

CHAPTER 6: COURTS

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1.0 COURT LIAISON UNIT

1.1 POLICY

It is the policy of the Buffalo Police Department that the Court Liaison Unit will coordinate all business between the Department and the various courts, regulatory bodies and administrative agencies.

1.2 COURT LIAISON UNIT

The Court Liaison Unit is located in the City Court Building. The office is open from 0830 to 1630 hrs., Monday through Friday. If this office is closed, any information pertaining to court appearances or adjournments shall be relayed to the 911 Communications Lieutenant.

1.3 COURT LIAISON

- A. Act as the central distribution point for any business conducted between the Buffalo Police Department and all area courts and other regulatory and administrative agencies.
- B. Check the Payment Request for Authorized Off Duty Appearance (P-35) for completeness and accuracy. The entering of the payroll data shall be completed by the Division of Administration and Communications.
- C. Check the Court registers periodically to ensure that Officers are entering the actual times that they sign "in" and sign "out" for Court Appearances.
- D. Receive and record all scheduling information including subpoenas, for appearances of members of the Department in courts, regulatory bodies and administrative agencies (i.e. court appearances, adjournments, etc.).
- E. Properly and promptly notify the various Departmental units of all such scheduling information.
- F. Receive, record and investigate all reports of Department members failing to appear in a court, regulatory body or administrative agency as scheduled and forward any discrepancies to IAD.
- G. Maintain such records, statistics and files that are necessary for the proper operation of the Court Liaison Unit.

2.0 SUBPOENAS

2.1 POLICY

It is the policy of the Buffalo Police Department that all subpoenas the Department receives from the District Attorney's Office, the Corporation Counsel, or other law enforcement or correction agencies, shall be channeled through the Court Liaison Unit

and served in a proper and timely fashion.

2.2 SUBPOENAS FROM THE DISTRICT ATTORNEY'S OFFICE, THE CORPORATION COUNSEL, OR OTHER CRIMINAL JUSTICE OR CORRECTION AGENCIES

A. Court Liaison Duties

1. Receiving Subpoenas

All subpoenas received from the District Attorney's Office, the City of Buffalo Corporation Counsel, or other criminal justice or correction agencies, which are received by the Department to be served on a member of the Police Department, shall be channeled through the Court Liaison Unit.

2. Recording

The Court Liaison Unit shall keep a record of all such subpoenas received, noting the date received, the persons named in the subpoena and the Departmental unit to which it was forwarded.

3. Forwarding

After recording all necessary information, the subpoena shall be promptly forwarded through proper channels to the appropriate Department unit for service.

B. Unit Duties

Commanding Officers of units receiving subpoenas shall ensure that the following information is properly recorded in the Unit Command Warrant Book, P-1338.

1. Date received;
2. Name and address of the person named in the subpoena;
3. Name of the Department member to whom the subpoena was assigned for service.

C. Serving the Subpoena

Subpoenas shall be served personally on the witness by showing him/her the original and by delivering to, and leaving with the witness, a copy of the subpoena.

D. Procedure after Service of the Subpoena

1. Return to Court Liaison Unit

The member of the Department who served the subpoena shall immediately prepare the affidavit of service and return the original subpoena and affidavit to the Court Liaison Unit. The Court Liaison Unit shall record that the subpoena was served. Original subpoenas and affidavits of service must be received at the Court Liaison Unit prior to the scheduled court date.

2. Entries Required

The Unit Command Warrant Book, P-1338, shall be marked indicating the date on which the subpoena was served (in the date column), after which the name of the witness shall also be entered.

E. Return of Unserved Subpoenas

1. Action by Officer to whom the Subpoena was Assigned

If the member of the Department to whom the subpoena was assigned is unable to serve it, (s)he shall prepare a report on an Intra-Departmental Memorandum explaining the reason for his/her inability to serve the subpoena. Barring exceptional circumstances, unserved subpoenas shall be returned to the Court Liaison Unit along with the Intra-Departmental Memorandum, no later than 3 days prior to the date of appearance. The member shall then indicate in the Unit Command Warrant Book the date that the subpoena was returned.

2. Court Liaison Unit Duties

Upon receipt of the unserved subpoena, personnel of the Court Liaison Unit shall promptly return it to the issuing office and record the date on which they returned it.

F. Subpoenas from the DA, Corp. Counsel, or Criminal Justice or Correction Agencies, for Department Members

In addition to the above procedures for handling subpoenas, when a subpoena for a Department member is issued by the District Attorney's Office, the Corporation Counsel's Office, or other criminal justice or correction agency, the appropriate entries shall be made in the Unit Court Book. Grand Jury subpoenas shall be served in person on members of the Department and they shall be served by a Detective, Detective Sergeant or by an officer of the rank of Lieutenant or above.

2.3 SUBPOENAS FOR DEPARTMENT MEMBERS FROM OTHER THAN THE DISTRICT ATTORNEY, THE CORPORATION COUNSEL, OR OTHER CRIMINAL JUSTICE OR CORRECTION AGENCIES

When any member of the Department is served with a subpoena on behalf of a defendant in a criminal case or by any of the parties in a civil case, the member must comply with the following procedures.

A. All Cases

In all cases in which a member is issued a subpoena by other than the District Attorney's Office, Corporation Counsel's Office, a Criminal Justice or Corrections Agency; the member must report the facts to the Commissioner and the Corporation Counsel, who shall maintain a record of such subpoenas.

B. Criminal Cases

In criminal cases in which a member is served with a subpoena on behalf of a defendant, the member must also immediately notify and report the facts to the District Attorney or Corporation Counsel in charge of the case and obey his/her instructions in regard thereto. In addition, the member shall forward a copy of the subpoena to the Court Liaison Unit which shall maintain a record of such subpoena.

C. Civil Cases

In civil cases in which the member is issued a subpoena by other than the Corporation Counsel's Office, and the City may be involved as a party to the underlying law suit, the member must also notify and report the facts to the Corporation Counsel in charge of the case and obey his/her instructions in regard thereto. In addition, the member shall forward a copy of the subpoena to the Court Liaison Unit which shall maintain a record of the subpoena.

D. Voluntary Appearances

A Department member, who has not been served with a subpoena, shall not voluntarily appear as a witness for the defense in a criminal case or as a witness in any case in which the City of Buffalo is a party. If the member has been served with a subpoena on behalf of a defendant, (s)he must comply with paragraphs A, B, and C, above.

3.0 COURT ISSUED SUMMONSES IN CRIMINAL CASES

3.1 POLICY

It is the policy of the Buffalo Police Department to receive summonses issued by Buffalo City Court in criminal cases and to serve such summonses in a proper and timely fashion.

3.2 SUMMONS DEFINED

A summons is a process as determined in accordance with the NYS Criminal Procedure Law. (refer to CPL as needed)

3.3 WHEN ISSUED

A local criminal court may issue a summons in any case in which it is authorized to issue an arrest warrant pursuant to NYS CPL. (refer CPL as needed).

3.4 SERVING SUMMONS

A summons may be served by a Police Officer, or by a complainant at least eighteen (18) years of age, in accordance with the NYS CPL. (refer CPL as needed).

3.5 FINGERPRINTING AFTER ARRAIGNMENT

As a general rule, fingerprinting of defendants is accomplished by City Court Booking.

3.6 MAINTAINING RECORDS OF SUMMONSES

A. City Court Booking

Summonses shall be delivered each day to City Court Booking by a City Court Clerk. CCB shall be responsible for recording the summonses and forwarding them to the appropriate Departmental Unit.

B. City Court Booking Responsibility

Units receiving summonses for service shall make the appropriate entries in the District/Unit Warrant Book. After the person has been located, the original summons shall be served on him/her. The member serving the summons shall also complete the duplicate copy along with the summons/Disposition slip (P-58) and forward both in an envelope to CCB. Barring exceptional circumstances, unserved summonses shall be returned to CCB no later than 3 days prior to the date of appearance.

4.0 HANDLING ORDERS OF PROTECTION

4.1 POLICY

It is the policy of the Buffalo Police Department to cooperate fully with the local and superior courts in the service and enforcement of Orders of Protection and to perform all requisite record keeping functions.

4.2 ORDERS OF PROTECTION

A. Special Victims Unit (SVU) Responsibility

All Orders of Protection received by the Department shall be forwarded to the Special Victims Unit. SVU will be responsible for:

1. Entering the order in the NYSPIN system through Central Police Services;

4.3 EX PARTE ORDERS OF PROTECTION

Ex parte orders of protection are generally of short duration and are issued without the defendant/respondent's appearance in court. They are used to protect the complainant/petitioner prior to the next scheduled court date.

A. Recording Requirements

All Ex Parte Order of Protection shall be forwarded to SVU. SVU will:

1. Enter the Ex Parte order in NYSPIN through Central Police Services;
2. Enter proof of service in NYSPIN through Central Police Services, after it has been served;
3. Transmit proof of service to the court of origin.

B. Service Requirements

1. The Commanding Officer of SVU shall cause a member of his/her command

to serve the Ex Parte Order of Protection as soon as practicable after it has been received;

2. The member to whom the Ex Parte Order of Protection has been assigned shall exercise due diligence in locating the defendant/respondent and serving the order, or notify the Court if it cannot be served;
3. The proof of service shall then be returned to the issuing Court;

5.0 CIVIL LAW SUITS AND CLAIMS

5.1 POLICY

It is the policy of the Buffalo Police Department to comply with the directives of the Corporation Counsel's Office when dealing with matters involving civil litigation.

5.2 NOTICE OF CLAIM, SUMMONS, SUMMONS AND COMPLAINT, SUBPOENA DUCES TECUM

- A. When the Commissioner's Officer is served with a Notice of Claim, Summons, Summons and Complaint, or a Subpoena Duces Tecum, one copy shall be forwarded to the Corporation Counsel's Office and a second copy shall be forwarded to the Internal Affairs Division (IAD).
- B. IAD shall maintain a log of all such documents. If no IAD case is currently pending, IAD will review the documents to determine if there are any allegations which would also constitute a violation of Department Rules and Regulations. If there does appear to be a disciplinary infraction, they will undertake an appropriate investigation.
- C. IAD will examine the information for completeness and will forward a copy to the Corporation Counsel's Office or the District Attorney's Office, as the case may require. IAD will also retain a copy of the assembled documents in any file that it may have opened.

6.0 ARRESTING OFFICERS

6.1 POLICY

It is the policy of the Buffalo Police Department that when preparing arrest documents the Officer who has the most knowledge of the case shall be recorded as the arresting Officer.

6.2 OFFICER IN CHARGE OF THE CASE

- A. In each and every arrest made by a member of the Department, whether the arrest involves multiple defendants and/or multiple charges, there shall be only one officer who is designated as the "Officer in charge of the case."
- B. The "Officer in charge of the case" shall be that Officer who possesses the greatest knowledge of the circumstances surrounding the arrest.

- C. In the event of an arrest in which the officer is the complainant and any of the offenses charged is a violation (i.e. an offense in which the maximum penalty does not exceed 15 days imprisonment), the "Officer in charge of the case" shall be that officer who is able to make allegations, based on personal knowledge, that establishes every element of the violation charged.

6.3 OFFICER IN CHARGE OF THE CASE TO SIGN ALL ARREST DOCUMENTS

- A. The "Officer in charge of the case" shall sign all related arrest documents. No other officer shall sign such documents. Information's, summonses (i.e. simplified information's), misdemeanor complaints, felony complaints and any other documents related to the arrest shall be signed exclusively by the "Officer in charge of the case."
- B. For arrests alleging Driving While Intoxicated/Impaired, the "Officer in charge of the case" shall sign all summonses; shall witness the Breathalyzer Test or the Refusal to take the test, and sign corresponding paperwork; and (s)he shall sign all documents related to the arrest.

6.4 PREPARING THE DEFENDANT INFORMATION – Form P-32

The Defendant Information (Form P-32) which is submitted to the District Attorney's Office in conjunction with each arrest shall contain the following:

- A. The Officer having the greatest knowledge of the case shall always be designated as the "Officer in charge of the case." His/her knowledge may be based on personal knowledge or on information and belief, including information obtained from fellow officers.
- B. If the "Officer in charge of the case" did not personally witness the positive identification of the defendant, the officer who did witness such identification shall be listed as the second officer on the Defendant Information (P-32). The initials "ID" shall be placed after his/her name.
- C. If the "Officer in charge of the case" did not personally witness statements that were made by the defendant (i.e. CPL 710.30 information), the Officer who witnessed such statements shall be listed as the third Officer on the Defendant Information (P-32). The number "710.30" shall be placed after his/her name.
- D. All other officers having relevant and material information concerning the arrest shall be included after the above mentioned three officers.

6.5 ARRESTS RELATED TO OUTSIDE EMPLOYMENT

When an off-duty Officer makes an arrest while employed outside the Department (s)he shall prepare all accusatory instruments in the following manner:

- A. Indicate that (s)he was employed outside the Department at the time of the arrest.

- B. Do not use Departmental titles, such as Police Officer, Lieutenant, Detective, etc. Use civilian status such as Mr., Mrs., Ms.
- C. Do not use the Buffalo Police Department or any of its buildings as an address. Use the outside employer's address or the Officer's place of residence.
- D. It shall be the duty and responsibility of all members involved in off-duty arrests and investigations, or who are witnesses to any incident not related to the Buffalo Police Department, to fully and actively cooperate with the affected agency.
- E. Generally, a member making an off duty arrest while engaged in outside employment will not receive compensation for any off duty court appearances.

7.0 COURT NOTIFICATIONS

7.1 POLICY

It is the policy of the Buffalo Police Department that all requests for a member's appearance in court or at a proceeding before any regulatory body or administrative agency, shall emanate from the Court Liaison Unit.

7.2 COURT NOTIFICATIONS GENERALLY

- A. The District Attorney's Office has the authority to summon any officer it deems necessary to prosecute the case. The District Attorney's Office will contact the Court Liaison Office or the Officers Command.
- B. Officers appearing in court in conjunction with any Department related arrest must first have their court appearance recorded at the Court Liaison Office, or in its absence, the 911 Communications Lieutenant.
- C. In no instance shall an officer submit a P-35 "Payment Request for Authorized Off-Duty Appearance" for having performed any administrative function without first having obtained the permission of the Court Liaison Office.

7.3 COURT LIAISON DUTIES

- A. It shall be the responsibility of the Court Liaison Unit to receive all requests from courts, regulatory bodies and administrative agencies, for the appearance of members of the Department.
- B. The various Departmental units of members, who have been requested to appear, shall be notified by the Court Liaison Unit.
- C. It is the responsibility of the CLU to forward the appropriate copies of the P-35 to the Division of Administration and Communications.

7.4 DUTIES OF DEPARTMENTAL UNITS

- A. It shall be the responsibility of each Departmental unit to receive and record all notices sent by the Court Liaison Unit, that require the appearance of members of that command in court or at a regulatory body or administrative agency.
- B. If any court, regulatory body or administrative agency makes a request directly to a member or the member's command, such requesting entity shall be requested to notify the Court Liaison Unit, or in its absence, the Communications Lieutenant. When the affected member or his /her command is unable to comply with the foregoing, the member shall honor the request to appear. However, (s)he shall contact the Court Liaison Unit at the earliest opportunity and advise them of the circumstances.
- C. Upon receipt of official court notifications or adjournments, the senior on duty shift Supervisor or his/her designee shall enter the information in the unit's Court Book. The Court Book shall contain the following information:
 - 1. The name of the member who is requested to appear.
 - 2. The date the court notification was received by the unit and the initials of the member who received it.
 - 3. The name of the court, regulatory body or administrative agency the member is requested to appear in and the date and time of that appearance.
 - 4. The date that the member was notified of the requested court appearance and the name of the member who provided the notification.
- D. The on duty shift Supervisor shall be responsible for checking the Court Book during each of his/her tours of duty and ensuring that members are given appropriate notification prior to the scheduled date of the court appearance.

If the Supervisor is unable to notify the affected member and (s)he is of the opinion that notification cannot be made in a timely fashion, the Supervisor shall arrange to have the Court Liaison Unit notified.

7.5 THE MEMBER'S RESPONSIBILITY

Upon receipt of an official and authorized notification, it is the responsibility of each member to show up at the proper time and place, and to be attired properly as determined by current directives and regulations.

- A. If a member is personally requested by a court, regulatory body or administrative agency to appear before them, such requesting entity shall be asked to notify the Court Liaison Unit, or in its absence, the 911 Communications Lieutenant. If the requesting entity does not do so the member shall honor the request to appear. The member shall contact the Court Liaison Unit at the earliest opportunity so that the Court Liaison Unit can verify the request and make the proper recordings.

- B. Because many members of the Department bear the same surname (e.g. Smith, Jones, etc.), it shall be the responsibility of the requested member to determine that each case for which (s)he has received notification is actually his/her case. If for any reason there is any doubt, the member shall make reasonable inquiries. If the case is for a member other than himself/herself, the member shall immediately contact the Court Liaison Unit.
- C. If a member receives notices that would require him/her to appear in two different Courts, regulatory bodies or administrative agencies at the same time, and (s)he deems it necessary to re-schedule, the member shall contact Court Liaison Unit without delay. The Court Liaison Unit will re-schedule if necessary.
- D. Members who, after receiving official and proper notification (i.e. at 72 hours notice to the member's unit), fail to appear at the date and time requested, may be the subject of disciplinary action. In such cases, the Court Liaison Unit shall make a thorough search of its records to determine if the affected member's command and/or the member himself/herself was officially and properly notified. If the result is negative, the member shall be notified to relay the charges if possible. If the member's command and/or the member himself/herself were officially and properly notified, the Court Liaison Unit shall forward all pertinent information to the Internal Affairs Division for investigation.
- E. At no time shall a member of the Department who is on official and authorized leave from the Department be cited for non-appearance, unless (s)he failed to notify the proper authority that (s)he is on such leave. For example: vacation, personal leave, etc. Refer to M.O.P. Chapter 6.
- F. When a member of the Department is notified to appear before any court, regulatory body or administrative agency and the member knows or has reason to believe that (s)he cannot offer any testimony in the matter, (s)he shall, immediately upon receipt of the notification, contact the Court Liaison Unit; (i.e. when a member arrests a suspect on an outstanding warrant). In such cases, the Court Liaison Unit shall make inquiries of the requesting court, regulatory body or administrative agency to determine if the member is needed or is not needed.

8.0 GENERAL COURT PROCEDURES

8.1 POLICY

It is the policy of the Buffalo Police Department that when members appear in court, or at a hearing of a regulatory body or administrative agency, the member shall present himself or herself in a timely fashion, properly attired and fully prepared to give competent testimony.

8.2 PREPARATION OF CASES

- A. Prior to making his/her appearance in court or at a hearing of a regulatory body or administrative agency, the member shall review all facts and circumstances relevant to the case and be prepared to offer competent and credible testimony. The member must be prepared to present to the court, regulatory body or administrative agency, all notes, evidence and reports that have been prepared in relation to the arrest and investigation.
- B. Members who have been authorized by the Court Liaison Unit to attend pre-trial conferences with personnel from the District Attorney's Office or the Corporation Counsel's Office shall be fully prepared to relate all facts and circumstances concerning the case. Information that tends to exonerate the defendant shall be revealed, as well as information that implicates the defendant.
- C. Members must provide the names and addresses of all witnesses to members of the District Attorney's Office and the Corporation Counsel's Office.

8.3 PUNCTUALITY

Members of the Department who are under subpoena or who have been authorized to appear in court or at a hearing of a regulatory body or administrative agency shall:

- A. report at the specified time;
- B. remain in court until the case is disposed of, or until they are advised by a competent authority that their appearance is no longer required.

8.4 ATTIRE IN COURT

Members of the Department must appear in full uniform or with a sport coat and dress slacks or suit and tie, (or the equivalent for female Police Officers) for any appearance in court. Members appearing in court while not wearing the regulation uniform shall wear their Department issued identification cards on their outermost garment.

8.5 CONDUCT ON THE WITNESS STAND

A member of the Department called upon to take the witness stand shall do the following:

- A. Take the witness stand immediately.
- B. Sit erect and direct his/her remarks to the jury.
- C. Furnish the court, regulatory body or administrative agency with all the evidence that is requested.
- D. Understand the question before making a reply. If in doubt, request that the question be repeated or clarified.

- E. Answer the question truthfully and completely, without volunteering additional information not required by the question. If the member cannot answer the question, the member shall so state.
- F. Be impartial, calm, and speak in a clear and distinct voice.

8.6 TRUTHFULNESS REQUIRED

- A. Employees are reminded of their duty "to be truthful in speech and writing whether or not under oath." Refer to the Rules and Regulations, Chapter III, Section 3.5.
- B. Under no circumstances shall an officer be designated as the "Officer in charge of the case" or appear in court and present himself/herself as the officer possessing the greatest knowledge of the case when, in fact, (s)he does not possess such knowledge.
- C. Under no circumstances shall an officer claim to have witnessed a positive identification or appear in court characterizing himself/herself as having done so when, in fact, (s)he did not witness such positive identification.
- D. Under no circumstances shall an officer claim to possess 710.30 information or appear in court claiming to have 710.30 information when, in fact, (s)he does not possess such information.

8.7 PLEA BARGAINING

Members shall not engage in, nor recommend, approve or actively consent to, the reduction or changing of a charge against a defendant.

- A. The member shall provide the court and the District Attorney's Office with all information (s)he has at his/her disposal, to assist them in making a proper determination, but the information must be factual and not an expression of an opinion.
- B. The member must be careful to avoid any expression of approval or disapproval of the plea bargain.
- C. Once the court has made its determination, the member should make no statement, nor express any opinion, regarding the decision.

8.8 ON DUTY STATUS

Members, while appearing in court or at a regulatory body or administrative agency in connection with Department business, are considered to be on duty and they shall be subject to all of the rules and regulations pertaining thereto.

9.0 ADJOURNMENTS

9.1 POLICY

It is the policy of the Buffalo Police Department that requests for adjournments of cases before a court, regulatory body, or administrative agency shall be requested only through the Court Liaison Unit.

9.2 REQUESTS FOR ADJOURNMENTS BY MEMBERS

- A. Members who are absent or on leave but who are able to attend cases in court or at regulatory bodies and administrative agencies shall do so.
- B. No member of the Department shall personally contact a court, regulatory body, or administrative agency or any of their representatives to request an adjournment, change of time, or a re-scheduling of any case. All such requests shall be directed to the Court Liaison Unit, in writing, on an Intra-Departmental Memorandum, approved by their Commanding Officer. Emergency requests may be made through the Court Liaison Unit via telephone. All emergency requests shall be followed up by a report on an Intra-Departmental Memorandum to the Court Liaison Unit. Emergency requests shall be made only for valid reasons.
- C. If a member of the Department, for valid reason, is unable to appear before any court, regulatory body, or administrative agency on the scheduled date, (s)he may request that his/her partner or other member be allowed to appear in his/her place. The partner or other member must be able to testify to all of the facts pertaining to the matter. In such cases, the member shall, as soon as possible, obtain permission for the substitution from the D.A.'s Office or the Corporation Counsel's Office through the Court Liaison Unit. All such requests shall be made in writing on an Intra-Departmental Memorandum, or by telephone followed up by an Intra- Departmental Memorandum. All such requests must be approved by the Court Liaison Unit.
- D. The Court Liaison Unit will arrange for adjournments in appropriate cases and notify the affected member of the adjourned date.

9.3 MEMBERS ON ANNUAL VACATION OR LEAVE OF ABSENCE

Members who routinely appear in court or possess knowledge that they have a pending case, shall notify the Court Liaison Unit on an Intra-Departmental Memorandum, ten (10) days before the beginning of their AV or other leave of absence from the Department. If they want their cases adjourned, they shall so state. Members who do not want their cases adjourned while they are on AV or other leave, shall not submit an Intra-Departmental Memorandum and it shall be their responsibility to remain available for all scheduled appearances. If the Court Liaison Unit has no Intra-Departmental Memorandum in its file, it shall be assumed that the affected member is available for appearances.

9.4 LEAVE REQUESTS WHEN A MEMBER IS SCHEDULED FOR COURT

- A. In an attempt to facilitate the granting of leave time when the leave would conflict with a member's scheduled appearance in a court or at a regulatory body or administrative agency, the member must indicate on his/her Leave Request (form P-12) that (s)he is scheduled for an appearance during part of the time for which (s)he is requesting the leave.
- B. For purposes of this section, leave time shall include single vacation days, Veteran's days, and AWL- Blood days. It does not include personal leave days or a full week of annual vacation.
- C. In every such instance, the Superior Officer, prior to approving the leave request shall ensure that inquiry has been made to determine:
 1. whether there is another member with knowledge of the case that can appear in place of the member requesting the leave and that such alternate has been verified by the Court Liaison Unit to be acceptable to the court, regulatory body or administrative agency; or, in the alternative,
 2. whether the case can be adjourned to another date,
 3. whether the Officer requesting leave intends/will attend the court appearance as scheduled.
- D. In the event that the appearance of the alternate member is not a possible option and that the case cannot be re-scheduled, the Commanding Officer, absent exigent circumstances, must deny the leave time if the court action will be prejudiced or compromised. In extreme cases, the Commanding Officer may exercise his/her discretion in approving the requested leave time.

9.5 UNEXPECTED CLOSINGS OF COURTS AND ADMINISTRATIVE BODIES

In the event that any court or administrative body is closed because of a snow emergency, severe weather condition, fire, some other natural disaster or for any other non scheduled court closing Court Liaison will:

1. notify each command by fax of the officers who were scheduled to appear;
2. Court Liaison, via telephone, will confirm the transmission and receipt of the fax with the on-duty supervisor of each command
3. It will be the responsibility of each command to notify the Officer of the cancellation of court and record such notification.
4. In such cases the Court Liaison Unit shall notify the Officer of the date to which the case has been adjourned.

In any event, the Officer will not be compensated for any off duty appearance when the court or administrative body in which (s)he was to appear is not in session.

10.0 PAID COURT TIME

10.1 POLICY

It is the policy of the Buffalo Police Department that when members are required to appear in court or before any regulatory or administrative agency at any time other than during their own regularly scheduled work period, and the purpose is to testify relative to their official duties, they shall be compensated in the manner specified in the collective bargaining agreement.

10.2 PREPARING THE REQUEST FOR MONETARY PAYMENT FOR AN AUTHORIZED OFF DUTY COURT APPEARANCE (P-35)

- A. The member shall submit form P-35 only when requesting monetary payment for an authorized off duty court appearance.
- B. Monetary payment shall be approved only if the following conditions are met:
 - 1. The appearance must be authorized.
 - 2. The appearance must be at a time other than during the member's regularly scheduled work period. Example: A member who is working the 0600hrs - 1600hrs shift shall receive payment only if (s)he is required to remain in court or at a regulatory body or administrative agency, beyond 1600hrs on a working day. If a member is assigned to the 1600hrs - 0200hrs shift, his/her entitlement to court time pay ends at 1600hrs.
 - 3. Form P-35 must be complete and properly certified.
- C. If a member has more than one case during one day, (s)he shall check the appropriate box on form P-35 and include those cases on the form. If additional space is needed, the member shall report the information on an Intra-Departmental Memorandum and submit it to the Court Liaison Unit with the green copy of form P-35.
- D. Before a Superior Officer affixes his/her signature to form P-35, (s)he shall be responsible for ascertaining with certainty that the appearance of the member is authorized and necessary during off - duty hours. All court slips must be signed by a Superior Officer (e.g. a Lieutenant cannot sign for a Lieutenant, etc.).
- E. Only the following officials shall be accepted as "Certifying Officials":
 - 1. Judges of the Supreme Court, County Court, Family Court, or City Court.
 - 2. Hearing Officers of regulatory bodies or administrative agencies.
 - 3. The District Attorney or Corporation Counsel or their assistants.
 - 4. The Duty Inspector or 911 Communications Lieutenant.
- F. If a member appears in both the morning and the afternoon on the same day, (s)he shall submit only one form P-35. The starting time shall be recorded as the time of the first

appearance in the morning and the ending time shall be the time when (s)he is finished with the last case.

- G. Members who make an arrest while engaged in employment outside the Department shall not submit form P-35.
- H. If a member is issued a subpoena to appear as a witness in a criminal or civil matter, payment shall be awarded only if the member was on duty at the time that (s)he witnessed or investigated the matter and only if the matter before the court, regulatory body or administrative agency is a police related incident.
- I. Court time shall not be paid to an officer subpoenaed by the Union in a proceeding for the Union's interest.
- J. Compensatory time off shall not be awarded in lieu of paid court time.

10.3 SCANNING IN AND SCANNING OUT

Members requesting compensation for an off duty authorized appearance in a court, regulatory body or administrative agency must scan “in” before they make their appearance and they must scan “out” when they are finished.

- A. Members appearing at the NYS Traffic Violations Bureau (TVB) will scan “in” and scan “out” at that agency. THIS INCLUDES BOTH ON-DUTY AND OFF-DUTY MEMBERS MAKING A COURT APPEARANCE.
- B. Members appearing in any other court, regulatory body or administrative agency, must scan “in” and scan “out” at the Court Liaison Unit in the City Court building. THIS INCLUDES BOTH ON-DUTY AND OFF-DUTY MEMBERS MAKING A COURT APPEARANCE.
- C. Members appearing at parole hearings at a correctional facility or any other location outside the confines of downtown Buffalo need not scan “in” or scan “out” at the Court Liaison Unit. Any member who makes such an appearance must complete and attach form P-35A to the court slip to be submitted for payment. Such slips for “outside” appearances must be signed by the person(s) making the appearance request AND by Corporation Counsel under item #15 on the P-35 (court slip).
- D. Sworn members who necessarily remain in court after 1800hrs or appear at a time other than the normal Monday through Friday day time schedule must complete and attach form P-35A to the P-35 (court slip) and forward accordingly.

All members who make a request for payment for a court appearance MUST submit a completed form P-35 “Payment Request for Authorized Off-Duty Appearance” AND “scan in” and “scan out” (unless circumstances exist to require form P-35A).

Payment will not be made unless all procedures are complied with.

10.4 APPEARANCES FOR NON-DUTY RELATED INCIDENTS

- A. Off-duty members appearing in courts, regulatory bodies or administrative agencies located within the geographical limits of the City of Buffalo, or who appear at the request of an "outside agency" shall be awarded monetary court time payment only if the matter is related to a Buffalo arrest or investigation.
- B. Members appearing in courts, regulatory bodies or administrative agencies within the geographical limits of the City of Buffalo in a matter involving an off-duty arrest shall not be awarded compensation by the Department, except at the discretion of the Commissioner of Police.
- C. Generally, a member making an off duty arrest while engaged in outside employment will not receive compensation for any off duty court appearances.

10.5 MONETARY PAYMENT FOR "SHORT NOTICE" ADJOURNMENTS

Whenever a matter is adjourned, canceled or re-scheduled on "short notice" (less than twelve hours notice); the affected member shall be paid the minimum compensation as prescribed by the collective bargaining agreement. In such cases, the member may deliver in person or forward form P-35, to the Court Liaison Unit where it shall be certified by the Officer in charge and processed in the same manner as though the member had actually appeared in court.

10.6 COURT TIME WHILE ON SICK LEAVE OR IOD STATUS

Members who, while on sick leave or IOD leave status, are required by the City, the District Attorney's Office, any court or administrative agency to appear for any reason which relates to an incident, action or event involving the member acting within the performance of his/her duties as a member of the Buffalo Police Department (not while employed by another employer), must appear (if medically able). Such member shall be entitled to court time compensation. If the member is medically unable to appear, reasonable advance notice of such fact must be given to the authority requiring his/her presence

10.7 NO COURT APPEARANCES WHILE SUSPENDED

No sworn Officer shall appear in court for any reason while suspended without prior permission from the Commissioner. This order applies whether the Officer is suspended with pay or without pay.

10.8 INELIGIBILITY FOR COURT

- A. **Suspensions**: Officers on suspension are NOT eligible for court pay (G.O. 2006-10).
- B. **Unpaid Leave of Absence**: Officers on an unpaid leave of absence are not on the payroll and are NOT eligible for court pay.

- C. **Jury Duty**: Officers on Jury Duty are NOT entitled to court appearance pay regardless of the time frame of their regular tour of duty. Jury Duty takes place during day time hours and is paid accordingly for 10 hours each day under “Jury Duty” status.
- D. **Military Time**: Officers who use “Military Time” are not entitled to court appearance pay IF that appearance falls on a regular scheduled working day during which they are already being paid for 10 hours under “Military Time” status.
- E. **Bereavement**: Officers being paid under “Bereavement” status are NOT entitled to be paid for appearances in court as bereavement leave runs for a 24 hour time frame and the Officer is already being paid 10 hours under “bereavement leave” status.

**Military time, jury duty, bereavement and suspension time run on a 24 hour cycle.

**Officers cannot take overtime if they have a court appearance scheduled during the same time frame.

10.9 **SUBPOENAS**

Any Officer who receives payment (check/cash) with any subpoena IS NOT entitled to keep such payment as long as the Officer is on the payroll. The Officer must forward that payment (check/cash) with a copy of the subpoena to the Legal Office, Room 231 in Headquarters who will then forward to Senior Budget Examiner, Room 120, Administration and Finance.

11.0 **RE-LAYING CHARGES**

11.1 **POLICY**

It is the policy of the Buffalo Police Department that the Court Liaison Unit will coordinate the relaying of criminal charges and the providing of additional arrest information, when required.

11.2 **COURT LIAISON UNIT RESPONSIBILITIES**

The Court Liaison Unit shall receive and record all requests for providing additional arrest information and will notify the affected command of such request. The Court Liaison Unit will also direct the relaying of criminal charges in appropriate cases.

11.3 **RE - LAYING CRIMINAL CHARGES**

- A. Charges shall be re-laid at the CCB Unit by preparing an Information/Complaint while the member is on duty. The completed Information/Complaint shall be forwarded to the Court Liaison Unit.
- B. Charges shall be re-laid as soon as possible in order to afford the defendant his/her right to a speedy trial, and in every instance, before the expiration of the statutory time limit.

11.4 REQUESTS FOR ADDITIONAL ARREST INFORMATION

When a member receives a request for arrest data from the Court Liaison Unit, (s)he shall strictly comply with the instructions on the request form. The arrest data must be returned to the Court Liaison Unit in a timely manner.