
	<b>GAITHERSBURG POLICE DEPARTMENT</b>			
	<b>Court Appearances</b>			
	<b>GENERAL ORDER</b>	<b>623.1</b>		<b>Related CALEA Standards:</b>  <b>26.1.1, 33.1.2, 83.2.1, 83.3.2, 84.1.1, 84.1.5</b>
	<b>Effective Date</b>	<b>03/14/2012</b>		
<b>Authorized by:</b>	<b>Mark P. Sroka</b> CHIEF OF POLICE	SIGNATURE	DATE	

**I. POLICY**

It is the policy of the Department that attendance at a court hearing, trial, pre-trial conference, or other judicial proceeding arising out of a member's employment with the Department be considered an official duty assignment.

**II. PROCEDURE**

**A. General Provisions**

1. Pursuant to Maryland Rules 4-265 and 4-266, it is unlawful for a person to willfully disobey a summons after it is received.
2. Court appearances are compensable when an officer is appearing as a witness, or otherwise commanded to appear, in a matter arising out of or in the course of his or her official duties.
3. Officers will not be compensated for court appearances when accused or charged as a defendant/respondent in a criminal or civil matter, unless the underlying event or charge arose out of the officer's performance of his/her official duties.
  - a) Photo enforcement citations (speed camera and red light tickets) are pre-screened by command staff to determine if the violation arose out of the performance of official duties.
  - b) If an officer is directed to pay one of these citations, the Department has determined that the violation was not in the performance of official duties.
4. If an officer attends court as a defendant/respondent during hours when he/she is scheduled to work, for a situation that arose outside of the performance of his or her official duties, the officer will be required to use leave (annual, compensatory, or leave without pay) while attending court.
5. When a summons/subpoena/traffic docket is received by the Department requiring a member to appear at a hearing, court proceeding, etc., the document will be handled in the following

manner:

- a) The original of the document will be placed in the supervisor's mailbox of the member whose appearance is required; and
  - b) A copy will be kept in a file maintained by the administrative staff.
6. Unless properly excused or released from a summons or subpoena by the court, members shall be prompt for the court proceedings to which they were summoned or subpoenaed, and shall remain until their attendance is no longer required.

**B. State's Attorney's On-Call Program**

1. The State's Attorney's Office On-Call Program allows on-duty members to remain on patrol and off-duty members to go about their business, with the understanding that they will immediately respond to court if their attendance is required.
2. Sergeants/Corporals will review all court subpoenas for officers under their supervision to determine if the officer is not needed or cannot testify in the case (such as when the officer did not witness the crime/event or it is impractical for the officer to respond to court). Examples include shoplifters, warrants, diversion hearings, etc. In these instances, the applicable supervisor will send an advanced e-mail notification to [states.attorney@montgomerycountymd.gov](mailto:states.attorney@montgomerycountymd.gov) apprising the State's Attorney's Office that the officer will not be attending court due to the fact that he/she did not witness the offense/event and therefore is unable to provide testimony. It is the officer's responsibility to bring these cases to his/her supervisor's attention promptly, prior to the trial date.
3. If a Department member wishes to be placed on-call, it is the responsibility of that member to arrange to be placed in an on-call status. Department members should make notification to the prosecuting attorney or Court Liaison Office themselves, by calling:
  - a) State's Attorney's Office (240-777-7300), in advance of the trial date; or
  - b) Court Liaison Office (301-279-1761), on or before trial date.

4. If an off-duty member has been placed on-call, he/she will not be compensated for that period of time. Member compensation will commence upon notification to respond for appearance before the court.

**C. Resolving Scheduling Conflicts**

1. Any member who receives a summons or subpoena for the traffic docket, requiring appearance in court for the same time the member is scheduled to attend a training session, shall resolve the scheduling conflict in favor of attending traffic court, unless properly placed on-call.
  - a) Members cannot be placed on-call if they have traffic cases scheduled for the 0900 and/or the 1100 traffic docket(s).
  - b) Members may be eligible to be placed on-call for traffic cases scheduled for the 1300 traffic docket.
2. If a member can foresee the need to have his/her parking cases continued (i.e., in a training course, planning a vacation, or extended sick leave, etc.), the member will coordinate his/her request for a continuance with the District Court Traffic Office, with as much notice as possible prior to the court date, explaining the circumstances that require the need for a continuance.
3. If a member is scheduled for a court appearance on the same day/time as a scheduled training session, it is incumbent upon the member to attempt to be placed on-call, or attempt to have his/her case(s) continued, in order to attend the scheduled training session.
  - a) If the member cannot be placed on-call, or cases cannot be continued, the member will ensure that the training session's instructor is notified of the scheduling conflict and the member will respond to court.
  - b) After the court appearance, the member will respond to participate in the remainder of the scheduled training session, or be re-scheduled (if possible) for the training if too significant a portion has been missed.

**D. Appropriate Attire**

1. On-duty members appearing for court proceedings shall wear the uniform of the day. Members who do not wear uniforms shall wear appropriate business attire that presents a neat, clean, professional appearance and reflects favorably on themselves, the

City and the law enforcement profession.

2. Off-duty personnel will wear either appropriate business attire (as described above) or the uniform of the day.
3. Members shall present a neat and clean appearance and avoid any mannerism disrespectful to the court.
4. Weapons will not be displayed unless the uniform of the day is worn; officers shall not carry or wear weapons into court buildings or courtrooms where weapons are prohibited.
5. Members possessing cell phones will ensure that the audible signal is turned off prior to entering the courtroom.
6. Officers will not wear their official uniform (or any part of it) while attending court as a defendant/respondent, unless the appearance is as a result of the performance of their official duties.

**E. Testimony by Department Members**

1. Members will make every effort to be thoroughly prepared for their court appearances.
2. To ensure evidence is available for court, members shall notify the property custodian, as much in advance as practical, of the need to retrieve evidence.
3. To ensure an accurate chain-of-custody record, the transfer of evidence from the property custodian to the member who receives the evidence shall be documented.
4. If a report copy or form is subpoenaed, officers will obtain a copy in advance of the trial date from on-file Laser Fische records or PacketWriter report retrieval.
5. Members shall be truthful at all times, whether or not they are under oath. Perjury is a criminal offense and may result in criminal charges and/or the member's inability to testify in future cases.

**F. Referrals to the Property Custodian**

1. In order to ensure the accuracy of Department records as they relate to evidence and property, members that have signed out

evidence or property shall not directly release any items after the court case.

2. Persons requesting the return of such items will be referred to the property custodian by the case officer, so arrangements can be made for the requester to sign appropriate Department receipts and have the release properly documented.
3. Some persons may not be entitled to possess certain items (i.e., firearms, contraband) or the ownership of certain items may be in dispute and may require resolution through a separate civil case.

**G. Evidence Retained by the Court**

1. In order to ensure the accuracy of Department records, whenever evidence is retained by the court, members will secure documentation from the court official taking custody of such evidence.
2. The documentation will be submitted to the property custodian, noting the date, time and reason the evidence was retained by the court.