

12.815 COURT APPEARANCES, JURY DUTY, AND OTHER HEARINGS

Reference:

Procedure 12.020, Uniforms, Related Equipment, and Personal Grooming
 Procedure 12.025, Authorized Weapons
 Procedure 12.555, Arrest/Citation: Processing of Adult Misdemeanor and Felony Offenders
 Procedure 12.715, Property and Evidence: Confiscation, Accountability, Processing, Storage, and Release
 Procedure 12.810, Subpoenas
 Procedure 12.816, On-Call Court Appearance
 Procedure 12.817, Court Management System (CMS)
 Procedure 12.820, Compensation for Court Attendance, Hearings and Other Administrative Recalls
 Procedure 12.825, Compensatory Time and Paid Overtime
 Procedure 13.100, Field Training Officer Program
 Procedure 19.105, Sick/Injured With Pay and Special Leaves
 Procedure 19.135, Annual Vacation Policy
 Manual of Rules and Regulations and Disciplinary Process
 Fraternal Order of Police/City Labor Agreement
 Department of Human Resources, Personnel Policies and Procedures
 Ohio Rules and Regulations – Article 69

Purpose:

Ensure compliance by employees with Department procedure and directives of the courts, including jury duty.

Keep court time to a minimum while maintaining current conviction rates and avoiding civil liability suits.

Provide specific instructions for completing and processing the following:

- Recording vacation and compensatory time scheduling
- Form 678, Change in Court Appearance through Employee Tracking Solution
- Form 674, Case Delay Request Card
- Request for dismissal of charges in court
- Employees failing to appear in court

Policy:

Employees will appear for scheduled court cases in a timely and professional manner and will be well prepared to present cases and testimony to the courts.

Officers who are injured with pay or in **any** off duty sick status are not permitted to work outside employment details.

This includes officers who cannot report for court because they are sick or injured. Officers must call on the track and physically report for their tour of duty before becoming eligible to work an outside employment detail.

The Smith and Wesson, Military & Police 9mm (M&P9) is the preferred weapon for officers issued both the M&P9 and the Smith and Wesson, Military & Police 9mm Compact (M&P9c).

Information:

Appearance in court as necessary is a job requirement of the Cincinnati Police Department. The court's schedule does not coincide with the shifts worked by many Department personnel, thus requiring personnel to appear in court during hours other than their normal working hours. Contractual and procedural provisions provide compensation for officers appearing in court when not on duty. The ramifications of not appearing in court when notified can be severe, not only in the loss of cases, but in increased civil liability for the Department as well as the officer. Additionally, personnel are subject to disciplinary action if they fail to appear as notified or fail to comply with the provisions of this procedure.

Procedure:

A. Responding to Court

1. Employees responding for testimony in Grand Jury, Juvenile Court, Common Pleas, or any Municipal Court will first respond to Court Control, Room 147, at the Hamilton County Courthouse.
 - a. If evidence or property is needed for court, follow Section B. of this procedure.
 - b. Court Control office hours are Monday through Friday from 0730 to 1530 hours.
 - 1) When trials extend beyond 1530 hours, employees will have the respective prosecutor mark and sign a Form 68P, Overtime and Court Appearance Report, with the time released from court. Employees will deposit their Form 68P in the locked mailbox located outside the Court Control door.
 - c. Department employees will be properly groomed and dressed, including authorized firearm, badge, and ID card. Department employees will wear either the uniform of the day (for their respective unit) or acceptable business attire of conservative color and design.
 - 1) Officers responding in uniform are required to carry their Department issued Smith and Wesson, 9mm, Military and Police (M&P9) secured in the Department issued ALS/Level III/Hood Strap Holster.

- 2) Officers responding in conservative business attire are authorized to carry the Department issued primary duty weapon, M&P9, Smith and Wesson, 9mm, Military and Police Compact (M&P9c) or a personally owned M&P9c which meets the requirements of Procedure 12.025, Authorized Weapons.
 - a) The weapon must be carried in a secure holster and concealed on their person as outlined in Procedure 12.025, Authorized Weapons.
- 3) Male employees in conservative business attire will wear a suit or sport coat with dress trousers, shirt, tie, and dress shoes. Earrings are not allowed.
- 4) Female employees in conservative business attire will wear a business style dress, slacks, or suit and dress shoes. Moderate use of makeup is acceptable.
- 5) Clothing made of denim material is not acceptable.
- 6) Mountain bike officers attending court while off-duty will wear the uniform of the day or conservative business attire.
 - a) The mountain bike uniform may be worn to court only when the officer is on-duty and riding the mountain bike that day.

2. Court Control Process

- a. Sign the log-in sheet provided by Court Control and advise of the case and courtroom.
 - 1) Indicate on the log-in sheet if the case is an outside employment case.
- b. Officers receive up to 1/2 hour compensation for checking in at Court Control before responding to court.
 - 1) Allow enough time to permit the log-in process and travel time to the courtroom before the scheduled hearing time.
 - a) If evidence or property is needed for court, follow Section B. of this procedure.
- c. Court Control personnel will:
 - 1) Add the name of employees properly notified, case number, room number, and time of the court appearance to their daily automated court docket, if not listed.
 - 2) Issue a time stamped Form 68P to the Department employee.
 - a) A Form 68P will not be issued to employees not notified to appear.

- b) Employees will complete the "Time in court" block on the Form 68P. This block will reflect the "Time Stamp In" and "Time Stamp Out" information.
- d. Outside employment cases
 - 1) Compensation for court appearances arising from arrests and citations occurring while working an outside employment detail is the responsibility of the outside employer.
 - 2) Officers on duty at the time of a scheduled hearing:
 - a) Issue, process, and route a Form 68P as described in this procedure. The Form 68P issued by Court Control will be stamped "Outside Employment Case". The officer may submit a copy of this Form 68P to the outside employer for compensation.
 - 1] The district/section/unit commander will use the Form 68P to determine the time spent by an employee in the disposal of a case.
 - a] The employee must submit a Form 25S, Application for Leave of Absence, for vacation or compensatory time to cover this period.
 - b] The district/section/unit commander will attach the Form 25S to the Form 68P before processing by the unit time clerk.
 - 3) Officers off duty at the time of a scheduled hearing and notified through the Department to appear in court on outside employment cases must respond to Court Control.
 - a) Court Control will issue a Form 68P stamped "Outside Employment Case". The officer may submit a copy of this Form 68P to his outside employer for compensation.
- e. Multiple Common Pleas Court appearances
 - 1) When an employee attends Common Pleas Court and the trial lasts more than one day, the employee will keep the subpoena until excused by the court.
 - 2) The employee will sign in each day at Court Control and prepare a separate Form 68P for each day's attendance.
 - a) The prosecutor will note the time excused on the Form 68P.
 - 3) Court Control submits all Forms 68P to the unit of assignment.

- f. Defense appearances
 - 1) Employees who appear in court or produce documents on behalf of the defense, either voluntarily or in response to a subpoena must immediately submit a Form 17 via the chain of command to Planning Unit notifying the Police Department of the appearance.
 - a) Include in the Form 17 a brief summary of the expected testimony or the document requested.
 - b) Attach a copy of the subpoena.
 - c) For cases in Common Pleas Court, fax the Form 17 and subpoena to the Hamilton County Prosecutor's Office at 946-3105.
 - d) For all other cases fax the Form 17 and subpoena to the Solicitor's Office at 352-1515.
 - 2) Planning Unit will maintain a copy of the Form 17 and subpoena.
 - 3) Employees must sign in at Court Control and advise they are appearing for the defense. Court Control will add the employee's name, case number, room, and time on the daily automated court docket.
 - 4) The Department will compensate employees who receive a subpoena from the defense for court appearances resulting from their duties as a police officer in the same manner as a normal court appearance.
 - g. Court appearances resulting from off-duty arrests
 - 1) The officer must sign in at Court Control.
 - 2) The Department will compensate officers for court appearances resulting from enforcement action taken as a police officer while off duty and not working police related outside employment.
3. Endorsement of Form 68P by prosecutor or grand jury foreman
- a. Before the case is called in the courtroom, the employee will complete all the case and employee information on the Form 68P.
 - b. Upon completion of the employee's appearance and release by the prosecutor, the employee will present the prosecutor with the completed Form 68P.
 - 1) The prosecutor will sign the Form 68P and enter the time next to his signature.
 - c. The employee will immediately hand-deliver the completed form back to Court Control.

4. Officers will get a subpoena from the prosecutor in Grand Jury and Common Pleas. Take the subpoena to the Common Pleas Clerk of Court's Office, Room 315, Hamilton County Courthouse. Each officer will hand-deliver it to the clerk located at the Criminal Desk.
 - a. The Juvenile Court prosecutor will issue a subpoena from Juvenile Court. Take the subpoena to the Juvenile Court Clerk's Office, first floor, 800 Broadway, and deposit it in the basket on the front counter.
 - b. Officers will not need to wait for a check except for outside employment arrests where officers want to keep the check.
 - c. Court Control personnel will respond to the Clerk's Office each business day and receive one voucher for all court appearances for the previous court day.
5. Final processing at Court Control:
 - a. When employees return the completed Form 68P, Court Control personnel will:
 - 1) Inspect the Form 68P for accuracy.
 - 2) Time stamp the Form 68P.
 - a) Question unreasonable lapses between the time the prosecutor signed the Form 68P and the arrival of the employee at Court Control.
 - 1] Document and submit to the district/section/unit commander any unreasonable lapses that would result in additional compensatory time.
 - 3) Make the proper entry on the log-in sheet showing the employee completed the court process.
 - 4) Stamp in green "For Pay - Grand Jury Court Appearance", "For Pay - Common Pleas Court Appearance", or "For Pay - Juvenile Court Appearance". This will notify district/section/unit timekeepers the appearance is a paid appearance.
 - 5) Stamp in red "Outside Employment Arrest" on any off-duty appearances arising from outside employment arrests.
 - 6) Ensure officers appearing on duty have "**ON DUTY**" noted in the "Court time for time" block.
 - 7) Keep the Form 68P for processing to the employee's unit.
 - b. Employees unable to check out because Court Control is closed will deposit their Form 68P in the locked mailbox located outside the Court Control door.

- 1) Court Control will make a copy of the Form 68P and mail the original to the employee's unit.
6. Police personnel subpoenaed to court or board hearings at a location in Hamilton County other than the Hamilton County Courthouse, Hamilton County Justice Center, or the Hamilton County Juvenile Court, including but not limited to, United States Federal Court appearances in Cincinnati, Ohio, and Covington, Kentucky.
 - a. Appear at the location listed on the subpoena at the scheduled time.
 - b. Complete a Form 68P.
 - 1) Have the person in charge of the hearing (prosecutor, probation officer, officer of the court, etc.) sign the Form 68P on the line titled "Verified by:" and fill in the space titled "Time in court".
 - c. Obtain the check issued by the agency for compensation of the appearance.
 - 1) Endorse the check and write "For Deposit Only" on the rear of the check.
 - d. Turn the Form 68P and check into the unit timekeeper for processing and forwarding to the Finance Management Section.
7. The Court Control supervisor will review each day's activities and submit a monthly report to the Inspections Unit Commander listing the following:
 - a. Number of employees notified to appear in court.
 - b. Number of employees excused from court through the Change in Court Appearance process.
 - c. Any employee who didn't properly appear as notified, including absences and tardiness.
 - d. Any employee who responded to court without being notified through the normal notification process.
 - e. Any employee who responded to court whose attire or appearance was inappropriate.
 - 1) In addition to the monthly report, this will be reported as it occurs.
 - f. Any other notable occurrences, violations, or incidents.
 - 1) In addition to the monthly report, these will be reported as they occur.
8. See Procedure 12.825 concerning processing Forms 68P at the district/section/unit level.

B. Retrieving Evidence or Property Needed for Court

1. When evidence or property is needed for court, officers will respond to the Court Property Unit (CPU), 801 Linn Street, **prior** to Court Control.
 - a. Officers will time-stamp a Form 68P at the CPU to take to Court Control.
 - b. When checking into Court Control, officers will be provided with a Court Control Daily Accountability number to write on the upper left corner of the Form 68P.
2. Upon completion of the court hearing, officers will respond directly to the CPU to return the property and time-stamp their Form 68P.
 - a. Leave the Form 68P at CPU. CPU personnel will deliver the forms to Court Control for processing on the next business day.
 - b. When a court hearing extends beyond 1600 hours, officers will secure the property in a locker located outside the CPU.
 - 1) Record the property in the Court Property log book.
 - 2) Time-stamp and leave the Form 68P, verified and signed by the prosecutor, in the property locker with the property.
3. If an officer is made aware property is needed **after** arriving for a court hearing, they may either:
 - a. Respond to CPU to pick up the property and transport it to court; OR
 - b. Contact their unit of assignment and request an on-duty officer respond to CPU, retrieve the property and deliver it to court.
 - c. Upon completion of the court hearing, the officer will respond directly to CPU to return the property and time-stamp their Form 68P.

C. Change in Court Appearance

1. Requests for continuances
 - a. The Department will consider requests for continuances in instances involving emergencies, illness, injury, or where cases are scheduled on days previously entered into the CMS (e.g., scheduled vacation and training days)
 - b. The Change in Court Appearance request will be completed within 72 hours of the officer receiving the notify, when possible.
2. Employee unable to appear in court
 - a. Employees who cannot attend court because of unforeseen circumstances or emergencies occurring on the scheduled court date will immediately notify a supervisor.
 - 1) The supervisor will review the circumstances with the officer.

- 2) The supervisor will immediately complete a Change in Court Appearance request through ETS if the criteria for excusing the officer from court are met as set forth in Section B.1. Indicate the new primary officer who will be attending court if possible. If not, request a new court date and indicate when the officer will return to work.
 - a) Immediately work-flow the Change in Court Appearance request to Court Control.
 - b) Court Control will forward the Change in Court Appearance information to the court where the officer is scheduled to appear.
 - 3) For same day or next day court appearances, call Court Control before 0800 hours and notify them of the Change in Court Appearance request sent via ETS.
 - a) Phone notifies made before or after office hours will be left on the Court Control voice mail.
 - 4) Upon receipt of Change in Court Appearance request beyond the same day or next day, Court Control personnel shall fax the request to the affected Prosecutors Office immediately.
3. Change in primary officer
 - a. When the primary officer notified for court cannot appear, a unit supervisor will, if possible, notify an alternate officer competent to testify to appear.
 - b. The supervisor will complete a Change in Court Appearance request in ETS showing the change in primary officer and reason for the change.
 - 1) The supervisor will work-flow the request through ETS to Court Control.
 4. Training does not take priority over a scheduled court case. Certification training or State mandated training such as CPR, OVI, annual firearms qualification, canine, and mounted training are the only exceptions.
 - a. If time permits, the preferred method for handling conflicts between court and training is to reschedule the training or, if possible, trade training dates with another officer.
 5. Officer not needed for court
 - a. Before a supervisor completes a Change in Court Appearance request, officers will:
 - 1) Make personal contact with the appropriate prosecutor to confirm they are not needed for court.

- 2) Include the name of the prosecutor authorizing the Change in Court Appearance.
 - a) If the officer cannot make personal contact with the prosecutor, the Change in Court Appearance will not be submitted to Court Control and the officer will respond to court as notified.
 6. Officer suspension
 - a. If an officer is suspended seven days or less, the district/section/unit commander will immediately forward the Change in Court Appearance request to Court Control, via ETS, for each court notify the officer receives while under suspension. The Court Control supervisor will then request a continuance until the officer returns to duty (refer to Procedure 12.810).
 - b. If an officer is suspended more than seven days, the district/section/unit commander will initiate a Form 17 advising Court Control of the suspension dates. This form will request future court dates for the suspended officer be handled by subpoena.
 7. The Court Control supervisor will determine if the request is in compliance with this procedure, if it is received before the scheduled court appearance.
 - a. Court Control will forward the Change in Court Appearance request to the Hamilton County Prosecutor or Municipal Court Prosecutor requesting a change in officer needed for court.
 - b. If the request does not meet Department guidelines for change in court appearance, Court Control will reject the request through ETS, outlining in the notes of the message the reason for rejection. The supervisor will insure the officer is notified of the rejection. The officer will attend court as scheduled.
 - c. In cases with multiple officers, cases will not be reset for any officer other than the one who signs the complaint.
 - d. In all cases, district/section/unit supervisors will be held accountable for any Change in Court Appearance request determined by Court Control as not meeting Department guidelines.
 8. If ETS is down, all Change in Court Appearance requests will be sent via fax. The Form 678, Change in Court Appearance, will be used in these instances.
- D. Completing a Form 674, Case Delay Request
1. If more than one case is scheduled on the same day and at conflicting times, complete a Form 674. Court Control provides this form for all officers in court who have cases in other courtrooms.

- a. Upon completion, give the Form 674 to the prosecutor in the room where the case will be held.

E. Request for Dismissal of Charges in Court

1. Officers who believe it is necessary to request dismissal of a charge or to otherwise intervene in the disposition of any case before the court will submit a request through channels to their bureau commander stating the reason(s).
 - a. Officers are not to proceed in requesting a dismissal or to intervene in a court case unless permission has been granted.
 - b. After the bureau commander's approval, the officer will consult with the appropriate prosecutor's office before approaching the court for the stated purpose. The officer will, at the time of consultation, present to the prosecutor a copy of the bureau commander's approved request.

F. Notification for Deposition Hearings

1. The Solicitor's Office notifies Planning Unit when an officer is required to respond to a deposition hearing. Planning Unit is responsible for notifying a supervisor in the district/section/unit where the officer is assigned via the electronic blotter.
2. The district/section/unit supervisor will notify the officer to appear for the deposition hearing.
 - a. Notification must be confirmed. Leaving a message on an answering machine, fax, voicemail or pager is not considered confirmed notification.
 - b. The electronic blotter entry must be signed out by the supervisor making the notification or by the officer.
3. The notifying supervisor will send a confirmation message to the Planning Unit mailbox by email upon notification of the officer (Planningsection@cincinnati-oh.gov).
4. Planning Unit will notify the Solicitor's Office and will complete and file all pertinent paperwork.

G. Other Hearings

1. A Department member requested or subpoenaed to appear by anyone other than the City at an arbitration hearing related to discipline or a civil court personnel related action filed against the City:
 - a. Will immediately notify the Internal Investigations Unit.
 - b. Will not appear in uniform except when pre-approved by a bureau commander, but will dress in conservative business attire.

- c. Will not interpret matters of policy as only the Police Chief sets policy for the Department.
 2. Department members appearing in court on personal matters, civil or criminal, will not appear in uniform.
 - a. Any officer entering the courthouse or 800 Broadway when not engaged in official business, must pass through the metal detectors. Any officer carrying a firearm and not on official business must have the firearm secured and under control of the sheriff. No exceptions to this order are permitted.
 - 1) Lock boxes at the Courthouse are located at the rear basement door.
 - 2) Lock boxes at 800 Broadway are located at the front door.
 - b. Any officer encountering difficulties at a checkpoint, either at the courthouse or 800 Broadway, will request a supervisor respond to resolve the situation. Officers are not to challenge the deputy sheriff on the above issues.
 3. Citizen Complaint Authority (CCA) interviews
 - a. Interviews will be scheduled in advance with input from the officer's supervisor regarding work schedule.
 - b. Once a CCA interview is scheduled, the officer involved in the interview will not be granted time off until the interview is complete.
 - c. If an officer fails to appear for a scheduled interview, the shift Officer in Charge (OIC) will be contacted via radio by an Emergency Communications Section (ECS) supervisor.
 - 1) The ECS supervisor will provide the OIC with the name of the CCA investigator.
 - 2) The OIC will directly contact the CCA investigator regarding the failure to appear.
- H. Supervisory Responsibilities When Personnel Fail to Appear (FTA) or are Tardy for Scheduled Court Appearances
 1. Upon receipt of an ETS memo reference a FTA or tardy court appearance involving personnel, a supervisor will:
 - a. Conduct an investigation of the incident.
 - b. Complete and forward an FTA/Tardy Form through ETS detailing the results of the investigation.
 - 1) Refer to Manual of Rules and Regulations Sections 3.04 and 15 Disciplinary Tables.

I. Employees Notified for Jury Duty

1. Upon receiving a jury duty summons, employees will immediately notify their supervisor. Employees cannot request exemption from jury duty.
2. Employees assigned to first shift group 8 will be detailed to jury duty.
 - a. Employees working any other shift or off day group wishing to be detailed to jury duty should submit a Form 440, Voluntary Shift Deviation Form, and/or a Form 443, Off Day Deviation, to accommodate jury duty.
3. Employees detailed to first shift for jury duty service will be carried as JUR-Jury Duty in the Time Book.
 - a. The Department will excuse employees for time spent on jury duty. While not actively serving on a jury, employees will be at their unit of assignment.
4. Employees detailed to jury duty will sign and forward checks received for jury duty to the unit timekeeper for verification. Officers attending jury duty on their own time may keep checks received for jury duty.
 - a. The unit timekeeper will forward the checks to Finance Management Section.