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18-035  
02/22/18

## **Court Appearances and Court Compensation Pay** (Amends DGO 3.08 & Re-issue DB 13-210, DB 16-053, and DB 16-131)

### **COURT APPEARANCES**

As outlined by DGO 3.08, a subpoena, whether civil, criminal or traffic, mandates your appearance. Appearing in court, whether in Criminal Court or Traffic Court, is your duty. Department General Order 3.08 speaks to the member's responsibility to honor all subpoenas mandating your appearance as directed from a competent authority.

Members appearing in court as a result of a subpoena shall sign in at Court Liaison prior to appearing in the assigned courtroom. Members shall check-in with the assigned District Attorney, Defense Attorney (in the case of a defense subpoena), and/or Traffic Court officer to confirm your attendance and check your case status.

A member is not relieved from his/her subpoena appearance obligation until one of the following actions are completed:

1. Dismissal of your case by a judge or court commissioner
2. Excused by the District Attorney or Defense Attorney (in the case of a defense subpoena)
3. Completion of your court testimony

Signing the roll sheet at Court Liaison does not meet the member's court appearance obligation. An 'appearance' has not been satisfied until the member has personally signed into Court Liaison and one or more of the above have been met.

Criminal and Traffic Courts monitor the attendance of officers under subpoena to court. Failure to appear in court after being subpoenaed is a violation of DGO 3.08 and California Civil Code Sections 1211 and 1212 and may result in a "body attachment" with accompanying fine and disciplinary action. The responsibility to resolve any/all issued body attachments and any accompanying fine rests with the member, personally. If unable to appear in court for any reason, the member shall complete SFPD 506, Court Case Response Form (Rev. 02/18), and forward through the chain of command to the Court Liaison Unit (refer to Department General Order 3.08). In the case of a Defense or Civil Subpoena, the member is to call the subpoenaing party directly at the number provided on the subpoena regarding scheduling conflicts (SFPD 506 Court Case Response form is not to be used for Defense or Civil Subpoenas).

### **COURT PREMIUM COMPENSATION PAY**

It is often the case that officers are required to appear in court outside their regularly scheduled tour of duty. In such cases, members are entitled to court premium compensation (overtime). In order for court premium compensation requests to be processed, and compensation granted, the following policies and procedures must be followed.

### **MORNING APPEARANCES**

Morning court compensation requests are limited to no more than three (3) hours in duration (depending on the time on the subpoena and the member's duty status). Each morning court compensation request card shall be signed and dated by the attorney handling the case. If a morning court case is continued to the afternoon, the member shall sign in again at the Court Liaison Unit before going to the courtroom for the afternoon session. The member shall complete a second court compensation request card which will be hour-for-hour until he/she is released by the court.

Members will not be compensated for meal breaks. Members shall have the subpoenaing attorney sign, date, and record the ending time on the back of the second court compensation request card. The member shall then bring the morning and afternoon court compensation request cards and the subpoena to the Court Liaison Unit where the afternoon card will be time-stamped by a Court Liaison staff member.

In the event that a member is subpoenaed to a DMV hearing, a Parole Board hearing or a criminal case held outside of the San Francisco Hall of Justice, the above procedures shall be followed except that members will not be required to sign in at the Court Liaison Unit before court attendance, nor will they be required to have their second court compensation request card time stamped at the Court Liaison Unit. However, members shall have the subpoenaing party sign and date their court compensation request cards and/or subpoena and record the ending time on the cards and/or the subpoena. The Court Liaison Unit will follow up with outside jurisdictions to confirm times and appearances.

### **AFTERNOON APPEARANCES**

A member subpoenaed to court for just the afternoon hours shall sign in at the Court Liaison Unit before going to the courtroom. Such court compensation requests shall be limited to no more than three (3) hours in duration (depending on the time on the subpoena and the member's duty status). If the afternoon court appearance runs longer than three hours, the member shall complete a second court compensation request card which will be hour-for-hour until he/she is released by the court.

Members shall have the subpoenaing attorney sign, date and record the ending time on the back of the second court compensation request card. The member shall then bring both court compensation request cards and the subpoena to the Court Liaison Unit where the second card will be time-stamped by a Court Liaison staff member.

A member may have morning court and afternoon court subpoenas on different cases. Regardless of whether the morning and afternoon appearances are for the same or different cases, the above policies still apply.

If a member is held over in court while appearing during a regular on-duty shift, and the court appearance exceeds the regularly scheduled ending time of the member's tour-of-duty, then the member is eligible for court compensation pay for the time beginning at his/her normal sign-off time until the return time back to the Court Liaison Unit. Such cards require a time stamp from the Court Liaison Unit and the signature, date and ending time from the attorney, bailiff, or court

clerk. Members are not eligible for compensation for travel time to return to their assigned station or unit.

Members shall not sign in at the Court Liaison Unit for one another, nor shall they submit court compensation requests for one another. When applicable, each member must sign in and submit his/her requests in person.

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### **TRAFFIC COURT**

Members are required to sign in on the Court Liaison "sign-in" sheet for all traffic court appearances. Members shall make sure that the citation number is on the back of their submitted Court Compensation Request card for all traffic court appearances.

Members requesting dismissal of their traffic court case shall do so using SFPD 506, Court Case Response Form (Rev. 02/18). Members will not be compensated for their appearance in Traffic Court when they request dismissal of the case due to the inability recalling the incident.

If unable to appear in court for any reason, the member shall complete SFPD 506, Court Case Response Form, and forward through the chain of command to the Court Liaison Unit at least ten days prior to the court date. Effective immediately, SFPD 256 *SFPD Dismissal Request*, is discontinued. All paper copies shall be recycled.

### **STANDBY JURY TRIAL SUBPOENAS**

A member receiving a jury trial standby subpoena shall follow the instructions on the subpoena regarding check-in times and whether his/her appearance is required.

Members receiving a jury trial standby subpoena will now check the status of the case via the CCSF District Attorney's website: [REDACTED] using a CCSF internet connection or department issued mobile device. Off duty members can use department issued mobile device or any device of your choosing such as a home internet connection. The website will provide instructions as to whether the case has been continued or trailing.

The stand-by & check-in procedures do not allow members to check-in for other members except for those off-duty and without access to an internet, department issued mobile phone or any other method of checking into the DA website. For those, the procedure for status & check-in will require members to call their assigned district station and request status or check-in, as stated above, through the on-duty Station Duty Officer. Members not assigned to a district station shall contact DOC at [REDACTED] and make a request through the on-duty officer at DOC.

If the case has been continued, if the defendant has plead guilty, or if a bench warrant has been issued, the member shall receive two (2) hours of standby compensation provided that he/she is off-duty during the entire time frame for call in as printed on the subpoena. If the case is trailing, the member shall follow the instructions on the DA website. These instructions will tell the member the next date and time when they are required to check the case status on the DA website again or when they are to call the specific attorney handling the case and leave contact information. Trailing case subpoenas are valid for five (5) court days unless otherwise instructed by the SF District Attorney's Office or the Court Liaison Unit. The subpoenaing party will issue a new subpoena if necessary.

Members placed on court standby without appearing in court will receive two (2) hours of court premium pay only if they are off-duty during the entire call in period listed on the subpoena. On-duty time includes any regular time or overtime worked (10b overtime and on-call pay are also included).

The instructions on the "Law Enforcement Subpoena Check-in" on the DA website will direct members to leave their name and star number, the defendant's name, court date, and the police incident number to verify their standby check-in. Members who fail to leave this information are subject to disciplinary action for failing to honor the subpoena in accordance with Department General Order 3.08 (Court Appearances by Members). The DA's IPP Unit will audit the check-in records to verify that members have met the requirements of the standby subpoena and are eligible for compensation. Members who fail to leave the required information will not receive court compensation (This is Step 5 in the E-subpoena guideline, after checking the case status in Step 4).

For the purposes of court premium pay compensation, the **only** standby time period shall be from 1630 hours to 0900 hours the following day. The court compensation request card shall be written for **the exact time frame for check-in as printed on the subpoena**. To account for legal holidays or court closure days, the standby period will begin at 1630 hours on the last day that the court is open and end at 0900 hours on the next day that the court is open. Weekend standby times are Friday 1630 hours to Monday 0900 hours (if the Monday is a legal holiday or a court closure day, see above).

Members shall not make agreements with subpoenaing parties for any other standby time frame (i.e. 0900-1100).

Members are cautioned when agreeing to be placed on standby status for the District Attorney when their original subpoena is for an appearance as their eligibility for compensation may be affected. Members must have a subpoena that matches the type of compensation requested on their card (i.e. standby or appearance). Members shall not be compensated for telephone calls with a District Attorney.

Members will not receive compensation for standby agreements made with any outside agency or attorney (e.g., out of county, federal case, and civil case), unless approved by the Court Liaison Unit.

For defense subpoenas, members shall call the voice mailbox at [REDACTED] during the designated dates between 1645 hours and 0900 hours for instructions. If the case has been continued or if it is not mentioned, the member shall receive two (2) hours of standby compensation provided that they are off-duty during the entire time frame for call in printed on the subpoena. Members shall follow the instructions on the voice recording.

Per DGO 3.08, Section II, D. 7, any member who receives a defense subpoena for a criminal proceeding, either from the Public Defender's Office or a private attorney, shall immediately notify his/her commanding officer by completing SFPD form 251, Defense Subpoena Form. Members shall complete the form in its entirety and attach a copy of the subpoena to the form.

Commanding Officers shall forward the completed form through the chain of command to the Court Liaison Unit.

Note that Defense subpoenas can be served upon Court Liaison with as little as 5 court days to notify the member of the appearance or call in date (in the case of a standby subpoena). Prompt service of these subpoenas ensures that members have adequate time to plan for their appearance and prevents Defense Attorneys from attempting personal service.

The court compensation request card shall be written for **the exact time frame for call in as printed on the subpoena**. Defense trailing case subpoenas are valid for fourteen (14) court days after the date on the subpoena, but can be extended if the case goes to trial. The defense attorney will issue a new subpoena, if necessary.

### **DISTRICT ATTORNEY CONFERENCES**

Compensation requests for conferences with an Assistant DA shall be submitted on SFPD form #289 which is the salmon colored card, rather than on SFPD form #175 which is the pink court compensation request. This SFPD form #289 is submitted to the member's OIC at the home unit for approval.

If the DA conference is on the same day as the member's appearance in court for the same case, the compensation request is submitted on a pink court compensation request (SFPD 175) to the Court Liaison Unit. This court compensation request requires the date, time and signature of the Assistant DA and must be attached to the same day subpoena. Members shall not be compensated for telephone calls with a District Attorney.

There shall be no compensation for members attending conferences on a criminal matter with any Attorney other than an attorney from the S.F. District Attorney's Office.

### **COURT STANDBY IN CIVIL CASES**

Government Code section 68097.2 states that peace officers are entitled to court overtime compensation only if obliged by subpoena to actually attend as a witness. Members are not entitled to court compensation premium pay in civil matters when the officer has agreed with a private attorney to be placed on standby status. Members may refuse standby status and demand a new subpoena be issued that compels attendance at a specific time.

### **IMPROPERLY COMPLETED OR DENIED COURT COMPENSATION REQUESTS**

If a Court Compensation Request card is improperly completed, the Court Liaison Unit shall return the card to the submitting member with a written explanation for the card's rejection, along with the corrective measures required for the card to be accepted. Court Compensation Request cards that do not and will not qualify for compensation will be denied and retained at the Court Liaison Unit. A written explanation for the denial shall be sent to the submitting member with a photocopy of the denied Court Compensation Request card attached.

### **CANCELLED COURT CASES**

No court premium compensation will be approved for any subpoena cancelled by the subpoenaing party or by the DA's IPP Unit prior to the court date. When the Court Liaison Unit

is notified that a subpoena is cancelled, the unit will fax a court cancellation form to the affected member's unit and confirm its receipt.

Upon receipt of the court cancellation notification, Platoon Commanders and Officers-in-Charge shall promptly comply with DGO 3.08 IL.D.2.b which requires the following:

"If a court cancellation form is received, but the member is off duty and will not return to duty prior to the court date, the Lieutenant will attempt to notify the member at home. If the notification is made by telephone, the Lieutenant will indicate on the cancellation form that the member was notified along with the date and time of notification. Notified officers will not receive compensation for attending canceled court cases."

**ADDITIONAL POLICIES AND PROCEDURES**

Members are required to attach a copy of the subpoena to the Court Compensation Request card. Any card turned into Court Liaison without an attached subpoena shall be returned to the submitting member and not certified until it is received with a copy of the subpoena. The name and star number listed on the Court Compensation Request card **must** match the name and the star number listed on the subpoena in order to be certified.

Members assigned to the Airport Bureau shall follow San Mateo County procedures where applicable.

  
WILLIAM SCOTT  
Chief of Police

*Per DB 17-080, both sworn and non-sworn members are required to electronically acknowledge receipt and review of this Department Bulletin in HRMS.*