

**348 COURT APPEARANCE AND SUBPOENAS****348.1 PURPOSE AND SCOPE**

This policy has been established to provide for the acceptance of subpoenas and court notices and to ensure that members appear in court when requested and present a professional appearance.

**348.1.1 DEFINITIONS**

Definitions related to this policy include:

**On-call** - When a member has appeared in court or is on-duty and has been told by a member of the court that the member is free to leave the court or return to duty, subject to being available by telephone or pager.

**Standby** - When a member receives a subpoena or court notice of a type that allows him/her to not appear in court but to remain available by telephone or pager so that the member may be directed to appear in court within a reasonable amount of time.

**Trailing status** - When a member remains on standby status for additional court sessions until notified otherwise.

**Mandatory appearance** - Subpoenas and court notices require a member's physical appearance in the specified court at the specified time unless advised by the notice or issuing attorney otherwise. Failure to appear either intentionally or by negligence may result in disciplinary action.

**348.2 COURT SUBPOENAS**

Members who receive subpoenas or court notices related to their employment with this department are subject to the provisions of this policy. Members should be aware that their compliance is mandatory on all cases for which they have been properly subpoenaed or properly notified. This policy applies to civil and criminal subpoenas and notices. Members are expected to cooperate with the prosecution to ensure the successful conclusion of a case (Sup Ct. Rule 26.02; § 491.120, RSMo).

**348.2.2 VALID SUBPOENAS**

No subpoena or court notice shall be accepted for a member of this department unless it has been properly served and verified to have originated from a recognized legal authority.

**348.2.3 ACCEPTANCE OF SUBPOENA**

1. Only the member named in a subpoena, his/her immediate supervisor or the department subpoena clerk shall be authorized to accept service of a subpoena. Any authorized member accepting a subpoena shall immediately provide a copy of the subpoena to the department subpoena clerk. The subpoena clerk shall

maintain a chronological log of all department subpoenas and provide a copy of the subpoena to each involved member.

2. Any supervisor or other authorized individual accepting a subpoena on behalf of another member shall immediately check available schedules to determine the availability of the named member for the date listed on the subpoena.
3. Once a subpoena has been received by a supervisor or other authorized individual, a copy of the subpoena shall be promptly provided to the subpoena clerk as well as a copy to the individually named member.

#### **348.2.4 REFUSAL OF SUBPOENA**

Training, vacations and regularly scheduled days off are not valid reasons for refusing a subpoena or missing court. If, due to illness or injury, the named member is unable to appear in court as directed by a previously served subpoena, the member shall, as soon as reasonably possible, inform the subpoena clerk or the Watch Commander of the expected absence. It shall then be the responsibility of the subpoena clerk to notify the issuing authority of the member's unavailability to appear.

In cases in which a government entity is not a party, if a subpoena is presented for service to an immediate supervisor or other authorized individual less than five working days prior to the date listed for an appearance, the supervisor or other authorized individual should tell the process server to serve directly to the named witness. If the named witness is not on-duty, the supervisor shall inform the process server of the next available date the witness will be on-duty.

#### **348.2.6 OFF-DUTY RELATED SUBPOENAS**

Members receiving valid subpoenas for off-duty actions not related to their employment with the Columbia Police Department shall comply with the requirements of the subpoena. Members receiving these subpoenas are not compensated for their appearance. Arrangements for time off shall be coordinated through the immediate supervisor.

#### **348.2.7 FAILURE TO APPEAR**

Any member who fails to comply with the terms of any valid and properly served subpoena may be subject to discipline as well as court-imposed civil and/or criminal sanctions for contempt of court.

#### **348.5 COURTROOM PROTOCOL**

Members must be punctual when appearing in court and shall be prepared to proceed immediately with the case for which they are scheduled to appear.

##### **348.5.1 PREPARATION FOR TESTIMONY**

Before the date of testifying, the subpoenaed member shall request a copy of relevant reports and become familiar with their content in order to be prepared for court.

## **348.5.2 COURTROOM ATTIRE**

Members shall dress in uniform or business attire. Suitable business attire for men would consist of a coat, tie and dress pants. Suitable business attire for female members would consist of a dress jacket, dress blouse and skirt or slacks.

## **348.7 TESTIFYING AGAINST THE INTEREST OF THE STATE**

Any member or employee who is subpoenaed to testify, who has agreed to testify or who anticipates testifying or providing information on behalf of or at the request of any party other than the State of Missouri, any county, city, other unit of government or any of its officers and members in which any of those entities are parties, will notify his/her immediate supervisor without delay. The supervisor will then notify the Chief of Police and the appropriate prosecuting attorney as may be indicated by the case. The Chief of Police should determine if additional legal support is necessary. This includes, but is not limited to, the following situations:

1. Providing testimony or information for the defense in any criminal trial or proceeding
2. Providing testimony or information for the plaintiff in a civil proceeding against any county, city, other unit of government or any government official or its officers and members, including, but not limited to, personnel and/or disciplinary matters
3. Providing testimony or information on behalf of or at the request of any party other than any county, city, other unit of government or any government official or its officers and employees, including, but not limited to, personnel and/or disciplinary matters