

HONOLULU POLICE DEPARTMENT
POLICY
PRISONER AND COURT-RELATED ACTIVITIES

June 19, 2015

Policy Number 7.12

SUBPOENAS FOR AND COURT APPEARANCES BY DEPARTMENTAL PERSONNEL

POLICY

The service of subpoenas on and court appearances made by departmental personnel shall be in accordance with the guidelines set forth by this directive.

PROCEDURE

I. Overview

Each element commander shall establish procedures to ensure that:

- A. Subpoenas are properly served on departmental personnel under his or her command;
- B. The prosecuting attorney is properly notified when, for reasons beyond the individual's control, an employee is unable to attend court at the time for which he or she has been subpoenaed; and
- C. Immediate notification is provided when an employee determines that he or she will be unable to appear in court at the time for which the employee has been subpoenaed (e.g., due to unexpected absence from Oahu, disabling injury, or prolonged illness).

II. SUBPOENAS DIRECTED AT DEPARTMENTAL PERSONNEL

- A. A subpoena may be served on a departmental employee by an officer or by any civilian who is not a defendant and is 18 or more years of age.
 - 1. Departmental employees shall accept and comply with all valid subpoenas, criminal and civil, served on them.

- a. Most subpoenas are issued by the clerk of the court under the seal of the court. Each one will state the name of the court and the title, if any, of the proceeding. It will command the person named therein to attend and give testimony at the time and place specified in the subpoena.
 - b. Specific instructions for handling subpoenas duces tecum are found in Policy 5.02, NOTIFICATION OF CRIMINAL PROCEEDING/CIVIL ACTION AND TRANSMITTAL OF LEGAL PAPERS.
 2. Civilians who wish to personally serve subpoenas to on-duty personnel shall not be allowed to compromise departmental security by entering areas in which only employees are permitted.
- B. In general, the Warrants Unit, Records and Identification Division, is responsible for distributing subpoenas to the appropriate elements.
1. The Warrants Unit shall distribute each subpoena in accordance with the official element assignment listed in the current alphabetical listing issued by the Human Resources Division. When an employee has been transferred or temporarily assigned elsewhere, the employee's supervisor shall forward the subpoena to the element to which the employee has been reassigned.
 2. EXCEPTION: When a "rush" subpoena (one with a court date of three days or less from the date of receipt) names an employee who is officially assigned to a patrol command, the Warrants Unit shall contact the district to determine the status of the employee. The Warrants Unit shall then forward the subpoena to the proper element for service. The Department of the Prosecuting Attorney may also fax a subpoena that requires immediate action to the employee's supervisor.
 3. The employee's supervisor is responsible for serving the subpoena on the employee without delay, regardless of the employee's employment status or planned activities. In the event that the employee being subpoenaed is not on duty, the supervisor shall attempt to have the subpoena served at the employee's home.

4. The original/facsimile copy of each Circuit, District, or Family Court subpoena served on a departmental employee shall be signed by the serving officer and endorsed on the front by the employee served.
5. When a subpoena cannot be served, the reason for nonservice and the approximate date of the employee's return to duty shall be recorded on the Justification of Non-Service, HPD-222A form, which shall be completed by the employee's supervisor.

The employee's supervisor shall notify the Department of the Prosecuting Attorney of his or her inability to serve a subpoena. To ensure timely notification, the Department of the Prosecuting Attorney shall be notified as follows:

- a. Under normal circumstances: at least five working days prior to the scheduled trial date; or
 - b. For a rush subpoena: as soon as it is determined that the subpoena cannot be served.
- C. When returning a served or unserved State of Hawaii subpoena, the following procedures shall be followed:
1. The subpoena shall be routed (by interdepartmental mail) directly to the Department of the Prosecuting Attorney. An unserved subpoena shall be accompanied by the HPD-222A form.
 2. EXCEPTION: All neighbor island, judiciary, administrative driver's license revocation, and public defender's subpoenas shall be sent to the Warrants Unit. The Warrants Unit will return them to the appropriate agencies.
- D. Subpoenas from military courts shall be served on departmental personnel directly through their elements.

Unserved subpoenas from military courts shall be returned by elements directly to the military courts.

III. PROCEDURE FOR LOGGING SUBPOENAS FOR DEPARTMENTAL PERSONNEL

Element commanders shall ensure that subpoenas are properly entered into the electronic subpoena log on the Honolulu Police Department (HPD) intranet. No manual log books other than the electronic subpoena log shall be used in its place.

- A. The name of the employee along with other listed information shall be entered into the electronic subpoena log.
- B. Once the subpoena has been served, the record on the subpoena log shall be updated to reflect that service was made.
- C. The signed subpoena shall be scanned and attached to the respective record as a Portable Document Format (PDF) file.

Multiple subpoenas may be scanned and saved as one PDF file, not to exceed ten scanned subpoenas per PDF file. If the PDF file containing multiple subpoenas is made, this file shall be attached to each of the respective officers' subpoena log entries.

- D. Transmitting a signed or rush subpoena shall be in accordance with section II above of this policy.

IV. PROCEDURES APPLICABLE TO ALL COURT APPEARANCES

- A. An employee who wishes to review a case for which he or she has been subpoenaed may peruse the original reports on file in the Records and Identification Division. Copies of the reports are also available through the Department of the Prosecuting Attorney.
- B. Officers shall remain in close proximity to the courtroom so as to be immediately available for trial or for any questions from the prosecutor. It shall be the responsibility of the officer to provide contact information to the prosecutor should he or she need to leave the area.
- C. Officers shall be dismissed by the prosecutor, bailiff, or court sergeant or designee.

12-1-2022

D. Officers shall appear in court in their standard police uniform as specified in Policy 2.38, UNIFORMS, EQUIPMENT, AND FIREARMS, or as noted below:

1. Male Plainclothes Officers

Male employees shall wear coats and ties with dress slacks and dress shoes with socks in a combination that is conservative in nature and has a professional appearance.

2. Female Plainclothes Officers

Female employees shall wear dresses, suits, or blouses and dress slacks/skirts with dress shoes in a combination that is conservative in nature and has a professional appearance. Muumuus are not acceptable.

12-1-2022

E. Uniformed officers attending court in the course of their normal scheduled work shift shall appear in their standard police uniform or standard uniform for solo motorcycle officers as specified in Policy 2.38, UNIFORMS, EQUIPMENT, AND FIREARMS, except in the cases listed below:

1. A uniformed officer who is on call for court may appear in the utility uniform when it has been authorized by his or her commander because of inclement weather.
2. The uniform shall not be worn when an officer is appearing as a defendant.
3. The uniform shall not be worn when an officer is present at a court proceeding in which a second officer is a defendant and the first officer has not been subpoenaed to appear as a witness.
4. When officers are not acting in their official capacities but representing personal interests (e.g., character witness testimony) in court, they shall not wear any departmental uniform or present themselves as departmental representatives without prior written approval from the Chief of Police.

12-1-2022

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5. A uniformed officer who is attending court during hours that are not part of his or her normal scheduled work shift may wear plainclothes attire as provided by this directive.

F. Civilian personnel shall appear in court in attire that is consistent with Policy 3.22, DRESS AND GROOMING STANDARDS.

G. No firearm shall be worn in the courtroom.

Exception: On-duty officers responding to a call for assistance by the court.

H. Claiming of Mileage and Witness Fees

1. Employees attending any court or administrative proceeding in their official capacity, on behalf of the department, are not entitled to claim witness fees.
2. Employees utilizing city-owned vehicles to attend court are not entitled to claim mileage fees.
3. Mileage incurred by officers utilizing city-subsidized vehicles to attend court is considered on-duty mileage. As such, they are not entitled to claim mileage fees.
4. Employees claiming mileage fees shall complete any required voucher or form provided by the paying agency. If none is provided, they shall include the following information on their subpoena prior to requesting for payment:
 - a. Address or district from where the employee reported to court;
 - b. Address or district to which the employee will be directly reporting to after court;

- c. Duty status and work schedule of the employee;
 - d. Whether the employee is utilizing a subsidized, nonsubsidized, or city-owned vehicle;
 - e. Whether the employee must pick up and/or return any evidence that was subpoenaed for court;
 - f. Signature and employee identification number of the employee claiming court mileage fees; and
 - g. Signature and employee identification number of the court sergeant/officer.
5. The court sergeant/officer shall ensure that employees who claim mileage fees for court attendance include all required information and sign the back of the subpoena. Refer to the attachment.
 6. The court sergeant/officer shall submit all processed copies of mileage fee claims provided by the court to the appropriate commands.

V. PROCEDURES FOR COURT

The court sergeant/officer handles administrative matters associated with the appearance of departmental personnel at court.

A. Reporting to Court

1. Officers who are subpoenaed to court, whether on or off duty, shall report to the court sergeant/officer when they arrive.
2. Officers shall sign and complete the court attendance log, including their arrival and departure times.
3. Immediately after signing the court attendance log and meeting with the court sergeant/officer, officers shall report to the prosecuting attorney in charge of the case. Officers should allow sufficient time to confer with the prosecutor before the case is heard.

12-1-2022

4. Officers who request to be on standby while on duty shall notify their supervisor, who in turn shall notify and seek approval from the court sergeant/officer. If approved, the officer shall abide by the given instructions.

B. Overtime Cards

1. Officers shall submit their overtime cards to the court sergeant/officer for time-stamping at the beginning and end of the overtime period.
2. The court sergeant/officer shall ensure that officers complete their overtime cards properly and shall sign each card.
3. The court sergeant/officer shall submit all overtime cards to the appropriate commands.

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C. Reporting Absences and Late Arrivals

1. When an officer will be absent from court or late in arriving at court, the officer shall notify his or her command. In turn, the command shall notify the court sergeant/officer.
2. Whenever possible, notification to the court sergeant/officer shall be made at least 30 minutes before the officer's scheduled court time.
3. When notified of an absence or a late arrival, the court sergeant/officer shall notify the court bailiff and/or prosecuting attorney. Each notification shall be logged in the daily discrepancy log.

12-1-2022

D. Failure to Report to Court Without Proper Notification

1. The court sergeant/officer shall input "No-Call/No-Show" in the court attendance log on the HPD intranet page for an officer who failed to make proper notification of their absence.
2. The court sergeant/officer shall initiate a memorandum to the Professional Standards Officer via their command.

VI. NOTIFICATION SYSTEM FOR COURT APPEARANCE

Annual vacation schedules shall be submitted by the elements listed below to the Information Technology Division for consolidation and transmittal to the Department of the Prosecuting Attorney (see Policy 3.07, ANNUAL VACATIONS):

- A. Central Receiving Division;
- B. Communications Division;
- C. Community Affairs Division;
- D. Criminal Investigation Division;
- E. Districts 1 through 8;
- F. Narcotics/Vice Division;
- G. Records and Identification Division;
- H. Scientific Investigation Section;
- I. Specialized Services Division;
- J. Traffic Division; and
- K. Training Division.

Each employee shall apprise his or her element commander of any anticipated change in personal status that may interfere with a court appearance so that the commander can ensure that the proper notifications are made.

VII. COURT OFFICER

All scheduled leaves and suspensions shall be reported to the court officer in each district patrol command. On the basis of these schedules, the court officer will make the proper referrals of personnel to the district courts and to the Department of the Prosecuting Attorney.

12-1-2022


ARTHUR J. LOGAN
Chief of Police

Attachment

Post on bulletin
board for one week

Policy first issued
March 7, 1997

**June 19, 2015
Attachment**

Policy Number 7.12

Travelled to Court From Address:	Travelled From Court to Address:
Duty Status: <input type="checkbox"/> Day Off/Authorized Leave <input type="checkbox"/> Work Day/Shift Hours: _____ to _____	
<input type="checkbox"/> Subsidized Vehicle <input type="checkbox"/> Nonsubsidized <small>(If utilizing an HPD vehicle, the mileage fee is NOT authorized.)</small>	
<input type="checkbox"/> Evidence: <input type="checkbox"/> Other (specify): _____ <input type="checkbox"/> Picked up from 801 S. Beretania Street <input type="checkbox"/> Returned to 801 S. Beretania Street <small>(If retained by the court, do not check.)</small>	
I am claiming mileage based on the above:	Attested by:
Employee Signature/ID Number	Court Sergeant or Officer Signature/ID Number