

TITLE: COURT APPEARANCES

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PURPOSE

The purpose of this directive is to establish guidelines and to encourage, promote and maintain cooperation between the Department and the various Civil and Criminal Justice Agencies with which the Department deals.

DISCUSSION

Effective interagency cooperation, coordination and planning are indispensable assets which result in a competent and effective service to the public.

POLICY

It is the policy of the Santa Fe Police Department to ensure that personnel appear for court and motor vehicle hearings. The Police/District Attorney Liaison Officer will be responsible for routing of subpoenas, hearing notices, and related correspondence to the appropriate commander(s) in charge of the personnel affected.

PROCEDURE

80.1.01 NOTIFICATION TO COURTS OF VACATION AND COMPENSATORY TIME

A. Personnel who have cases pending in Federal, District, Magistrate or Municipal Court will notify the police liaison officer of their intent to take vacation leave by presenting their approved copy of the P-30 Form.

- B. This requirement does not apply when personnel take four (4) days vacation or compensatory time or less, on short notice. It also does not apply if the officer is on approved emergency leave. In these cases, personnel are not relieved of their responsibility to appear in court when properly notified.
- C. In cases of emergency leave concerning illness, death in the family, etc., the police liaison officer will advise the court and make a request for either a delay in proceedings, re-scheduling of the mandated appearance, or other such arrangements. Every consideration shall be given the affected employee during this time.
- D. The police liaison officer will make every effort to assist the affected personnel in scheduling difficulties on a case-by-case basis.
- E. When personnel are transferred, or their days off are changed, they will contact the police liaison officer to obtain a new court or hearing date, when possible. The police liaison officer will assist the officer in seeking to have the previously scheduled court case reset.

80.1.02 COURT AND MOTOR VEHICLE DIVISION HEARING ATTENDANCE

- A. All personnel directed to appear in court must appear and be prepared to testify. A special court notice or a subpoena is considered as an instruction to appear. Criminal case subpoenas shall be honored regardless of whether they are requested by the prosecution or defense attorneys.
- B. Notices of pre-trial meetings and interviews sent from any city, state, or federal prosecutor's office fall within the definition of court notices and will be treated as such.

Notices of Motor Vehicle Division (M.V.D.) hearings fall within the definition of court notices and will be treated as such.

- C. When personnel receive special court notices, subpoenas, or M.V.D. hearing notices requiring simultaneous appearances, the higher court notice shall take precedence between courts, and courts shall take precedence over M.V.D. Hearings. Personnel shall notify the lower court of the second subpoena and shall attend the court

of higher jurisdiction. The police liaison officer will also be notified and a copy of the subpoena or court order will be presented to him/her, or directly to the court. If it is given directly to the court, the liaison officer must still be notified.

D. When personnel are scheduled for court or M.V.D. hearings and are unable to appear because of unforeseen conditions, they shall notify the court at the earliest possible time, prior to the scheduled appearance, as follows:

1. Municipal Court notifications can be made by contacting the Office of the Court, Monday thru Friday, 0900 to 1630 hours.

a. In the event that the defendant is represented by counsel, both defense and prosecuting attorneys must be notified and agree to the rescheduling of the hearing. In all cases, Municipal Court will be notified in writing, in addition to any verbal or telephonic notification.

2. District Court or Grand Jury notifications can be made by contacting the Assistant District Attorney named on the subpoena and/or the police liaison officer, Monday thru Friday, 0800 to 1700 hours.

3. Federal Court notification can be made by contacting the United States Attorney's Office in Albuquerque, New Mexico, Monday thru Friday, 0800 to 1700 hours.

4. M.V.D. hearings notification can be made by contacting the police liaison officer directly. In no cases will the officer or supervisor contact or try to contact the hearing officer and/or M.V.D. directly to reschedule a hearing.

E. When personnel miss any court session or M.V.D. hearing for which notice was given, the person's immediate supervisor or commander shall initiate the following disciplinary action. Absent any mitigating circumstances, the following sanctions shall be imposed:

1. A Letter of Reprimand for the first incident in a consecutive twelve (12) month period.

2. A one (1) day suspension without pay for the second incident in a consecutive twelve (12) month period.

3. A suspension without pay for three (3) to ten (10) days for the third and subsequent incidents within a consecutive twelve (12) month period.

80.1.03 COURTROOM ATTIRE

A. Male officers, not in uniform, who appear or testify in any court, shall be attired in a dress suit or sport coat, slacks, and a tie. Female officers, not in uniform, shall be attired in pantsuits, dress suits, dresses, dress pants, or skirt and blouse. Dress shoes or dress boots shall be worn by both male and female officers. Weapons are not to be in sight while in civilian clothes. If officers are called to court on short notice, they may wear working attire.

B. To assist officers in obtaining appropriate attire, clothing allowance funds may be used to purchase a "court suit" every fiscal year. Uniformed officers are cautioned to assure that sufficient funds remain to purchase the necessary quantity of uniforms to meet duty standards.

C. Denim blue jeans, T-shirts, tennis shoes, hats, and other such improper attire will not be permissible while at court proceedings.

D. Officers shall have the option of wearing their uniform when attending court, whether on or off duty; however, they shall not wear "Streetgear", "B.D.U.'s" or other utility type uniforms.

80.1.04 COURTROOM DEMEANOR

A. When notified by subpoena (or notice is given in writing/by telephone), of a court appearance, pretrial conferences, or meetings with defense attorneys, personnel will be punctual, have the case properly prepared, and the evidence is to be suitably arranged for presentation.

B. Personnel shall show the utmost attention and respect for the court. When giving testimony, they shall speak calmly and in a clear and audible tone. Personnel shall testify truthfully, confining their testimony to the case before the court, and not offering their opinions unless asked for during testimony.

- C. It is the supervisor's duty to track officers/detectives prosecution rates. Appropriate disciplinary actions and/or referrals to remedial training will be made when sworn members exhibit a pattern of dismissals on their cases due to lack of proper investigation or preparation by the officer.

80.1.05 CONFERRING WITH ATTORNEYS

A. Civil Cases

1. Officers shall cooperate with private attorneys on civil cases in which the City of Santa Fe either has an interest or has no interest, after first consulting with the Professional Standards Division and the City Attorney or his/her designee. In cases where there may be a claim against the City of Santa Fe, the Office of the City Attorney will be notified for guidance and consultation before speaking with a private attorney.
2. At no time will any employee consult with, meet, or otherwise discuss any case with anyone outside of the Santa Fe Police Department, whether pending or otherwise, without prior consultation with the City Attorney, regardless whether the case involves the City of Santa Fe as either a defendant or plaintiff and regardless if the member is a witness or otherwise involved with the case. This does not preclude an employee from conferring with his/her private attorney for the purpose of obtaining legal guidance or representation.
3. No records, files, reports or other written documentation shall ever be turned over to anyone not authorized to review them without consultation with the Office of the City Attorney. There will be no deviation from this directive, and failure to comply will result in disciplinary action against the employee(s).
4. On-duty officer(s) shall not respond to any questions from attorneys by telephone, but instead, shall direct the attorney to the Professional Standards Division and or Office of the City Attorney for their question(s), and shall then immediately

notify the City Attorney of the impending request, and give the City Attorney the name and phone number of the requesting Attorney.

5. When a conference with an outside attorney is more appropriate, on or off-duty, employees/members shall confer with City Attorneys regarding civil cases. The District Attorney's office will be contacted in all criminal cases.
6. No overtime and/or compensatory request forms will be accepted by supervisors for off-duty conferences between officers and attorneys on civil cases, unless the civil case involves the City of Santa Fe and is in compliance with this directive. Final approval will be by the Chief of Police or designee.

B. Criminal Cases

1. Officers will meet with defense attorneys when requested to do so. Officers should not meet with a defense attorney however, unless the assigned Assistant District Attorney or City of Santa Fe Attorney has been briefed on the intended meeting and has been given the option of attending.
2. If the assigned Assistant District Attorney or City Attorney does not wish to be present and an officer still feels that presence of the Assistant District Attorney or City Attorney is necessary, the officer should contact the police liaison officer. The police liaison officer will appeal the decision to the Assistant District Attorney's supervisor or to the City Attorney's supervisor.

80.1.06 CONFLICT OF INTEREST TESTIMONY

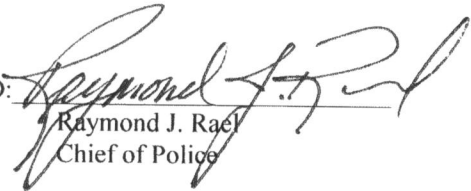
- A. Personnel who are requested or subpoenaed to testify in any case in which they have not been involved in as a witness, victim, investigator, or reporting officer, will determine what testimony is being sought.
- B. If it appears that any testimony will be directed against another officer or law enforcement agency, personnel will contact the office of the

Chief of Police so that arrangements may be made with the Office of the City Attorney, prior to giving any testimony or deposition.

80.1.07 WITNESS FEES

- A. Officers who are called to testify in civil cases as a witness are eligible to receive witness fees calculated at the accepted rate per hour. The following shall be adhered to in regards to collection/acceptance of witness fees:
 - 1. If an officer is scheduled to attend the hearing or trial while on regular duty, he/she shall remit any fees collected to the Santa Fe Police Department because the officer is receiving his/her regular salary, as regular salary will be paid.
 - 2. If an officer is called to testify during his/her regularly scheduled time-off, the officer may accept the witness fee but shall not put in for overtime pay. Double payment shall not be allowed.
 - 3. In the event that a member utilizes his/her personal vehicle to travel to/from the hearing(s), the member may accept mileage fees disbursed by the court. The Santa Fe Police Department shall not pay mileage, unless prior approval is obtained and/or in accordance with City Procedures regarding travel mileage.

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APPROVED: 
Raymond J. Rael
Chief of Police

Date: