

Cobb County Police Department

Policy 2.03

COURT APPEARANCE PROCEDURES

Effective Date: October 1, 2019	Issued By: Chief C.T. Cox
Rescinds: Policy 2.03 (November 1, 2017)	Page 1 of 4
The words “he, his, him,” which may appear in this policy, are used generically for clarity and ease of reading. These terms are not meant to imply gender and relate to all employees of the Department.	

The purpose of this policy is to provide clarity for officers eligible to receive pay for Court.

I. DEFINITIONS

As used in this policy, the following words and terms will have the meaning ascribed:

- A. Court Appearance:** refers to time that the officer spends appearing in court and would qualify for monetary compensation.
- B. Court On-Call (or On-Call):** refers to the hours when an employee must be reachable by phone/pager, and may be required to respond to court.

II. SUBPOENAS

- A.** Subpoenas may be served via email (eSubpoenas) or in paper form; both are considered official subpoenas.
 - 1. Official service of an eSubpoena occurs when the eSubpoena is delivered to the officer’s county email account and the officer has a workday. A regularly scheduled shift and/or in-service training at the DPS Training Center are considered workdays. Officers are not required to check their email on their off days, when off duty, or on approved leave.
 - 2. If an officer receives a paper subpoena from the Department subpoena coordinator, the officer will return the appropriate signed acknowledgements to the Department subpoena coordinator.
- B.** If an officer receives a Must-Appear subpoena, the officer will appear in the appropriate court at the assigned date and time.

At the discretion of the court, a Must-Appear subpoena may be changed verbally to an on-call subpoena. If the Must-Appear subpoena is changed to an on-call subpoena, the employee will note on the subpoena the name of the authorizing court official, date, and time that the subpoena was changed. Must-Appear subpoenas changed to on-call subpoenas will be valid for only one day of on-call unless directed otherwise by the court.

- C. If an officer receives an on-call subpoena, the officer will forward to the court his appropriate contact numbers. The officer will be available to respond to a call from the court within twenty (20) minutes of receiving the call. The employee must report to court within one (1) hour of responding to the notification.

III. APPEARANCE GUIDELINES

Appearance in court is considered a duty assignment. Officers will appear in either the Class A (Dress) Uniform or professional business attire as described by policy. At the discretion of the Chief, certain personnel may be exempted from this requirement due to the nature of their assignment.

IV. PAYROLL PROCEDURES

Court appearance time and court on-call time will be documented with the appropriate subpoenas and pay slips. This documentation will be turned into the employee's immediate supervisor for approval and archiving at the precinct and unit level. All court documentation (subpoenas, pay slips, releases, etc.) shall be maintained at the precinct or unit level for a period of six months.

A. Court Appearances

When an officer appears in court on a Must-Appear subpoena, or is called to court for an on-call subpoena, the officer will be paid from portal to portal. (The officer will be paid from the time he leaves his home to the time he returns home.)

1. If the court appearance is for Grand Jury, Superior Court or Juvenile Court (felony case), the court appearance pay will be charged to the District Attorney's Office for payroll purposes.
2. If the court appearance is for Magistrate Court, State Court, Traffic Court or Juvenile Court (misdemeanor case), the court appearance pay will be charged to the Solicitor's Office for payroll purposes.
3. If the officer's regular duty shift begins while he is in court, the court appearance pay time ends when his regular duty time begins.

B. Court On-Call

When an officer is on-call for court, he will receive two hours on-call pay for the hours of 0800 to 1500, Monday through Friday, after being properly subpoenaed. While on-call, it is the officer's responsibility to check his status each day (to include off days). Upon notification of release from on-call status, the officer is no longer eligible to receive on-call pay for that particular case.

1. If the court that the officer is on-call for is the Grand Jury, Superior Court

or Juvenile Court (felony), the court on-call pay will be charged to the District Attorney's Office for payroll purposes.

2. If the court that the officer is on-call for is the Magistrate Court, State Court, Traffic Court or Juvenile Court (misdemeanor case), the court on-call pay will be charged to the Solicitor's Office for payroll purposes.
3. If an officer is on-call for both the District Attorney's Office and the Solicitor's Office within a single day, the officer will charge one hour of on-call pay to the District Attorney's Office and one hour of on-call pay to the Solicitor's Office.
4. An officer is only allowed to receive a maximum of two hours court on-call pay per day, regardless of the number of courts that he is on-call for.

C. Multiple Subpoenas

An officer may appear in one or more courts and be on-call for another court or courts. The officer will receive pay for the time of his appearance in the courts as stated in this policy. He may also be eligible to receive on-call pay for the hours listed above.

1. If an officer appears in court for the entire hours listed above, he will not be eligible for on-call pay in any court.
2. If an officer does not appear in any court, he will receive two hours court on-call pay for that day.
3. If an officer appears in court for a total of three hours and is on-call for the rest of the court day in another court, he will receive the three hours court appearance pay from the court(s) he appeared in and two hours court on-call pay for the court(s) that he was on-call for.

D. The least that the officer will receive in one day is two hours pay when on-call for court.

E. Court appearance time and court on-call time may be subject to flexing by the chain of command.

F. Personnel assigned as key managerial shall not be eligible to receive pay for court on-call. Any court appearance shall be considered duty time and shall be accommodated by the employee's shift schedule as appropriate.

V. COURT LEAVE

A. Officers shall submit a Court Leave Request when unavailable for court due to the following circumstances:

1. Annual Leave
 2. Sick Leave with advance notice (e.g. – surgery, birth of a child, etc.)
 3. Training Leave (advanced classes, travel training, conferences, etc.)
- B.** The Court Leave Request should be submitted as far in advance as possible and prior to the issuance of a subpoena.
- C.** Officers will rescind a long-term (more than 10 consecutive working days) Court Leave Request when the leave has been cancelled or rescheduled. A short-term request (less than 10 consecutive working days) does not need to be rescinded.

VI. CIVIL SUBPOENAS / COURT APPEARANCES IN OTHER JURISDICTIONS

- A.** Employees must honor any legally served subpoenas.
- B.** If the employee receives a subpoena for jury duty, he will be paid in accordance with the County's Jury Duty Policy.
- C.** When an employee receives a lawfully served subpoena from another jurisdiction, other than jury duty, the following criteria will be used to determine whether the employee will be paid by the County.
1. If the subpoena is related to duties performed for the County, the employee will be paid by the County as hours worked. The employee must notify his Deputy Chief via the chain of command if the subpoena is for a court outside of the metro-Atlanta area. If the officer receives a witness fee from the court or any party, he should remit that fee to the County.
 2. If the subpoena is not related to duties for the County, or the employee is testifying as a professional witness, then the employee must utilize annual leave or off-duty time.