

MEMPHIS POLICE DEPARTMENT POLICY AND PROCEDURES
SECTION: Service of Subpoenas by Officers

The Tennessee Rules of Criminal Procedures, Rule 17(d), states:

A subpoena may be served by any person authorized to serve process, or the witness may acknowledge service in writing on the subpoena. Service of the subpoena shall be made by delivering or offering to deliver a copy thereof to the person to whom it is directed or by leaving a copy thereof with an adult occupant of his usual place of residence.

In all cases, officers should attempt to serve the subpoena upon the witness personally. If that is not possible, then a copy of the subpoena should be left with an adult occupant of the witnesses' home. The occupant of the witness' home is to be named on the **RETURN**. Only when repeated efforts at this manner of service have failed should the subpoena be served by registered mail, and then only with the express permission of a lieutenant in the Warrant Squad.

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I. TENNESSEE SUBPOENAS

Officers of this department are subject to subpoenas from many courts and administrative agencies, including, but not limited to:

Criminal Court	General Sessions Court	Circuit Court
Chancery Court	City Court	Juvenile Court
City Alcohol Commission (Beer Board)		U.S. District Court (Federal)
State of Tennessee Confiscation Hearings (drug and vehicle seizures)		

- A. Whenever an officer is required to make a court appearance in connection with his/her duties as a police officer, he/she will be compensated in accordance with current contractual provisions of the agreement between the City of Memphis and Memphis Police Association.
1. Although most of these court appearances are criminal in nature, there will be cases where an officer is subpoenaed by a private attorney. (ex. Circuit Court - accident). When the case is a criminal case, a government attorney (Attorney General, City Prosecutor, or City Attorney) will sign the officer's court slip. In civil cases, it will be signed by the private attorney who subpoenaed the officer.
 2. Officers must complete and submit their own court slips. Each officer completing a court slip must present the court slip to the prosecutor (or designee) in person for the prosecutor's signature. No MPD personnel shall complete or submit a court slip for approval for any other MPD personnel.
 3. The court slip will be placed in the Court Coordinator's box in Room LL58/LL59, Criminal Justice Complex. This slip should be filled out completely in order to expedite the officer's pay or accumulation of time. All Overtime Records (Blue Slips) are to be submitted to the court coordinator's office within (5) five business days after the officer's scheduled court appearance. This includes attaching the subpoena, notice or whatever form of documentation the officer has been furnished. If the court appearance is the result of a continuance, then the date of the previous setting and disposition must appear on the line titled "Case Disposition". If the court appearance is the result of an officer setting a moving violation on his/her summons day, then the ticket number must be furnished on the line titled "Subpoena No."; along with the letters O.S.D. (Officer's Summons Day). If for some reason, an officer's overtime slip is disapproved, the officer will be notified in writing by the Court Coordinator's Office.
 4. An officer will not be required to make a court appearance on the first setting of his/her case. This is the arraignment and is followed by a later report date for the defendant. The trial date or preliminary hearing follows and the arresting officer will be notified to appear when necessary.
 5. If an officer is subpoenaed for a case and it is continued while he is in court, it will be the responsibility of the officer to make note of the continuance date and to reappear in court on that date.

B. Court Appearance and Compensation

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1. The court appearance procedure evolves and hinges on the start time of the first court appearance of the officer on any given day. The officer is compensated for four (4) hours and may be required to appear in more than one case or court during that four (4) hours time. Since the officer is paid for four (4) hours, the number of appearances in that period of time is irrelevant and for pay purposes, will be considered one (1) appearance.
2. If there is a break in the first four (4) hours and the period of the time exceeds four (4) hours, it is a continuance of the first four (4) hours. Being released for a recess is not considered a break of a court appearance.
3. The following hypothetical scenarios are offered as examples of the most common questions answered by the Court Coordinator's Office:

Example #1: An officer is subpoenaed to a court at 9:00 am and released at 10:00 am. The officer has another court during the same time and is released from this court at 12:30 pm. The officer is allowed to submit only one (1) set of blue slips and the time on his slip will be from 9:00 am – 12:30 pm.

Example #2: An officer is subpoenaed to civil court at 10:00 am and is released at 12:00 noon. His regular traffic summons court is at 1:30 pm on the same date and is released from traffic court at 1:50 pm. The officer is allowed to submit only (1) set of blue slips because both courts fall within the same four-hour period.

Example #3: An officer is subpoenaed to a court at 9:00 am and released by the prosecutor at 2:00 pm. The officer is allowed to submit only (1) set of blue slips. The case is continuous, and the officer's time will be shown as 9:00 am until 2:00 pm. The actual time in court will be five hours.

Example #4: An officer is subpoenaed to court at 9:00 am and released at 9:30 am. He also has a subpoena to appear in another court at 10:00 am. He is kept in the last court until 2:30 pm. The officer is allowed to submit only one (1) set of blue slips, combining both courts on the one set of blue slip. The officer's time would be from 9:00 am until 2:30 pm. The officer has multiple court appearance and continuous time.

Example #5: An officer is subpoenaed to court at 9:00 am and then released at 11:00 am for recess. The officer is instructed to return at 1:30 pm. The officer is allowed to submit on (1) set of blue slips. The officer is being paid for 11:00 am until 1:30 pm for lunch and receives continuous time until time of release.

Example #6: An officer is subpoenaed to court at 9:00 am and held in that court until 11:00 am. The officer then returns at 1:30 pm on the same date for a different court. The officer is allowed to submit two (2) sets of blue slips, one for each court appearance.

Example #7: An officer is subpoenaed to court at 9:00 am and held in that court until 1:00 pm. The officer is also subpoenaed to appear in a different court at 1:00 pm. This officer is only allowed to submit one (1) set of blue slips. The reason being is there is not break in time between the end of the first court and the beginning of the second court.

NOTE: No officer will be compensated for court appearance if they were not subpoenaed or summoned by a prosecutor.

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C. No personnel can ignore a subpoena issued by a judge for court attendance.

1. **Regarding General Sessions, Criminal and Federal Court;** if an individual is injured to a degree that prohibits him/her from leaving his/her residence, he/she must contact the Assistant District Attorney listed as the contact person on the subpoena. If an individual is taking a prescribed medication that cautions against driving a vehicle, he/she must contact the Assistant District Attorney listed as the contact person on the subpoena and transportation will be provided.
2. Officer/P.S.T.'s subpoenaed to City **Court** should contact the court coordinator's office for instructions regarding attendance.
3. Officers subpoenaed/P.S.T.'s to **Civil/Circuit Court** should contact the attorney that is listed on the subpoena for instructions regarding attendance.
4. It is the Commanding Officer's responsibility to notify the court coordinator's office when an officer assigned to his workstation is injured, on vacation, or will be away from work for an extended period of time.

D. Issuing Court Subpoena via Email

All local (prosecutors') subpoenas, outside of lawsuits, must be sent to the Court Coordinators Office, where they will be distributed to officers/P.S.T.'s.

1. All local (prosecutors') subpoenas issued to MPD Officers/P.S.T.'s (*with exception of Juvenile Court subpoenas*) will be e-mailed to their appropriate workstation. A copy of the officer's subpoena will be e-mailed to the secretary, and copied to their Lt. Colonel and Colonel. If the officer's workstation does not have a secretary, Lt. Colonel, or Colonel then the e-mail will be sent to a designated Lieutenant and copied to their Major. The original recipient will print a hard copy of the subpoena and deliver the subpoena to the appropriate shift/officer. Once the officer/P.S.T. receives the subpoena, it should be initialed and returned to the original recipient. The original copy of the subpoena, with the officer's/P.S.T.'s initials, will be placed in the Court Notification File and a copy be sent through inter-office mail to the court coordinator's office.
2. Each workstation should create a Court Notification File, separate from the officer's/P.S.T.'s personnel file, for each shift in order to file the original initialed copy of the subpoena.
3. It is imperative that we maintain a current list of secretaries, Commanders, and supervisors in order to assure proper delivery of the court subpoenas. Please e-mail the court coordinator personnel and the court supervisor, with a list of the individuals that will be receiving the emailed subpoenas. A minimum of three individuals must be listed in case one of the individuals is off on vacation, sick, etc.
4. If an individual is transferred or no longer available to receive the subpoenas a replacement name should be sent to the Court Coordinator's Officer.

5. NO SUBPOENA WILL BE SENT BY INTER-OFFICE MAIL.

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II. CITY COURT PROCEDURES

- A. City court cases will be distributed among the three (3) City Court Divisions in the following manner:

<u>DIVISION I</u>	<u>DIVISION II</u>	<u>DIVISION III</u>
Bomb Unit	Academy	Air Support
Canine Unit	Appling Farms Station	Mt. Moriah Station
Court Officers	Airways Station	South Main Station
DUI	Crime Scene Inv.	Raines Station
Dare/Great	Harbor Patrol	Tillman Station
Information Systems	Memphis Airport Police	
Investigative Bureau	Memphis Animal Control	
OIS	Mounted Patrol	
Public Housing	Old Allen Station	
Real Time Crime	OCU	
Research & Development	Special Events	
Reserve Bureau	Traffic/STIS	
Ridgeway Station	University of Memphis	
Tact Unit	University of Tennessee	
Traffic/Motors		
Crump Station		

City Court and General Sessions/Criminal Court dockets are posted outside the respective clerk's office daily for officers and civilians wishing to check the dockets for individual cases.

City court dates are to be assigned a minimum of four (4) weeks from the date of issuance of the ticket on the officer's next regular assigned summons date after the expiration of this four (4) week period; exceptions: leave of absence, vacations, etc. Officers issuing long tickets for any City Ordinance Violation will include a court date at the bottom of that ticket with the date being set on the officer's regular assigned summons date. THIS APPLIES TO ALL VIOLATIONS ON A LONG TICKET.

In all accident cases involving any violation, resulting in "serious personal injury" the MANDATORY COURT APPEARANCE block on the front of the ticket must be checked, so that the Traffic Violations Bureau will be on notice not to accept forfeiture for this violation. Additionally, officers should advise the person cited that they must appear in Court, and cannot pay forfeiture in this matter.

The only exception to the above stated policy would be when an officer issues long tickets on non-moving violations, such as violation of state registration, financial responsibility, including headlights, seatbelt, etc., whereas a court appearance is not required on such charges. In such case, if those non-moving violations are the ONLY cases the officer has set on this summons day, then that officer need NOT make court on his/her summons day.

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B. SUMMONS DATES FOR TRANSFERRED OFFICERS:

Summons dates of officers who have been transferred will remain the same for that calendar year, however, the time and division must coincide with the new transfer location. The court supervisor must be notified of the transfer so that the court dates will reflect these changes. This report is distributed to the Court Coordinator's Office, City Court Clerk Office, City Prosecutor's Office, City Traffic Court and City Court Judges.

C. SUMMONS DATES FOR NEW OFFICERS:

Summons dates will be assigned to new officers as quickly as administratively possible. New officers making off duty court appearances will not be held responsible to prosecute traffic cases until they have been properly assigned their own summons dates. Until such time they have been assigned summons dates, it will be the responsibility of their senior partner to prosecute these cases. New officers assigned to work shifts requiring off duty Court appearances should make court with their senior partner on no more than two (2) occasions in order to become aware of court procedures.

D. SUMMONS DATE PROCESS FURTHER EXPLAINED (EXAMPLE):

Officer Doe issues a speeding ticket to Joe Smith and sets a court date for September 25, which is Officer Doe's regular assigned summons date. At any time prior to September 23, (two [2] days before scheduled court hearing, Joe Smith may go to the Traffic Violations Bureau and pay the ticket. Joe Smith may wish to appear in court on September 25 in lieu of paying the ticket. In either case, Officer Doe MUST appear in Court on that day because Officer Doe will not know whether the ticket has been paid or not. If Officer Doe is assigned to the Crump Station at the time the ticket was issued, the division of court will be Division I. If Officer Doe had been assigned to the Mt. Moriah Station, the division of court would be Division III.

III. OUT-OF-TOWN SUBPOENAS:

The State of Tennessee and numerous other states are bound by a Uniform Law to Secure Attendance of Witnesses. This law requires that the requesting jurisdiction follow certain procedures prior to and in conjunction with the issuance of a subpoena for a person in another state or jurisdiction. This law mandates that certain compensation be forwarded at the time of the subpoena.

This law applies to a state or jurisdiction, which is attempting to subpoena a Memphis Police Officer to another state or jurisdiction to testify. The Memphis Police Department does not bear the financial cost of sending officers to another state or jurisdiction - this is the responsibility of the state or jurisdiction which issues the subpoena. Different states have different amounts of money they pay to officers for expenses and travel.

As a matter of policy, the Memphis Police Department tries to make officers available whenever

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an out-of-town subpoena is issued.

Upon receipt of a subpoena or a request for an officer's appearance in another jurisdiction, that officer must contact the Legal Advisor's Office. **The out-of-town subpoena must be delivered to the officer in person.** It will be the duty of the Legal Advisor's Office to determine if the subpoena has been issued in accordance with existing Code regulations. If an officer is contacted by an out-of-town jurisdiction, that officer is to refer the caller to the Legal Advisor's Office at 901-636-3632. In no event is the officer to make arrangements to testify without first notifying the Legal Advisor's office.

Officers should complete the following steps, once they have been properly served with an out-of-town subpoena:

- A. Upon notification that you have been subpoenaed for an out-of-town court appearance, you must do the following:
 1. Immediately notify your supervisor.
 2. Take a copy of the subpoena to the Legal Office located at 170 N. Main, 11th Floor Rm# 1111.
 3. Complete a travel authorization form and submit it to the Deputy Chief of Administration for approval.
 4. Pick up a Court Contract from the Court Coordinator's Office.
 5. Request a road car authorization through the Support Services Office located at 170 N. Main, 11th Floor, Rm# 1107.

- B. After the completion of court, officers should:
 1. Contact the prosecutor for that jurisdiction and inquire about the process for being reimbursed for incidental expenses.
 2. Complete the necessary documents for that jurisdiction and submit them prior to returning to Memphis.
 3. Returned the signed Court Contract to the Court Coordinator's Office

- * **A Court Contract must be picked up from the Court Coordinator Office on ALL Civil Court cases and Out of Town cases. The contract must be signed by the subpoenaing attorney and turned in to the Court Coordinator Office within (5) five business days of the officer's court appearance.**

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SECTION: Cases Against Officers/ Officer Commencing Suit

I. CASES AGAINST OFFICERS:

When an officer is sued in connection with his police duties, he should do the following:

- A. Accept service on the complaint from the Deputy or Marshall, process server. **Only the officer named in the complaint/lawsuit shall accept service of the complaint/lawsuit. No other Memphis Police Department employee shall accept service of another's complaint/lawsuit.** Complaints/lawsuits should not be accepted by another person and placed in the officer's box, or held until roll call. All complaints/lawsuits should be served in person to the officer named in the instrument.
- B. The officer will note the date and time of service on the front page of the complaint along with their current address and phone number.
- C. Take or send the complaint to the Legal Advisor's office as soon as possible on the day the complaint is received. Time is of the essence in these cases because a written answer must be filed with the court within 20 days if the matter is a Federal Lawsuit.

These lawsuits are forwarded to the City Attorney's Office, City Hall. The City Attorney will determine if the City may represent the officer and will notify the officer by letter.

If the City notifies the officer that it cannot represent them due to a potential conflict of interest and the officer wishes to obtain legal counsel, they will be instructed to contact an attorney of their choice.

If the City is representing the officer they should not discuss the case with any insurance company or opposing attorney, or give any statements without notifying the assigned attorney in the City Attorney's Office. Officers will not be paid overtime for court appearances or conferences with the City Attorney or Legal Advisor's Office when the City is defending that officer in such a case, nor will an officer be paid overtime for appearances at the legal Advisor's Office or City Attorney's Office to receive service of process when the suit is directed against him. This time is primarily for the benefit of the officer and is not covered by Union Contract.

II. OFFICER COMMENCING SUIT

When an officer of this Department decides to file suit against any person or company, and the suit arose out of the officer's official duties or is a personal injury suit, the officer shall notify the Legal Advisor's Office. Such suits (Assault & Battery, Slander, etc.) will always involve police reports, tapes, etc., and the Department needs to be on notice of the pending litigation.

Once the lawsuit is settled in any manner, the officer must also notify the Legal Advisor's Office of the settlement. The City is entitled to a reimbursement for any salary loss, medical expense, or equipment damage.

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According to all applicable State and Federal laws, the Memphis Police Department will excuse employees for time spent on jury duty.

State Court

An employee called for jury duty shall provide a copy of the summons to their immediate supervisor.

Officers should then contact the Jury Commission before the scheduled date on the summons and identify themselves as a police officer in order to select a week of service from the **twelve month** calendar. The twelve month service calendar is made available to officers to avoid causing a hardship for the Department. Officers should schedule the service week with consideration for adequate coverage at their assigned workstation and their days off section, for example, choosing a week for service when the officer has weekends off.

Officers may contact the Jury Commission by phone at 222-1650 or appear in person at the Jury Commission office located at 157 Poplar Ave, Suite 136.

NOTE: Officers are NOT required to attend the qualification session on the summons.

Officers and employees summoned to jury duty will report in proper civilian court attire. No part of the uniform, including the gun and badge, is to be physically worn when reporting for jury duty.

An employee who is required to attend jury duty on a scheduled work day will be compensated for a normal work day (8 hours), at their normal rate of pay.

NOTE: State law does not require an employee to return to the workplace after serving three or more hours of jury duty. However, if an employee is released after serving less than three hours, they are to **immediately** report to their work station to complete their normal work day. *State law also does not require an employer to pay the employee for more time than was actually spent serving and traveling to and from jury duty (no overtime paid).*

Employees should obtain a daily attendance letter for each day of service prior to leaving the Jury Commission Office for that day. The letter will provide the time the juror was due to arrive for service and the time of release from service. The letters should be turned in to the employee's immediate supervisor upon return to work.

Employees must notify their duty stations as soon as possible when released from jury duty in order to accommodate the shift supervisor preparing rollcall for the employee's next regularly scheduled tour of duty.

Federal Court

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An employee called for jury duty shall provide a copy of the summons to their immediate supervisor.

Sworn police officers are **not** required to serve on a Petit Jury for Federal Court; however, civilian personnel are required to serve. If an officer receives a Jury Qualification Questionnaire letter for Federal Court, the officer is to correctly mark the exemption for being a “member of any governmental police or regular fire dept.” The occupation section should also be completed prior to returning the questionnaire.

NOTE: Federal law requires that you correctly answer the questions about your occupation so that the Federal Courts can promptly determine whether you fall within an excused or exempted category.

Officers will receive an exemption letter excusing them from Petit Jury service. If you do not receive this letter, contact the U.S. District Court Clerk at 495-1500.

Qualified employees (civilians) selected as jurors are assigned a juror number and a thirty day block of time during which they may be required to serve as a juror. The employee will call the provided number after 5:00 p.m. each day to determine if they will be required to report for duty the following day.

If the employee is **NOT** needed, the employee will report to work for their next scheduled workday. The Department will excuse employees for time spent on jury duty. While not actively serving on a jury, employees will report to their work assignment, unless time off is granted by the employer.

If the employee is summoned for jury selection and they are **NOT** selected, the process for that employee is over. The employee will obtain a “Release Letter” at this time to provide to their immediate supervisor upon return to work.

If the employee is needed for jury selection and **IS** selected to serve on a jury, the employee will receive a “Letter of Release” at the end of the trial to provide to their immediate supervisor upon return to work on their next regularly scheduled workday.

State or Federal Jury Duty

An employee whose regularly scheduled work hours do not coincide with the hours set for jury duty (8 a.m.-5 p.m.) will be detailed to work a shift coinciding with the same hours. For operational purposes, employees will be detailed for Jury Duty the same as they would for In-Service Training. **No overtime will be paid for jury duty hours that exceed the normal work day (8 hours).**

Example: Officer Doe is called to serve jury duty from Monday through Friday. He works the midnight shift. Officer Doe’s regular days off for that week are Wednesday/Thursday. Officer Doe will be regular swapped for Saturday/Sunday prior to his service. Officer Doe is

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released from jury duty at 2:00pm on Friday. Officer Doe is required to contact his duty station and advise a supervisor to leave notice for his shift supervisor that he will return to work on his regularly scheduled shift beginning Friday night at 11:30 p.m. for Saturday because his detail ends at the same time his jury duty ends.

If Officer Doe is selected for a jury on Monday and the trial extends through the following Wednesday, Officer Doe's RDO will be regular swapped on the second week to accommodate his jury service as in the previous week. Officer Doe will return to work Wednesday at 11:30 p.m. for Thursday after contacting his duty station.