

**Procedure**

**3.41**

**EFFECTIVE  
DATE  
9-1-00**

**Eugene  
Police Department**



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## **Court Appearances**

### **3.41.1 PURPOSE AND SCOPE**

#### **PART I – Responsibilities and Procedures for All Personnel**

- A. Generally
- B. Subpoenas for witnesses (Municipal Court)
- C. Assigned subpoena service
- D. Appearance in court
- E. Compensation
- F. Change in schedule

#### **PART II – Responsibilities and Procedures for Supervisors and Command Personnel**

- A. Supervisors
- B. Watch Commanders
- C. Court Liaison Supervisor

### **3.41.2 RESPONSIBILITIES AND PROCEDURES FOR ALL PERSONNEL**

#### **A. Generally**

1. When you get a subpoena, immediately sign and date the original, and return it to your supervisor. Keep the copy. If you receive a subpoena directly from a prosecutor or other outside source, notify Court Liaison so that the subpoena can be tracked, and return the signed subpoena via the Court Liaison Office.
2. Check for any schedule conflicts.
  - a. If there is a conflict, and the subpoena is for Municipal Court, complete a "Request for Continuance" form and route it to Court Liaison. This should be done as soon as the conflict is identified in order to allow adequate time to process the request. In general, the more lead time given in making a continuance request, the better are the chances that it will be approved. You will be notified of the judge's decision.
  - b. If the conflict involves Circuit Court or Grand Jury, you must contact the involved prosecutor to ask for a continuance.

- c. If there is a conflict between Municipal Court and Circuit Court appearances, there is no need to request a continuance. Simply notify Municipal Court of the conflict, and Municipal Court staff will work with Circuit Court so that you can appear in both courts.
3. Pursuant to *ORS 136.595*, we have designated four individuals (identified by position title) to accept work-related subpoenas on behalf of members of the department. They are: Court Liaison Officer, Court Liaison Clerk, Court Liaison Supervisor, and Internal Affairs Coordinator. If someone comes to the department wishing to serve a work-related subpoena on a department employee, one of these individuals should be contacted. If they are unavailable, contact the on-duty Watch Commander.

**B. Subpoenas for witnesses (Municipal Court)**

1. For traffic and misdemeanor cases, you are responsible for subpoenaing witnesses or arranging to have the subpoenas served. (The City Attorney will subpoena witnesses for Municipal Court where a long-form complaint has been signed by a private complainant.)
2. If a witness lives outside the Eugene city limits, Municipal Court may mail the subpoena. (Failure to honor a subpoena which is mailed cannot be prosecuted in the same manner as if the person were personally served. Springfield Police may be able to assist with subpoena service for those residing within their jurisdiction.)
3. Subpoenas will generally be served by our contract server. Subpoenas which involve persons presenting a potential risk to the civilian contract server will be assigned to sworn officers to serve (refer to paragraph 3.41.2, C. below.)
4. Pick up blank subpoenas from the Court Liaison Office or Municipal Court.
5. Complete the "Roster of Subpoenaed Persons" form, and return it to Court Liaison.
6. Attempt to serve subpoenas for the case within three days after you learn of the court date.
7. If you wish another officer to testify, give him/her a subpoena, and include that name on the "Roster of Subpoenaed Persons" form.

**C. Assigned subpoena service**

1. If you are assigned to serve a subpoena, document all efforts to serve it on the "Service Log" attached.
2. You should make a reasonable effort to locate the named individual using available computer and other information resources. If you cannot contact the person to be served during your working hours, notify your supervisor, who will pass the subpoena on to the supervisor of another team whose hours are more conducive to its service.

3. If you are ultimately unable to serve the subpoena, return the completed log and the unserved subpoena to Court Liaison.
4. If you serve the subpoena, return the "return" portion of the subpoena, along with the log, to Court Liaison.

**D. Appearing in court**

1. For trials in Municipal Court and Circuit Court, call the appropriate court information line after 1700 the day prior to your appearance, and before 0800 the day of your appearance, to learn the status of your case. If your defendant's name is not on the tape, do not appear. (If you fail to check the tape, you will not be compensated for situations in which your attendance is no longer required.)
2. For appearances in Juvenile Court and Grand Jury, you can call the phone number on the subpoena during normal business hours to ascertain the status of the case.
3. A duty-related subpoena for court or an administrative hearing is an order to report for work. You are expected to be punctual, to have your case properly prepared, and to have any evidence needed. Review your case reports; consult with supervisors or detectives as necessary.
4. You must appear in uniform or appropriate civilian clothing (refer to *Procedure 10.3 – Personal Appearance*. Carry your duty weapon.
5. Maintain professional behavior inside and outside the courtroom. Testify in a professional, objective manner, ensuring that you can be heard by the court and jury.

**E. Compensation**

1. If you appeared while off-duty, submit an overtime request, along with a copy of the subpoena, to Court Liaison.
2. If you appear at a job-related court matter, you are compensated by your department pay, and may not keep witness fees.
3. If you receive a court subpoena and a witness fee check, retain that check until you appear in court. Then, endorse the check and return it, along with the subpoena, to Court Liaison. (If you do not appear, return the check without endorsing it, along with the subpoena, to Court Liaison.)

**F. Change in schedule**

1. If you become aware of a situation where you will be unavailable for court (e.g., vacation, training), or have changed teams or days off, submit a "Schedule Change Form" to your supervisor. (This should be done as soon as you are aware of the change or at the time you are submitting your request for training

or time off, rather than waiting for supervisory approval, as court scheduling is done well in advance.)

2. This information is advisory to the courts, and they are not required to schedule cases based on the schedule(s) of involved officer(s).

### **3.41.3 RESPONSIBILITIES AND SUPERVISORS AND COMMAND PERSONNEL**

#### **A. Supervisors**

1. Deliver the subpoenas you receive from Court Liaison to employees. Except for scheduled holidays and vacations, if the employee will not be back to work prior to the scheduled court date, attempt to notify the employee. If you are unable to do so, notify Court Liaison as soon as possible.
2. If the assigned Court Liaison Supervisor is unavailable to approve court overtime which must be approved, you may approve the overtime. Send the subpoena to Court Liaison, with a notation that the overtime has already been paid, along with the actual time spent at court and the EPEA contract overtime paid. (The Court Liaison clerk needs this information for record-keeping.)
3. Forward "Schedule Change Forms" and "Requests for Continuance" to Court Liaison as soon as possible.

#### **B. Watch Commanders**

1. Receive subpoenas for employees which are delivered to the department if no one listed in paragraph 3.41.2.a.3 is available. (Defense subpoenas arriving less than 10-days in advance of the court proceeding need not be accepted.)
2. If the City, department, or department members are named defendants, indicate the date/time of acceptance on the upper right corner of the front page. Route the original to Court Liaison, with a copy to the Internal Affairs Coordinator.
3. Attempt to notify employees of any "rush / postponement" notifications, or subpoenas needing immediate attention.
4. Route all subpoenas to Court Liaison.

#### **C. Court Liaison Supervisor**

Approve appropriate requests for overtime related to court, and return them to the Court Liaison Clerk for return to the requesting officers.