
Subpoenas and Court Appearances

324.1 PURPOSE AND SCOPE

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

324.2 POLICY

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

324.3 SUBPOENAS

Only department members authorized to receive a subpoena on behalf of this department or any of its members may do so.

A criminal subpoena may be served upon a member in accordance with Ohio Crim. R. 17 by personally serving the named member, reading the subpoena aloud to the member or by leaving it at his/her usual place of residence. Civil subpoenas may be served upon a member in the same manner except that service may also be achieved via United States mail, certified with a return receipt requested (Ohio Civ. R. 45).

Subpoenas shall not be accepted without properly posted fees pursuant to applicable law (Ohio Crim. R. 17; Ohio Civ. R. 45).

324.3.1 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 Law Director 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 Lorain Police Department.
- (e) Any personnel or disciplinary matter when called to testify or to provide information by a government entity other than the Lorain 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.

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

324.3.2 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.

The Department should seek reimbursement for the member's compensation through the civil attorney of record who subpoenaed the member.

324.3.2 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.

324.4 FAILURE TO APPEAR

Any member who fails to comply with the terms of any properly served subpoena or court-ordered appearance may be subject to discipline. This includes properly served orders to appear that were issued by a state administrative agency.

324.5 STANDBY

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

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.

324.6 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.
- (d) Present a neat and clean appearance, and avoid any mannerisms which might imply disrespect to the court or bring discredit or embarrassment to the Department.
- (e) Not engage in "horseplay," loud or disruptive conversation in the vicinity of the Court. Your action and conversation could be seen and heard by witnesses and prospective jurors.
- (f) Officers will have their subpoena "Time Stamped" or signed by the Prosecutors Office when then arrive and before they leave.

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Carry of a firearm by officers into court rooms or court buildings is subject to local court security rules and shall only be permitted while the officer is acting within the scope of his/her duties as determined by the Chief of Police (ORC § 2923.123). When armed, officers shall carry their badge and Department identification.

324.6.1 OPERATIONS DIVISION PROTOCOL

When appearing in court, officers assigned to the Operations Division will wear the following uniform based on the location of the court appearance.

- (a) Patrol Officers, when appearing in Lorain Municipal Court shall wear the approved Field Uniform, with all required duty gear and body armor.
- (b) Patrol Officers who are on duty on their assigned duty shift, when appearing in Lorain County Common Pleas, or any other jurisdiction court shall wear their uniform of the day.
- (c) Patrol Officers who are off duty at the time of the scheduled court appearance in Lorain County Common Pleas, or any other jurisdiction court shall wear the Semi Formal uniform with all metal attachments.

324.6.2 CRIMINAL INVESTIGATIONS DIVISION PROTOCOL

When appearing in court, members assigned to the Criminal Investigations Division will wear clothing conforming to standards imposed on plainclothes personnel by the Criminal Investigations Division Commander.

324.6.3 NON-SWORN MEMBERS

When appearing in court, Detention Officers, Telecommunications Officers, and all other non-sworn members will either wear the uniform of the day, complete with all required items, or business casual attire.

324.6.4 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.

If evidence is required for court, notify the evidence officer via e-mail at least 24 hours in advance. The e-mail should include the case number and the name of the defendant. This is so the evidence officer can have the evidence (which sometimes is extensive) ready for pickup. Check the evidence to make sure that it is properly marked and tagged. Maintain custody of the evidence until it is presented to the court.

324.7 OVERTIME APPEARANCES

When a member appears in court on his/her off-duty time, he/she will be compensated in accordance with the current Collective Bargaining Agreement.