

## Court Appearance And Subpoenas

### 348.1 PURPOSE AND SCOPE

This policy establishes the guidelines for department members who must appear in court. It will allow the Elk Grove Police Department to cover any related work absences and keep the Department informed about relevant legal matters.

### 348.2 POLICY

Elk Grove Police Department members will respond appropriately to all subpoenas and any other court-ordered appearances.

#### 348.2.1 COURT TIME

An employee subpoenaed or ordered by the Court to appear outside the employee's scheduled hours of work for any legal proceeding as a result of the employee's employment with the City of Elk Grove shall be paid a minimum of four (4) hours of overtime. This minimum four (4) hours overtime is for each morning or afternoon court appearance. Multiple subpoenas for the same morning or afternoon period will count as one appearance. If the court orders an employee to return through the lunch period or outside normal hours of work, these hours will be compensated as overtime if they fall outside the employee's work hours.

If such Court appearance is cancelled and notification is given after 5:00 PM the workday immediately preceding the appearance, the employee shall be paid a minimum of two (2) hours of overtime. For Court appearance cancellations with notice before 5:00 PM the workday immediately preceding the appearance, the employee shall receive no additional compensation.

If the Court appearance falls during the employee's scheduled hours of work, the employee shall receive overtime compensation for only those hours outside the employee's scheduled hours of work.

### 348.3 SUBPOENAS

Only department members authorized to receive a subpoena on behalf of this city, department, or any of its members may do so. This may be accomplished by personal service to the department member or by electronic means (Government Code § 68097.1; Penal Code § 1328(c)).

An immediate supervisor or authorized individual may refuse to accept service for a criminal subpoena if (Penal Code § 1328(d)(e)):

- (a) He/she knows that he/she will be unable to deliver a copy of the subpoena to the named officer within sufficient time for the named officer to comply with the subpoena.
- (b) It is less than five working days prior to the date listed for an appearance and he/she is not reasonably certain that service can be completed.

If, after initially accepting service of a criminal subpoena, a supervisor or other authorized individual determines that he/she is unable to deliver a copy of the subpoena to the named officer within sufficient time for the named officer to comply with the subpoena, the supervisor or the

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subpoena clerk shall notify the server or the attorney named on the subpoena of such not less than 48 hours prior to the date listed for the appearance (Penal Code § 1328(f)).

#### **348.3.1 SPECIAL NOTIFICATION REQUIREMENTS**

Any member who is subpoenaed to testify, agrees to testify or provides information on behalf of or at the request of any party other than the City Attorney or the prosecutor shall notify his/her immediate supervisor without delay regarding:

- (a) Any civil case where the City or one of its members, as a result of his/her official capacity, is a party.
- (b) Any civil case where any other city, county, state or federal unit of government or a member of any such unit of government, as a result of his/her official capacity, is a party.
- (c) Any criminal proceeding where the member is called to testify or provide information on behalf of the defense.
- (d) Any civil action stemming from the member's on-duty activity or because of his/her association with the Elk Grove Police Department.
- (e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Elk Grove Police Department.

The supervisor will then notify the Chief of Police and the appropriate prosecuting attorney as may be indicated by the case. The Chief of Police should determine if additional legal support is necessary.

All subpoenas not received through the department's subpoena tracking system shall be immediately forwarded to the designated department member for processing.

No member shall be retaliated against for testifying in any matter.

#### **348.3.2 CIVIL SUBPOENA**

The Department will compensate members who appear in their official capacities on civil matters arising out of their official duties, as directed by the current memorandum of understanding or collective bargaining agreement.

The party that issues a civil subpoena to an officer to testify as a witness must tender the statutory fee of \$275 with the subpoena for each day that an appearance is required before service is accepted of the subpoena (Government Code § 68097.2).

#### **348.3.3 OFF-DUTY RELATED SUBPOENAS**

Members receiving valid subpoenas for off-duty actions not related to their employment or appointment will not be compensated for their appearance. Arrangements for time off shall be coordinated through their immediate supervisors.

#### **348.4 STANDBY**

To facilitate standby agreements, members are required to provide and maintain current information on their addresses and contact telephone numbers with the Department.

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If a member on standby changes his/her location during the day, the member shall notify the designated department member of how he/she can be reached. Members are required to remain on standby until released by the court or the party that issued the subpoena.

#### **348.5 COURTROOM PROTOCOL**

When appearing in court, members shall:

- (a) Be punctual and prepared to proceed immediately with the case for which they are scheduled to appear.
- (b) Dress in the department uniform or business attire.
- (c) Observe all rules of the court in which they are appearing and remain alert to changes in the assigned courtroom where their matter is to be heard.

##### **348.5.1 TESTIMONY**

Before the date of testifying, the subpoenaed member shall request a copy of relevant reports and become familiar with the content in order to be prepared for court.