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## Subpoenas and Court Appearances

### 324.1 PURPOSE AND SCOPE

This policy establishes the guidelines for department members who must appear in court. It will allow the Easton Police Department to cover any related work absences and keep the Department informed about relevant legal matters.

### 324.2 POLICY

Easton Police Department members will respond appropriately to all subpoenas and any other court ordered appearances.

### 324.3 SUBPOENAS

Only department members authorized to receive a subpoena on behalf of the department or any of its members may do so.

The Records Section maintains a Court Summons/Subpoena ledger book in the Records Room and ensures that all summons and subpoenas for Department members are logged into the ledger. All summons/subpoenas hand delivered to the Department are logged in the Ledger Book by Records personnel and forwarded to the member's supervisor.

The supervisor will have the member sign and date, acknowledging receipt on the face of the summons/subpoena and then has the member return a signed copy to Records.

All summons received by mail are forwarded to the member's supervisor, who delivers the sealed summons to the member. The member will then open and sign the summons and forward it to Records where it will be logged into the Ledger Book by Records personnel.

Members who are served a summons/subpoena personally by a Deputy will sign for the summons and follow the same procedure for summons received in the mail.

Copies of summons/subpoenas held by the Records Section will be removed and destroyed 30 days after the trial date indicated on the summons/subpoena.)

#### 324.3.1 SPECIAL NOTIFICATION REQUIREMENTS

Any member who is subpoenaed to testify, agrees to testify or provides information on behalf or at the request of any party other than the Town Attorney or the prosecutor shall notify his/her immediate supervisor without delay and the Deputy Chief of Police within 24 hours:

- (a) Any civil case where the Town or one of its members, as a result of his/her official capacity, is a party.
- (b) Any civil case where any other city, county, state or federal unit of government or a member of any such unit of government, as a result of his/her official capacity, is a party.
- (c) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.

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- (d) Any civil action stemming from the member's on-duty activity or because of his/her association with the Easton Police Department.
- (e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Easton Police Department.

The Deputy Chief of Police should determine if additional legal support is necessary.

No member shall be retaliated against for testifying in any matter.

#### **324.3.2 CIVIL SUBPOENA**

The Department will compensate members who appear in their official capacity on civil matters arising out of their official duties.

The Department should seek reimbursement for the member's compensation through the civil attorney of record who subpoenaed the member.

#### **324.3.3 OFF-DUTY RELATED SUBPOENAS**

Members receiving valid subpoenas for off-duty actions not related to their employment or appointment will not be compensated for their appearance. Arrangements for time off shall be coordinated through their immediate supervisors.

#### **324.4 ATTENDANCE**

Any member who fails to comply with the terms of any properly served subpoena or court ordered appearance may be subject to discipline. This includes properly served orders to appear that were issued by a state administrative agency.

Members shall appear in court on time and be prepared for trial. If the member is going to be late for any reason, he shall inform the States Attorney's Office or the court as soon as possible. Members arriving late shall provide an explanation to the States Attorney in charge of the case.

Members who are subpoenaed to appear in two different courts at the same time shall contact the States Attorney's Office involved to resolve the conflict.

Members scheduled to appear in court, taking unscheduled leave due to sickness, death in the family, etc., shall contact:

- (a) Their supervisor, if the squad is working.
- (b) The on-duty supervisor, if their squad is not working.

Supervisors will contact the States Attorney's Office or the court if an officer is unable to appear due to sickness, death in the family, etc.

#### **324.5 STANDBY**

To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the Department.

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If a member on standby changes his/her location during the day, the member shall notify the designated department member of how he/she can be reached. Members are required to remain on standby until released by the court or the party that issued the subpoena.

#### **324.6 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.

Members shall dress in the department uniform. Members who wear civilian clothes as their duty uniform may wear civilian clothes to court. Civilian clothes for male members must be a business suit or a mixed combination suit, shirt and tie with conservative cut and color. For female members, civilian clothes shall be conservative in nature (e.g., dress, pant suit, etc.) The badge must be displayed on the outermost garment at all times when attending court in civilian clothes.

Members shall observe all rules of the court in which they are appearing.

##### **324.6.1 TESTIMONY**

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

Members must always conduct themselves in a dignified and respectful manner while in the court or other judicial hearings.

- (a) When called to the stand, members will walk to it in a calm, erect and dignified manner.
- (b) Members should sit comfortably and erect in the witness chair. He should fold his hands and avoid any mannerisms, which could indicate nervousness or tend to distract the jury.
- (c) The employee, upon taking the stand, shall give his full name, official title and duty assignment.
- (d) The employee's testimony shall be responsive, concise, factual and worded in plain everyday language. He shall speak in a conversational tone with sufficient clarity and distinction so the court, jury and counsel may easily hear. As the officer testifies he should face the judge or the jury directing his testimony to them, though he may face the interrogator while being asked a question.
- (e) The member shall be respectful, both in manner and speech, to all parties in the proceeding. He shall address the court as, "Your Honor," an attorney as "Sir or Ma'am" and refer to the person on trial as the defendant.
- (f) The member should be certain that he understands the question and pause briefly before answering it.
- (g) Answers should be complete and to the point, free of immaterial or irrelevant details.
- (h) If the employee makes a mistake while testifying, he will immediately acknowledge the mistake and correct it.
- (i) The employee shall be sincere and impartial by his testimony and demeanor.

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- (j) Above all, all testimony will be truthful and honest to the best recollection of the officer, regardless of how it may affect the verdict. If the member is unsure or doesn't know the answer to a question, he should say so.

#### **324.7 OVERTIME APPEARANCES**

When a member appears in court on his/her off-duty time, he/she will be compensated for the hours spent in court. Members who are off-duty will receive a minimum of 2 hours overtime.

#### **324.8 LITIGATION**

Members must notify the Office of the Chief of Police within 24 hours of filing a lawsuit or being served as a defendant for any reason and/or requesting representation through the Town Attorney's Office. This will be done through channels, via an Interdepartmental Memorandum, Form 48.

Members, who are served as a defendant in a lawsuit relating to their official duties as a Department member, may request legal representation through the Town Attorney's Office. The member should attach to the request, copies of all court documents received. The request should be made through proper channels, via a Form 48.

Members will not make any statements, or otherwise furnish information, regarding an incident or allegation of liability against the Town of Easton to anyone outside the Department without first notifying the Town Attorney. Approval must be obtained from the Town Attorney to make the statement or to furnish the information.

Members filing a lawsuit as a plaintiff will provide sufficient information at the time of notification so that a determination can be made as to whether the cause of action arose during the course of employment.

Members will not compromise, discharge, or settle any line of duty claim committed against their person or property, or against the Town's property or interests, without the consent of the Chief of Police or the Town Attorney.

When summonsed/requested, subpoenaed or voluntarily acting to testify, write correspondence, or make statements on behalf of a criminal defendant or civil plaintiff or defendant, members shall:

- (a) Notify their commander and the appropriate prosecutor as soon as possible. If no summons is received, advise the person making the request that a summons or subpoena is necessary, unless acting voluntarily.
- (b) Not make voluntary reference to their position or employment with the Easton Police Department, if acting outside the line of duty.

#### **324.9 COURT SCHEDULING**

The Department will assign a member who will serve as the Court Liaison to assist members with scheduling issues and conflicts with the court. The court will be provided with work schedules and requested trial dates for Department members through the Court Liaison.

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Members who will be unavailable for court during certain dates for training, vacation, etc., will provide written notice to the Court Liaison. The Court Liaison will provide notice of those dates to the District Court, Circuit Court and States Attorney's Office at least 60 days in advance.