


POLICY 103.0	COURT POLICY	
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A. POLICY

It is the policy of the Fort Lauderdale Police Department to cooperate with all aspects of the judicial process.

B. GENERAL

The Fort Lauderdale Police Department recognizes that responsibility for law enforcement does not end with the arrest of a suspect. Total law enforcement responsibility includes full cooperation with all phases and components of the judicial branch of the criminal justice system.

C. WEAPONS IN THE COURTHOUSE OR SATELLITE COURTHOUSE

1. By Administrative Order of Broward County's Chief Judge, any officer entering any Broward County Courthouse including Satellite Courthouses, in other than their official capacity as a certified police officer may not carry or possess any weapon. Non-uniformed officers, appearing in court in their official capacity as a police officer, who is armed, must produce their Department identification and sign in with security. Non-uniformed officers must carry their firearms securely encased and concealed from public view.
2. Individual judges may at their discretion prohibit officers from being armed in their respective courtrooms. All officers shall abide by a judge's decision to prohibit weapons in his or her courtroom.

D. CASE FILING

After the arrest of a suspect for a felony charge, the case must be presented to the State Attorney for filing within 21 days of arrest. Most felony cases will be filed by detective personnel while other cases must be filed by the arresting officer. When in doubt, personnel shall first contact the Case Management Unit to determine if the case has been assigned to a detective. If not, personnel shall contact the state Attorney's case filing unit to determine if an in-person presentation is necessary. Department personnel will cooperate with any reasonable request made by the State Attorney or his Assistants for case filing purposes.

Law enforcement officers are authorized to administer oaths to victims, witnesses and other officers for purposes of criminal investigations.

1. Misdemeanor Arrests
 - a. Officers need not appear for case filing in misdemeanor or third-degree felony cases unless notified by the State Attorney's Office (SAO) Case Filing Division. The SAO will notify the arresting officer when they require a case filing appearance or additional information.
 - b. Victims shall be required to sign the affidavit section of the offense report, indicating their intent to prosecute, unless they give a sworn statement.
2. Felony Arrests
 - a. The arresting officer shall sign the offense report, which will be sworn to and forwarded to the SAO.
 - b. Unless deceased, victims shall be required to sign the affidavit section of the offense report, indicating their intent to prosecute, unless they give a sworn statement.
 - c. Eyewitnesses should always give sworn statements.

- d. The Criminal Investigations Division will be responsible for filing criminal charges for crimes of:
 - (1). Homicide
 - (2). Aggravated Assault
 - (3). Aggravated Battery
 - (4). Sexual Battery/Child Abuse
 - (5). Robbery
 - (6). Burglary (residence, business, conveyance)
 - (7). Grand Theft
 - (8). Fraudulent activities (credit card, telemarketing and checks, etc.)
 - (9). Embezzlement
 - (10). Auto Theft
- e. Criminal charges may be declined if the member fails to appear for case filing or produce information requested by the State Attorney Office within 21 days.

3. Narcotics Arrests

- a. All felony narcotics cases need not be filed in person by the officer. The decision to file narcotics cases in person will be made on a case-by-case basis. Simple possession cases generally do not require a personal presentation regardless of the amount of narcotics involved. However, some cases do mandate a personal appearance by the officer due to the complexity of the case, (e.g. multiple defendants, confidential informants or multiple buys). The State Attorney's Office ultimately will decide if an in-person appearance is required. Officers will comply with all requests from the State Attorney's Office to supply additional information, documentation or a personal appearance to file a case.
- b. All narcotics cases based on search warrants should be filed directly by the affiant of the search warrant.

4. Battery on a Law Enforcement Officer

Battery on Law Enforcement Officer cases are not required to be filed in person. However, it is up to the officer's discretion as to whether an

appointment for presentation is necessary. The SAO will notify the arresting officer when they require a case filing appearance or additional information.

5. Case Filing Appeals

- a. In cases in which the department member disagrees with the case filing recommendation of the initial SAO, the member may request a review by a supervisor of the case-filing unit.
- b. Cases previously declined by the SAO may be re-presented if the necessary additional information is obtained. In these cases a new Probable Cause Affidavit must be provided. Although no longer bound by the 21-day rule, the case should be re-presented as soon as possible because of speedy trial requirements (180 days from the date of the original felony arrest). The speedy trial rule applies only in cases where an arrest has been made and does not apply to not-in-custody case filings.

E. PRE-TRIAL CONFERENCE

In some serious misdemeanor and felony cases the State Attorney will request a Pre-trial Conference. It shall be the responsibility of all department personnel to respond to any notice (with or without a subpoena) of a Pre-trial Conference. If necessary, the member should contact the SAO to arrange a mutually convenient meeting.

F. TRAFFIC COURT

1. It is the responsibility of all personnel to appear in traffic court when subpoenaed for trial. In case a member is unable to attend traffic court or will be late, they must notify Court Liaison as specified in section M., "Subpoenas" of this policy.
2. Traffic Court schedules shall be set according to the officer's duty schedules. Officers working the day shift shall be set for traffic court during the day shift. Officers working the evening shift shall be set for traffic court during the evening shift. Midnight shift officers shall be set according to their preference. Those officers who are off duty on traffic court days shall be given the choice of which court session they wish to attend. Court Liaison shall keep a master list of officer's traffic court assignments. Traffic court days shall not be changed unless there is a change in assignment or schedule. If a member does not indicate a preference of afternoon court session, the Clerk's office will schedule them.
3. If a trial is set for a date that would create a conflict with the member's schedule, the member should complete a Traffic Court Request for Excuse from Subpoena and submit it to Court Liaison as far in advance as possible. Court Liaison will note the request in their computer and forward it to the Clerk of the Court. Personnel who are already on approved leave will have their subpoenas returned to the issuing agency.

4. Failure to appear for traffic court may constitute contempt of court and may also result in disciplinary action by the Department. Court Liaison will maintain all data-detailing employee “no-shows” for traffic court and will generate no-show notices for employees who miss traffic court. These notices will be forwarded to the appropriate supervisor for investigation.

In addition, supervisors shall receive an attached copy of any unexcused absences from the past 12 months.

- a. The first unexcused absence in a 12 month period will result in a verbal counseling, which will be documented on the “no show” form. The second unexcused absence in the same 12 month period will result in the issuance of a Supervisor/Employee Interview Form. In addition, the “no show” forms will be completed and returned, via the chain of command, to the Court Liaison Unit.
- b. The third and all subsequent suspected unexcused absences from traffic court in the same 12 month period will require an investigation be conducted by the employee’s command and may result in progressive discipline.

G. DHSMV ADMINISTRATIVE SUSPENSION HEARINGS (DUI)

1. It is the responsibility of all personnel to appear at these administrative hearings when subpoenaed. Florida State Statute states that if the arresting officer or breath technician fails to appear for an administrative review hearing, after being duly subpoenaed, the Department of Highway Safety Motor Vehicles (DHSMV) shall invalidate the driver’s suspension.
2. In case an officer is going to be late or unable to attend the administrative hearing, they must notify the Court Liaison as specified in section M. “Subpoenas” of this policy.
3. Officers may request rescheduling of an administrative hearing by sending a Request to be Excused from Trial/Deposition (Form Z-430) to the Court Liaison as soon as possible. Department personnel may instead choose to forward a Court Excusal form found on the Department’s e-mail templates. The Court Liaison will then send an email to the DHSMV at LauderdaleBar@flhsmv.gov. Please note that the request for rescheduling must be made prior to the start of the hearing and must state specific details which establish just cause for the request for rescheduling.

H. DEPOSITIONS

1. Criminal Cases
 - a. Depositions may be taken either upon the service of a subpoena or written notice of taking a deposition delivered to Court Liaison. In addition, personnel should be aware that the ability to take depositions

in misdemeanor cases is limited and must be approved by court order. The Florida Rules of Criminal Procedure [Rule 3.220(h)(3)] specifies that depositions of police personnel are to be taken at the Broward County Courthouse, such other locations as are agreed on by the parties, or a location designated by the court. As a matter of policy, the Police Department (based upon past practice and experience) interprets and therefore, has determined that “such other locations” are to be in close proximity of the courthouse. Close proximity is defined as deposition locations confined to the geographic boundaries of Broward Boulevard on the north, Davie Boulevard on the south, Federal Highway on the east and Andrews Avenue on the west.

- (1). Department personnel may advise the Assistant State Attorney responsible for the trial of the date and time of the deposition and request their presence in order that a representative of the State Attorney's Office may be present.
- (2). If during the deposition the defense attorney becomes abusive or asks a pattern of inappropriate questions that are exempt under the Public Records Law or other statutory provisions, the member may refuse to answer the question. They may also request the presence of an assistant state attorney, contact the Police Legal Advisor or terminate the deposition. Prior to terminating a deposition, a member must notify a supervisor who will make a final determination on the status of the deposition.

When possible, personnel shall state on the record:

- (a). The reason for refusing to answer, or
 - (b). Why they are terminating the deposition and
 - (c). The name of the supervisor approving the termination.
- (3). Except as herein provided, no member of the Department will give a written, signed statement to the defendant or his attorney unless such statement is requested by the State Attorney's Office.

2. Civil Cases

- a. Department personnel subpoenaed for deposition in any civil case which stems from the Department member's employment will immediately notify the Police Legal Unit.
- b. The Police Legal Unit will notify the City Attorney and Risk Management, as appropriate, of the pending deposition.

- c. No Department member will give an oral, written or signed statement to any party or his attorney except with the permission of the City Attorney, the Police Legal Unit or other city legal representative, as appropriate.
- d. A member of the Police Legal Unit will, in appropriate cases, be present at any civil deposition taken of Department personnel.
- e. Department personnel subpoenaed for deposition may be required to attend such only in the county where in they reside or are employed or at such other convenient place as may be fixed by an order of the court. Depositions for civil cases are not subject to the same location restrictions as in criminal cases. Personnel should contact the Police Legal Unit for clarification, when necessary.

3. Traffic Infractions Cases

There are no specific provisions in the rules of criminal or civil procedure or in the rules of traffic court to permit discovery in traffic infraction cases. Therefore, the discovery provisions (depositions, interrogatories, requests to produce, etc.) of the Rules of Criminal Procedure and/or Civil Procedure are not applicable in traffic infraction cases.

The Police Legal Unit will be immediately notified if a subpoena for deposition or demand for discovery is received under such circumstances.

4. Request to be Excused from Deposition

It is the policy of this Department that personnel having little or no actual knowledge of the events surrounding a case should not be required to give depositions. The Florida Rules of Criminal Procedure provide that witnesses who performed only miniscule functions or when they will not be called by the prosecution to testify shall not be subjected to deposition unless required by court order.

- a. When a department member is notified to appear for deposition and knows that he or she took little or no active part in the case, that member will complete "Officer's Request to be Excused from Deposition" (Form Z-430) and forward the form to the State Attorney. Department personnel may instead choose to forward a Court Excusal form found on the department e-mail templates. In completing the form, department personnel should make certain to include in the narrative a concise statement of the member's lack of or minimal participation in the case.
- b. When the form is completed, the state attorney will review the necessity of having the member's deposition taken. The attorney will notify the department member or whether or not the deposition is to be taken as provided by the Florida Rules of Criminal Procedure.

5. Failure to Appear at Deposition

Failure to appear for a deposition may constitute contempt of court and may also result in disciplinary action by the Department.

6. Response to Depositions

a. In order to minimize overtime and reduce inconveniencing Department personnel during their off duty time, every effort should be made to have depositions, and the subsequent reading of deposition transcripts, scheduled for on duty time.

b. Witnesses are required to wait up to one hour for a scheduled appearance to begin a deposition. If the deposition has not started at the end of one hour, the member may leave after notifying the attorney of the time and member's intent. The department member shall note the time of departure on the subpoena and sign it. The member shall then return the subpoena to Court Liaison. Court Liaison shall retain the subpoena in case the attorney files for a hearing to show cause.

7. Being subpoenaed as an Expert Witness

a. No Department member can be compelled or is required to be an expert witness against their will for any party in either a criminal or civil case, provided that such individual has not been retained by any party in either a criminal or civil case and does not have specific information or knowledge of the case.

b. The Police Legal Unit will be immediately notified if a subpoena for deposition is received under such circumstances.

8. Resetting of Depositions

Court Liaison, when appropriate, will attempt to have depositions reset in accordance with the Florida Rules of Criminal Procedure and the Administrative Local Rules of the Seventeenth Judicial Circuit

I. CIVIL TRIALS

1. In order to make the most favorable impression upon the court and the jury, department personnel who testify at civil trials should be alert, neat and fresh in appearance.

2. All possible effort will be made to assist counsel for the City and department personnel in the preparation for and trial of a civil suit against the City and department personnel.

3. No department personnel, sworn or civilian, shall work during the eight (8) hours prior to the mandatory attendance of that department member at the trial of a civil suit in which the City or department members are parties.

- a. In addition to the foregoing, any rescheduling of working time shall take into consideration the fact that if the department member works the day before the trial and the day of the trial, the appearance at the trial will be subject to overtime payment.
 - b. This overtime is to be avoided and the department member will not work unless their absence would be critical to the operation of the department.
4. Upon notification by Court Liaison that a Department member is scheduled to appear at trial, a Major or Bureau Chief (or designee) will take such steps as are necessary to comply with this order.
 5. Any department personnel, especially supervisory personnel, who violate the provisions of this order, may be subject to disciplinary action.

J. LAW SUITS AGAINST DEPARTMENT PERSONNEL

1. When any department member is served with a summons and complaint in any civil litigation arising out of the performance of the department member's job, the department member will immediately deliver the summons and complaint to the Police Legal Advisor for the purpose of transmitting the pleadings.
2. The Police Legal Advisor is directed to immediately transmit all pleadings to the Office of the City Attorney and Risk Management, retaining a copy of the pleadings for departmental purposes.

K. TESTIMONY FOR CRIMINAL DEFENDANT

1. Department personnel cannot voluntarily testify as a character witness for a criminal defendant. If a member of the Department desires to testify as a character witness for a criminal defendant, the member must make a request in writing to the Chief of Police or his/her designee. The notice shall describe the information to which the member will testify and what, if any, relationship the member has to the criminal defendant.
2. Department personnel who are compelled to testify on behalf of a criminal defendant, pursuant to a duly served subpoena, shall immediately upon receiving the subpoena notify their immediate supervisor, the Police Legal Advisor, and the Assistant State Attorney and/or assistant U.S. attorney assigned to the prosecution of the case.
3. Department personnel may only testify as an expert witness if they have specific knowledge of the case. If a member of the Department receives a subpoena to testify as an expert witness regarding a matter that they do not have specific knowledge, the member shall, upon receipt of the subpoena, immediately notify the Chief of Police or his/her designee and the Police Legal Advisor for approval.

L. TESTIMONY AGAINST THE CITY OF FORT LAUDERDALE

1. Department personnel will not voluntarily testify at any proceeding on behalf of an opposing party in a civil law suit against the City of Fort Lauderdale.
2. Department personnel who have been subpoenaed to testify for such opposing party will immediately notify their immediate supervisor, the police legal advisor and, if known, the attorney representing the City in the civil law suit.

M. SUBPOENAS / SUBPOENA DUCES TECUM

Subpoena Duces Tecum is a subpoena requesting the appearance of a witness to provide testimony and specific documents or items.

1. The Chief of Police designates the Court Liaison supervisor or his or her designee to accept subpoenas issued for Department members. However, any Process Server, State Attorney or other person authorized by law can serve a Department member with a subpoena.
 - a. All Department members shall respond to subpoenas. Any Department member who has a problem with responding because of a conflict with dates or times shall complete a Request To Be Excused From Trial/Deposition (Form Z-430) as soon as possible. Department members may instead choose to forward a Court Excusal form found on the department e-mail templates. Subpoena dates and times will not be changed from on-duty to off-duty appearances unless approved by a Supervisor. Court Liaison must deliver the Request To Be Excused form to the court or State Attorney at least 5 days prior to the court date. The Request To Be Excused form shall be delivered to Court Liaison in a timely manner. Court Liaison will note the leave dates in their database and promptly forward the Request to be Excused form to the appropriate office. The member will then have fulfilled their obligation to the court by submitting the Request to be Excused form as far in advance as possible. If a member has not received notification back from the court about the status of their request prior to their leave, they shall contact the appropriate office. If they are unsuccessful in obtaining an answer, then Court Liaison will attempt to make contact on their behalf.
 - b. Any Subpoena Duces Tecum issued to the Department shall be forwarded to the Department Public Records Coordinator.
 - c. The Court Liaison upon receipt of any Subpoena Duces Tecum addressed to the individual Department member shall attach a notice directing the Department member to contact the requesting attorney to clarify the specific documents requested.
 - d. Upon receipt of a Subpoena Duces Tecum the Department member shall contact the requesting attorney to clarify the types of documents requested. If the request requires the production of documents or other

information not authored or created by the Department member, the Legal Unit shall be contacted as soon as practical.

- e. The Legal Unit shall evaluate and respond to the request in accordance with the law.
- f. If there is any conflict with a subpoena the Department member will contact Court Liaison who will notify the appropriate office handling the case and resolve the conflict.
- g. If any conflict with a subpoena cannot be resolved in favor of the Department member, it shall be the responsibility and duty of the member to respond to the subpoena as it was originally issued.
- h. If any Department member refuses to accept or sign a subpoena from Court Liaison personnel, Court Liaison shall immediately notify the member's immediate supervisor of the refusal. The subpoena will be forwarded to the member's supervisor for service or other appropriate action.
- i. Any member who is unable to attend court due to illness or an emergency (e.g. accident or family emergency) shall immediately make notification in the following order until contact is made:
 - (1). Regular office hours: Court Liaison. If after business hours. If unable to make contact, then;
 - (2). After business hours or no answer: Court Liaison voice mail.
- j. All subpoenas and Subpoena Notices issued by Court Liaison will be date and time stamped by Court Liaison., with the exception of electronically transmitted notifications.
- k. All members are required to check their mailbox in-basket, and open their e-mail Outlook Inbox at the beginning of their shift in order to check for any subpoenas or Subpoena Notices from Court Liaison.
- l. All department members shall receive their Subpoena Notices via electronic e-mail notification from Court Liaison. Upon opening the e-mail, it shall be considered as read. In the event that the Department e-mail notification is not available, Court Liaison shall send a hard copy of the Subpoena Notice.
- m. All members are required to sign or initial a copy of the subpoena or the subpoena notice and return it to Court Liaison. Upon opening an electronic e-mail notification, it will be considered as read and not necessary to return a signed copy to Court Liaison.
- n. Court Liaison will retain the signed Subpoena notices for future reference regarding service, appearance and overtime. Court Liaison

will note the return of the subpoena and forward the returned subpoena to the appropriate office. For electronic e-mail notifications, Court Liaison will not delete their Sent items from their Outlook e-mail.

- o. In the event that a department member is placed on extended Administrative Leave, their subpoenas and other court related documents will be forwarded to the designated individual in Internal Affairs for service.
- p. Members receiving subpoenas directly from attorneys shall forward a copy to the Court Liaison for documentation, and redirection if needed.

2. Standby Procedures

- a. All subpoenas for trial should be considered a two-hour standby on the trial date only unless indicated as a mandatory appearance or an extended standby.
- b. The normal standby hours are the two hours following the time the trial is scheduled as indicated on the subpoena. For example: if the subpoena indicates a 9:00 am trial time, the member would be required to standby from 9:00 am - 11:00 am.
- c. In case Court Liaison resets or extends standby hours, including day-to-day standby, the Subpoena Notice from Court Liaison will indicate the standby dates and hours.
- d. It is the responsibility of the member to contact Court Liaison for clarification if there are any questions regarding standby subpoenas.
- e. In the event that a member is communicating directly with the State Attorney's Office or with the U.S. Attorney's Office regarding court appearance or standby, it is the responsibility of that member to notify Court Liaison of all court appearances or standbys for accounting purposes.

3. In accordance with §48.031(4)(a) Fla. Stat. Court Liaison will not accept subpoenas under the following conditions:

- a. "For a witness who is no longer employed by the agency at that place of employment". If it is determined that it would be in the best interest of the City for the former member to appear in court, the Department will facilitate service of the subpoena by utilizing available resources.
- b. "If the witness is not scheduled to work prior to the date the witness is required to appear." It is the policy of the Department to refuse service when a member is on vacation or when the appearance date is scheduled during the member's vacation. In those instances in which a

member requests a vacation after service is accepted, or for some other reason will be unavailable on the court date, it will be their responsibility to follow the guidelines as outlined above in this policy.

- c. "If the appearance date is less than 5 days from the date of service" as provided for by §48.031 (4) (a) 3, Rules of Criminal Procedure, Rule 3.040, states that Saturday, Sunday, and legal holidays are excluded in the computation. Therefore, it is the policy of the Department that no subpoena will be accepted in which the appearance date is less than 5 business days from the date of service excluding the actual date of service upon Court Liaison.

4. Non-work Related Civil Law Suits

§48.031(1) (b) Florida Statute requires the Department to provide a place for process servers to serve subpoenas for non-job related civil law suits. As provided in Policy 103.7, Civil Process, when contacted by a process server with such a subpoena court liaison will arrange for the server to deliver the subpoena. Department members must cooperate with Court Liaison in arranging the service.