



**Policy Number: 320 – Subpoenas and Court Appearances**

**Effective Date: July 2, 2020**

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**Approved By: Denis Otterness, Chief of Police**

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## **320.1 PURPOSE AND SCOPE**

This policy establishes guidelines for members of the Montana State University Billings Police Department (Department) who must appear in court. This policy will allow the Department to cover any related work absences and keep the Department informed about relevant legal matters.

## **320.2 POLICY**

This Department, and its members, will respond appropriately to all subpoenas and any other court-ordered appearances.

## **320.3 SUBPOENAS**

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

### **320.3.1 SPECIAL NOTIFICATION REQUIREMENTS**

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

- a. Any civil case where the State 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 Department member's on-duty activity or because of his/her association with this Department.
- e. Any personnel or disciplinary matter when called to testify, or to provide information, by any government entity other than the Montana State University Billings 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. No member shall be retaliated against for testifying in any matter.

### **320.3.2 CIVIL SUBPOENA**

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

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

### **320.3.3 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.

## **320.4 FAILURE TO APPEAR**

Any Department 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.

## **320.5 STANDBY**

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

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

## **320.6 COURTROOM PROTOCOL**

When appearing in court, Department 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 as appropriate.
- 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. Before the date of testifying, the subpoenaed Department member shall obtain a copy of relevant reports and become familiar with the content in order to be prepared for court

## **320.7 OVERTIME APPEARANCES**

When a Department member appears in court on his/her off-duty time, s/he will be compensated in accordance with the current collective bargaining agreement.