. **District Court--Minor Traffic Court and Parking Citation Cases:** The member must immediately notify their direct supervisor and the District Court Clerk's office and provide the reason for the member's absence.
 - b. **District Court—Major Traffic and Criminal Cases:** The member must immediately notify their direct supervisor and the Office of the State's Attorney at the appropriate District Court location and provide the reason for the member's absence.
 - c. **Circuit Court Cases:** The member must immediately notify their direct supervisor and the Office of the State's Attorney at the Circuit Court and provide the reason for the member's absence.
2. **Other Subpoenaed Hearings or Depositions:** The member must immediately notify their direct supervisor and the subpoenaing authority and provide a reason for the member's absence.
 3. A member calling in sick to a supervisor on a regularly scheduled work day must advise that supervisor of any subpoenas the member has received for the date of absence. The supervisor is responsible for ensuring notification to the appropriate authority under this subsection.

D. Family and Medical Leave Act (FMLA)

Members taking leave covered by the FMLA may not be required to attend court, depositions, or hearings. This directive applies regardless of whether the leave is for care of the member or care of the member's dependent.

Members who wish to attend court, depositions, or hearings, despite being on leave:

1. Must notify the member's supervisor of the intent to attend.
2. Must ensure that same written notice is provided to the Police Personnel Section.
3. May only receive compensation on an hour-for-hour, regular duty basis.
4. May not be charged any leave for the hours the member attends court.

E. Light Duty & Workers' Compensation Leave

1. **Light Duty:** Members who are on light-duty assignments are expected to attend court, depositions, and hearings as subpoenaed, unless medical orders restrict the member from attendance. If medical orders restrict a member's attendance, the member is required to comply with the postponement procedures in this policy.
2. **Line-of-Duty Injuries:** For members on workers' compensation leave due to line-of-duty injuries:
 - a. The member is required to attend court, depositions, or hearings if the member is able.
 - b. The member's attendance is compensated on an hour-for-hour, regular duty basis.
 - c. The member may not be charged any leave for the hours the member attends court.
 - d. The member's direct supervisor is responsible for determining if the member is capable of attending court.
 - e. The member's direct supervisor is responsible for arranging transportation for the member if the member is unable to drive.

VIII. UNEXCUSED ABSENCES

If the Court Liaison is informed that a member who is a required witness is not present in court, the Court Liaison must immediately contact an appropriate supervisory ranked officer. The supervisor so notified is responsible for locating the absent officer and attempting to arrange for the member's attendance. The notified supervisor, if not a direct supervisor of the absent member, must notify the absent member's supervisor of the absence.

Failing to respond to a request for presence at court in a timely manner after being placed on standby by a prosecutor constitutes an unexcused absence.

Absences from court, deposition, or other hearings which are unexcused by a sworn supervisor or the subpoenaing authority, and were subject to a subpoena which the member received or the member otherwise failed in their responsibilities under this policy, are subject to the departments disciplinary policies.

IX. PROPONENT UNIT: *Court Liaison*

X. CANCELLATION: This directive cancels Index Code 1400, dated *05-29-19*.