



POLICY AND PROCEDURE

NO.470

Court Appearances

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A. ARRAIGNMENTS:

No officer is to appear for initial arraignment in any case, regardless whether it is criminal or traffic in nature, in Central Worcester Division of the Trial Court of Massachusetts, a/k/a CDC. This provision includes all arrests on warrants as well as those made without warrant. Officers will be issued a summons or court appearance slip and/or be notified by e-mail for all cases for which they are to appear in CDC. An official assigned to the Liaison Office must authorize any deviation from this rule.

B. APPEARANCE IN COURT:

1. Signing In:

ALL personnel attending court shall sign into and out of court on the daily Attendance sheet provided at the Court Liaison Office indicating their assigned shift and their working status for their scheduled court appearance that day. The Court Liaison Office shall fax a copy of the daily court attendance sheet to the Chief's office so that a comparison can be made between this data and entries submitted for processing.

2. Processing Of Court Slips:

No Official shall process a court slip for overtime, unless it has first been mechanically stamped and countersigned by a Court Liaison Official. Each division shall turn in their court overtime slips to the Chief's office by 10:00 AM on Monday for the previous week. The Court Liaison Office shall fax a copy of the daily court attendance sheet to the Chief's office so that a comparison can be made between this data and entries submitted for processing.

3. Authorization to Appear In Court:

When a trial date is set, the WPD Court Liaison Office will, through report review, determine the principal officer, who will be notified by e-mail or in writing of the date of trial. The "principal" officer will then notify his/her unit commander of any additional officers that may be needed to prosecute the case. *The officer will also submit forthwith, any supplementary reports in accordance with policy bulletin, paragraph F REPORTS.*

4. Failure to Appear After Notification:

If any officer who has been notified to appear in court, as stated in the preceding paragraph, becomes unable to fulfill his obligation to appear at the appointed date and time, regardless of the reason for the absence, that officer shall comply with the following procedures without exception:

The officer shall call directly the Court Liaison Office at Central District Court, prior to the scheduled appearance, and state to an official from that office the reason for his/her request to be excused from appearing in court. The Court Liaison Office will then have the responsibility for notifying the particular court of such officer's absence. The officer shall then call directly the unit or division to which he or she is assigned and cause the unit commander to be

informed, by means of a journal item, that the officer has been excused from court by the Court Liaison official, and the reason for being excused.

If any officer fails to appear for a scheduled court appearance, without having been first excused by an official from the Court Liaison Office, the Court Liaison Office will notify the officer's commander directly. The commander shall then obtain an I.D.C. report from the officer both as to why the officer did not appear in court and why the officer did not request to be excused by a Court Liaison official. The commander shall then determine whether any justification exists for either the officer's absence or failure to request to be excused. The commander shall promptly notify the Chief of Police and the Bureau of Professional Standards, in writing, of his or her finding.

Whenever it is determined by a commander, the Chief of Police, or his designee, that either the officer's failure to appear and/or request to be excused from court is not justified, discipline shall be imposed, at a minimum, in accordance with the following guideline:

- 1st Occurrence-Counseling session
- 2nd Occurrence-Oral Reprimand
- 3rd Occurrence-Written Reprimand
- 4th & Subsequent Occurrences-To be determined by the Chief of Police.

All counseling sessions, oral reprimands and written reprimands issued in this regard shall be given by the unit or division commander, unless determined otherwise by the Chief of Police. The commander shall then forward copies of all documentation generated in accordance with the issuance of such discipline to the Office of the Chief.

Appearances in Civil Matters:

Any officer who is summoned or subpoenaed to appear in a court for any civil Matter (e.g., lawsuits, Probate matters, Small Claims court, Housing court) shall notify the appropriate unit commander of the date, time, court, location and reason for the appearance, as soon as it is practical to do so.

C. REQUEST FOR CONTINUANCES:

Any requests by a police officer for a continuance of a case will be made in accordance with the following procedure:

1. The Officer will inform the Liaison Office of his request, and the reason for it, prior to entering the courtroom.
2. The Liaison Office will forward the request, if it is deemed to be appropriate, to the Prosecutor's Office.
3. The Prosecutor will then be responsible for making the request in court on behalf of the police officer.

NOTE: No police officer should make any agreement with any Defense Attorney, regardless of who initiated the request, relative to a continuance date until after the request is made in the courtroom in accordance with the procedure outlined above.

D. REQUESTS FOR WARRANTS-SUMMONSES-HEARINGS:

The officer requesting any of the above court actions will submit a request for complaint application with check-off made in the appropriate box. The officer will also include a copy of the crime report and any statements by victims, witnesses or defendants. Finally, he will attach a copy of the Witness Form indicating all witnesses, including the victim, who are needed to prosecute the case. In the case of a criminal motor vehicle citation, the officer will include a copy of the incident report, the witness list, and any applicable accident and hit and run reports. (An incident report is not required for citations that are only civil in nature.)

Note: The crime report should be signed by a supervisor and contain an Incident Number for future reference.

E. OTHER REQUESTS:

1. No officer will agree to or request a dismissal or any modification of charges against any defendant until first conferring with a police official in the WPD Court Liaison Office.
2. No officer will make or agree to any recommendation by either the prosecution or the defense without conferring with the WPD Court Liaison Office relating to the disposition of the charges.

F. DEPARTMENTAL REPORTS AND ASSOCIATED EVIDENCE:

All incident reports concerning an arrest made by an officer must be submitted to the Bureau of Records and be made available to the Liaison Office by 7:00 A.M. on the morning following an arrest. Arrest reports must be reviewed and signed by a police official prior to submission to the Records Bureau and the court. It shall be the responsibility of the arresting officer to provide a copy of the arrest report, Statement of Facts, and a Witness Form. This does not preclude any supplementary report being submitted at a later date. All arrest reports should include requests by the arresting officer relative to bail or mental examinations. The Service Division will execute and submit the application for complaint form to the appropriate court.

Prosecutor requests for booking videos, 911 call turret tapes, crimes scene photos or other paper or electronic data held by the department but not ordinarily available to arresting officer must be requested via a written request form submitted to the WPD's Court Liaison Unit. The Court Liaison Unit shall make these forms available to prosecutors at the unit office at the courthouse. If the request is approved by the Court Liaison Unit official in charge, that evidence request shall be directed to the appropriate keeper at Worcester Police HQ. Once fulfilled, a copy of that that evidence should be forwarded to the Court Liaison office for safekeeping until delivery to that prosecutor. All original recordings and media sources shall be retained at police headquarters.

The OIC of the Court Liaison Unit shall cause to be maintained a log of such prosecutor requests, their fulfillment, and a written record of the delivery to the requesting prosecutor. An officer or official of the Court Liaison Unit must enter into the log memorialization of delivery of the requested evidence to the requesting prosecutor. This memorialization is to include identification of the evidence, date of delivery, the requestor/recipient and the signature of the delivering Court Liaison officer or official. This evidence is to be secured and only accessed by staff of the WPC Court Liaison Office.

G. OFFICERS REMAINING IN COURT:

All officers appearing in Court must report to the Court Liaison at 8:30 A.M. and remain in the courtroom from 9:00 A.M. until their case is heard, or until the Court declares a recess. All officers shall be properly prepared to testify in all cases for which they have been summoned to court, including bringing with them and presenting any and all pertinent physical evidence.

H. OFFICER ATTIRE WHILE APPEARANING IN COURT:

As a showing of respect for our justice system, and in order to project an image of both pride in the department, on the part of its members, and in their professionalism, all departmental personnel shall wear the appropriate attire, as indicated below, when appearing in court as part of their official duties.

All sworn personnel shall wear their department-issued firearm while attending court. However, plain-clothes personnel shall wear or carry their firearm in such a manner that it is not visible to other persons present.

Personnel from uniformed divisions or units shall wear the departmental “Uniform of the Day” when appearing in a district or other lower court for non-jury trials or hearings, including hearings in the clerk's office.

When any court appearance involves one or more Six Member jury trials, an appearance in Superior Court, or an appearance before a Grand Jury, all departmental personnel shall wear civilian business attire appropriate for their gender. For males, such attire shall be limited to a suit with a dress collar shirt and tie, or a sport coat, dress collar shirt and dress pants/pressed slacks, with tie, and dress shoes. For females, such attire shall be limited to a business suit/outfit or dress, and dress shoes. In inclement weather, footwear appropriate to the prevalent weather conditions may be substituted for dress shoes, exclusive of “sneakers,” running shoes, or any other type of athletic footwear.

Personnel from all plainclothes divisions or units shall wear civilian business attire appropriate for their gender for all court appearances. For males, such attire shall be limited to a suit with dress collar shirt and tie, or a sport coat and dress pants/pressed slacks, with dress collar shirt and tie, and dress shoes. For females, such attire shall be limited to a business suit/outfit or dress, and dress shoes. In inclement weather, footwear appropriate to the prevalent weather conditions may be substituted for dress shoes, exclusive of “sneakers,” running shoes, or any other type of athletic footwear.

No personnel, regardless of his or her assigned division or unit, shall appear at any court attired in any torn or tattered clothing, jeans, shorts, t-shirts, “sweats”, sneakers, sandals, or other form of athletic gear or shoes.

The only exceptions to the above requirements are as follows:

- Any officer who is on-duty or working an off-duty assignment, and who is summoned to court, without at least a one-day prior notice, may appear as he/she is attired for that duty, provided that the requirements of the preceding paragraph are met. Also, if the required appearance is before a jury, every reasonable effort should be made either to change into civilian clothing, or to wear a suitable civilian outer garment over the uniform.
- In all cases requiring the above-described civilian business attire, ties and coats will be considered optional during July and August, provided that plain-clothes personnel shall wear or carry their firearm in such a manner that it is not visible to other persons present, as stated at the outset to this section; and short-sleeved collar shirts shall be permitted, provided that such shirts are open no more than one button down from the top.

I. OFFICERS' NAMES MENTIONED IN WARRANTS AND COMPLAINTS:

Officers' names in warrants and complaints will be restricted to only those who may be expected reason to testify.

If a principal officer requires additional police officers to assist him in the prosecution of a criminal case in Central District Court (CDC) (Traffic) he will make the request through his unit commander who will then make a determination as to who is needed to prosecute the case.

If another unit is involved, the unit commander will converse with the other unit commander(s) who will then in turn authorize court attendance by whoever is needed from the respective unit(s).

J. SUBPOENAING OF CIVILIAN WITNESSES ON DISTRICT COURT LEVEL:

It is the responsibility of the principal arresting officer at the District Court level to request the notification by subpoena of all civilian witnesses.

K. AUTHORIZATION FOR OFFICERS TO ATTEND COURT ON OUT OF TOWN ARRESTS:

When an officer receives a summons to appear at a court other than those sitting at the Worcester Courthouse, the officer shall notify the appropriate commanding officer of the date, time, location and reason for the appearance at such court, as soon as it is practical to do so. This requirement shall apply to cases both civil and criminal in nature.

When an officer is requested to attend court or conferences regarding arrests made by out of town police officers, and in which he or she assisted, the officer will first obtain permission from the officer's unit commander, if possible, or from the WPD Court Liaison Office.

L. EXTENDED TRIAL PROCEDURE:

In cases where trials are reasonably expected to last more than one day, a temporary change of shift may be made subject to the following conditions:

The official or officer so reassigned shall report to this unit at 9:00 A.M. and report back to his unit upon release from Grand Jury or Superior Court. In the event that a Grand Jury or Superior or District Court appearance is required on a regularly scheduled day off, such day off shall be rescheduled within the same calendar week. Every effort shall be made to reschedule the days off so that the official or officer involved will have his days off in sequence.

Commanding officers of all units are required to keep a separate log, which will include the names of officials and officers who are required to appear at Grand Jury or Superior Court. The log shall also indicate where rescheduling is necessary and shall be available for inspection by each unit's Deputy Chief.

M. MEETINGS WITH THE DA'S OFFICE, LAW DEPARTMENT, OR OTHER OUTSIDE ATTORNEY:

Any meeting with the District Attorney's office, Law Department, or outside attorney is not court time and should not be paid as such. All day shift officers when necessary must schedule the meeting with these parties during their tour-of-duty. If this is not possible, the only authorized meeting that involves Overtime will be contiguous to the shift currently working. This requirement also pertains to the First and Last Half relief. The extension of the shift is to be considered regular Overtime and there should be no gap that triggers a four hour minimum.

N. OVERTIME PROHIBITIONS AND PROCESSING OF COURT SLIPS:

There is a clear prohibition that prevents an employee being in a dual pay status. This restriction is found not only in local municipal ordinances and MGL; it is clearly stated in current contract language.

The agreed upon contract language is as follows:

“Members of the bargaining unit who are required by the City to attend court proceedings in criminal matters during other than their scheduled tours of duty shall receive a minimum of four (4) hours of compensation at the rate of time and one-half the member’s straight time rate of pay. Court time in excess of four (4) hours shall be rounded off and paid to the next quarter hour. The four hour minimum payment required by this paragraph shall not apply if the covered appearance continues into or over from the regular tour of duty.”

It is the responsibility of the unit commander to ensure that court payment records are in compliance with this mandate.

O. NOTIFICATION OF INJURED ON-DUTY OFFICERS:

The unit commanders will have the responsibility for forwarding summonses and court notifications to the members of their units who are being carried in Injured on Duty status. If the individual is so incapacitated that he is unable to attend court, the Court Liaison Office shall be notified in accordance with “Section B” of this policy.

P. SPECIAL NOTIFICATION:

When an officer makes an arrest and as a result of this arrest a complaint is filed with the Bureau of Professional Standards alleging brutality, violations of rights etc., Bureau of Professional Standards will notify the Court Liaison Office that the officer is the subject of a Bureau of Professional Standards investigation, regardless of whether the allegations are substantiated, unsubstantiated or still under investigation. This is especially true of misdemeanor cases where prosecutors are not normally assigned or corroborating testimony is required. Court Liaison will make arrangements for prosecution and notifying corroborating witnesses, if any.

Per:



Gary J. Gemme
Chief of Police

(Policy #470 Court Appearances 09-20-02 was revised on November 29, 2005, August 1, 2008, August 26, 2008, November 6, 2008, February 3, 2010, and October 07, 2013.)