

COURT APPEARANCE REQUIREMENTS	Document Number	GO 514
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1. PURPOSE

The purpose of this policy is to establish the professional requirement that officers respond appropriately to official summons or notice for court appearance.

2. PERSONS AFFECTED

All department personnel.

3. POLICY

Effective police work does not end with the identification or arrest of the offender. It may involve officers having to participate at times in both the criminal and civil judicial process. This requires the complete cooperation and commitment of all persons involved with any facet of the investigation. It is, therefore, the policy of the Hawai'i Police Department that members shall respond to any official summons or notice for court appearance as required.

4. RESPONSIBILITIES

4.1. All members

4.1.1. All members summoned to appear in court shall be directed to do so by a properly issued subpoena.

4.1.2. In the absence of a subpoena, members shall make every effort to appear in court as requested by their commanding officer or proper authority.

4.2. Commanding Officers

4.2.1. Commanding officers shall monitor court appearance requirements of those under their command to ensure that public safety needs are not compromised in any way.

4.2.2. Commanding officers shall make every effort to notify affected members of the status of court cases which may include the cancellation of the subpoena by proper authority.

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5. PROCEDURES

5.1. Official Notice of Court Appearance

5.1.1. Manner of Notification

- a. An employee may be summoned to appear in court, or the employee may receive written or verbal orders via his/her commanding officer.
- b. In either case, appearance in court is mandatory. Any unexcused or unjustified absence shall result in criminal or disciplinary sanctions, or both, being taken against the employee.

5.1.2. Subpoenas

- a. A subpoena is issued by the clerk of the court under the seal of the court. Each subpoena will state the name of the court and the title of the proceeding, and will command the person served to attend and give testimony at the time and place specified.
- b. A subpoena may be served on any departmental employee by an officer, or any civilian who is not a defendant, and who is at least eighteen years of age.
- c. Departmental employees shall accept all subpoenas served to them.
- d. Civilians who attempt to personally serve subpoenas on on-duty personnel shall not be allowed to compromise departmental security by entering areas restricted to employees.

5.1.3. Notice of Trial/Hearing

- a. The Prosecutor's Office may issue notices to department personnel, in either written or oral form, instructing them to appear before a specific court or grand jury, to give testimony in a particular case.

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- b. All written notices shall be received and distributed to the respective commands by the Commander of the Records Division.
- c. Each District or Division commander is responsible for seeing that the members of their commands receive notices about their court or grand jury appearances without delay, regardless of the employee's employment status or planned activities.
- d. These notices, when rendered to the employee, have all the impact and consequences of a direct order issued by the commander to the employee.
- e. The employee shall be served with a subpoena or other summons in accordance with generally accepted practices. Following notification, the respective district or division commander shall be responsible for returning the notice to the prosecutor.
- f. Commanders are also responsible for informing the assigned prosecutor in the event that notification cannot be made to an employee.

5.2. Court Appearance

5.2.1. Reporting Time and Procedures

- a. Employees who have been summoned by the prosecution to testify shall report to the courtroom and prosecutor at least thirty minutes prior to the time of their scheduled appearance.
- b. Employees subpoenaed by the defense counsel in any criminal matter, or by private attorneys in any civil matter, shall notify the Prosecutor's Office, and the office of the Corporation Counsel, respectively, of the subpoenas.
- c. Subpoenaed employees shall be governed by all other appearance requirements of the subpoena. A failure to

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appear without good cause shall subject the employee to criminal and/or departmental sanctions.

5.2.2. Excused Absences

- a. All employees, after having been duly subpoenaed or having received official notification to appear in court, who, for reasons beyond their control are unable to appear, shall immediately notify their watch or division commanders and request to be excused.
- b. In no case shall such a request be made less than one hour prior to the employee's scheduled appearance time.
- c. The watch or division commander, having determined that just cause exists for the absence, shall immediately notify the Prosecutor's Office of the witness's inability to appear.
- d. If an employee is duly subpoenaed by a defense attorney in a criminal case, or by private counsel in a civil case, only the attorney who issued the subpoena may excuse the employee from appearing and/or testifying.

5.2.3. Unexcused Absences

- a. Any failure, by any employee, to respond as directed by a proper subpoena or notification, or to obtain an excused absence, as defined in Section 5.2.2. of this General Order, shall be deemed an Unexcused Absence.
- b. An Unexcused Absence, as herein defined, shall result in disciplinary action.

5.2.4. Priorities in Court Appearance

- a. Employees shall consider the duty to respond to any subpoena or official notification as a first priority activity, and shall politely inform their supervisors and dispatchers of the appearance time to avoid conflicting assignments.

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- b. Employees shall respond to the first subpoena or notice served when they are ordered to appear at two separate courts at the same time, except that superior court appearances take precedence over those of lower courts.
- c. The employee is responsible for notifying any courts or attorneys about an inability to appear due to conflicting court scheduling.

5.2.5. Court Attire

- a. Officers shall be attired in regulation uniform except for the cap, or they may wear a clean, neatly pressed business suit with tie. The use of other appropriate civilian attire may be approved under exigent circumstances.
- b. Female officers may wear the uniform or appropriate civilian attire.
- c. Except as herein provided, members shall not wear a sport shirt or aloha shirt while appearing as a witness in an official capacity.
- d. Any officer scheduled to appear in criminal court as a defendant, or as a witness or plaintiff in any civil case not arising from the direct performance of law enforcement duties, is prohibited from appearing in uniform.

5.2.6. Witness and Mileage Fees – Employees receiving witness and mileage fees deriving from court duties stemming from their official duties in both criminal and civil cases are permitted to retain these fees.

5.3. Interviews Regarding Civil Proceedings

- 5.3.1. Employees when contacted by a private attorney or investigator requesting an interview to discuss an incident, where the employee was involved as a witness, participant or submitted a report on a particular incident, shall decline making any comments on the matter if any of the following conditions are met:

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- a. The County of Hawai'i or the Police Department is named as a party in an ongoing, pending or anticipated lawsuit.
 - b. The employee asks the private attorney or investigator requesting the interview whether the County of Hawai'i, the Police Department or any of its officers, agents and employees may be subject to or included in an ongoing, pending or anticipated lawsuit and receives an affirmative response.
 - c. If the private attorney or investigator requesting the interview indicates that the County of Hawai'i, the Police Department or any of its officers, agents and employees may be subject to or included in an ongoing, pending or anticipated lawsuit, the employee shall decline to make a statement and document the date, time and place of the contact, the name of the individuals spoken to, and refer the information to the Office of the Corporation Counsel.
- 5.3.2. If the private attorneys or investigators or interviewer states that the County of Hawai'i, the Police Department or any of its officers, agents and employees are not named, or anticipated or expected to be named as a party in any ongoing, pending or anticipated lawsuit, employees are allowed to make a statement to private attorneys or investigators or interviewer. The employee shall still document the identity of the interviewer by memo to the district/division commander, specifically what was discussed, the date, time and place of the interview, including that the private attorneys or investigators or interviewer specifically stated that the County of Hawai'i, the Police Department or any of its officers, agents and employees would not be named, anticipated or expected to be named as a party in any ongoing, pending, or anticipated lawsuit.