

Rules and Procedures

Rule 320

March 8, 1982

Rule 320 - COURTS

This rule is issued to establish the duties and responsibilities of police officers appearing in any of the various courts in the Commonwealth.

GENERAL CONSIDERATIONS: Police officers are expected to have greater knowledge of court proceedings than the general public. As law enforcement officers they are expected to be knowledgeable of the laws, ordinances and court procedures. When they appear in court they are expected to have their cases properly prepared; in addition, they are expected to make their best possible appearance.

Sec. 1 All Boston Police Officers appearing in court shall wear the uniform of the day, with the following exceptions:

- A. The outermost garment may be removed while officers are inside the court house.
- B. Personnel assigned to plainclothes duty may appear in civilian clothes provided they make a neat and business-like appearance. Male personnel shall wear a suitcoat and a necktie; female personnel shall be suitably attired.

On-duty officers are required to submit a Court Attendance Form to the Supervisor of Cases for his signature and shall return it to their area or unit. The Supervisors of Cases at the various courts shall insure that police personnel are attired in accordance with this rule and shall notify area and unit commanders in writing of personnel who appear in court dressed other than as required by this rule.

Sec. 2 All officers shall be present in court when a court process has been issued for their appearance on a specific date and time. Failure to appear will be sufficient justification for a hearing by the court to determine whether or not the officer should be held in contempt of court. If such a proceeding is initiated against an officer, the officer will have to prove to the satisfaction of the court that the delay in appearance was unavoidable. The burden of proof will be upon the officer to convince the justice on the issue before the court. Failure to convince the court in this matter may result in a contempt finding by the court and a money assessment against the officer.

Any officer who receives a notification that he is to appear for such a hearing shall submit a written report to his commanding officer setting forth all of the facts. Departmental disciplinary action may be instituted against an officer who fails to report his receipt of a notice to appear for a hearing.

Sec. 3 No officer shall attempt to procure a Direct Indictment without the assistance of an Assistant District Attorney and with his approval.

Sec. 4 On many occasions police officers are required to appear at a District Court and a Superior Court proceeding on the same day. Unless their presence is essential at the commencement of the Superior Court, due to the status of a particular case, these officers are permitted by the Superior Court prosecutor to attend the District Court proceeding before going to the Superior Court.

Any officer who has to appear in District Court, prior to Superior Court, shall telephone the Superior Court Supervisor, First Session, prior to departing from the District Court, to determine whether his Superior Court case has been called in the First Session of said Court and continued to another date. In this event the presence of the officer will not be required at Superior Court and he will be advised by the Court Supervisor not to appear at that Court.

Sec. 5 A police officer who is in charge of a case which is ready for trial shall insure that he is properly prepared; the witnesses present and all evidence suitably arranged for presentation to the court. He shall request the Court to have witnesses properly recognize in continued cases. He shall not agree with the defendant's counsel in any case to make certain recommendations to the court as to the disposition of the case but he may make recommendations when requested to do so by the court.

Sec. 6 No officer shall confer with the defendant in a criminal case or with the defendant's counsel unless the Assistant District Attorney assigned to the case is present.

Sec. 7 When summoned to the office of the District Attorney or to the Superior or Appellate Court with a case, the officer in charge of the case shall ascertain whether the defendant has a previous record of conviction, and if he has, shall have a certified copy of the record of conviction ready to be presented to the District Attorney of the Court.

Sec. 8 A police officer shall immediately notify the prosecutor of a case in which he is involved of all material facts which could affect the prosecution of the case as soon as such facts become known to him.

Sec. 9 Whenever a motion to suppress evidence is allowed in a lower court or in the Superior Court, it shall be the responsibility of the officer in charge of the prosecution of the case to make a report in writing to his commanding officer within 48 hours, giving all of the pertinent facts relative to the case.

The commanding officer concerned shall forward a copy of this report and a resume of the case and copies of all affidavits to the Staff Inspection Division within five (5) days.

Sec. 10 A police officer shall render the utmost attention and respect toward Magistrates and Judges at all times.

Sec. 11 A police officer, when giving evidence, shall speak calmly and explicitly in a clear, distinct and audible tone, so as to be easily heard by the court and jury. He shall give evidence with the strictest accuracy, confining himself to the case before the court, neither suppressing nor overstating the circumstances with a view to favoring any person or from ill-will to either side. When cross-examined, an officer shall answer with the same readiness and civility as when giving evidence in support of the charge, remembering that the ends of justice will be best served by his desire simply to tell the whole truth, whether it be in favor or against the defendant.

Sec. 12 A police officer who is criticized by the court because of his testimony or behavior, or for giving improper or unsatisfactory evidence, for tardiness, for failing to appear at the appointed time, or any other reason, shall make a report of the facts to his commanding officer, who, in turn, shall report to the Police Commissioner with his recommendations.

Sec. 13 A police officer shall not testify in any court in any civil case arising out of the performance of his official duties unless legally summoned so to do, or unless he shall have received permission, or an order so to do from his commanding officer or the Police Commissioner.

Sec. 14 A police officer shall not testify for any person, firm or agency, other than the City of Boston or the Boston Police Department, in any criminal case, or in any administrative hearing before the Police Commissioner, or before any Federal, State, County or Municipal body unless legally summoned to do so; and in any case, he shall before testifying, inform his commanding Officer, in writing, of the testimony he intends to give, who shall then immediately notify the Superintendent of his assigned Bureau and the Office of the Legal Advisor. The Superintendent of the officer's assigned Bureau shall ensure that a copy of all such reports required by this section is delivered forthwith to the Police Commissioner.

Whenever a Department employee is subpoenaed to appear and/or produce Department records in a civil action, either at a deposition, hearing or trial, or is otherwise contacted by an attorney representing a party to a civil action, he or she shall immediately fax the information (including the subpoena) to the Office of the Legal Advisor.

Sec. 15 TRANSFER OF CUSTODY FORM: It is important for the Police Department to maintain records of the disposition of evidence presented in court. Therefore, every officer who has presented physical evidence in court shall have a department "Transfer of Custody Form," completely filled out whenever such evidence leaves his custody, either while the case is in progress, i.e., when a District Attorney or a Court Officer assumes custody, or at the conclusion of a case when such evidence is transferred in accordance with the Court Order for disposition.

Sec. 16 The officer who has surrendered custody of evidence shall submit the Transfer of Custody Form, forthwith, to the Commanding Officer of his area or unit, who shall insure that it is properly filed.

Sec. 17 DISPOSITION OF EVIDENCE: At the conclusion of any case in which a firearm, controlled substance, or other contraband has been presented as physical evidence, the officer concerned with the case shall request an order from the Court for the disposition of the evidence. Whether the Court orders the evidence confiscated or returned to the owner, the officer shall not leave the Court without such Court Order for disposition of the evidence.

Sec. 18 If a firearm is ordered to be confiscated the Officer shall forward the firearm to the Department Firearms Examiner (Rule No. 311).

Sec. 19 If a controlled substance is ordered to be confiscated the officer shall forward such substance to the Drug Control Unit (Rule No. 310).

Sec. 20 Any physical evidence not within classifications outlined in the foregoing two sections shall be transferred according to the Court Order of disposition and a Transfer of Custody Form submitted.

Sec. 21 If the Office of the District Attorney has conducted the prosecution of a case involving physical evidence, the officer concerned in the case shall request the District Attorney to obtain a Court Order for the disposition of the evidence. Upon receipt of the Court Order for the disposition of evidence the officer shall comply with such order as outlined in the previous sections of this Rule.

Sec. 22 EXTRA COMPENSATION: No police officer who receives a salary or an allowance by the day or hour from the City of Boston shall, except as otherwise provided by law, be paid any fee or extra compensation for official service performed by him in any criminal case; or for aid rendered to another officer; or for testifying as a witness in a criminal case during the time he receives such salary or allowance; or for the services at an autopsy or inquest; or in proceedings for the commitment of insane persons.

Whoever receives extra compensation or a witness fee in violation of this section may be punished by a fine of not more than one hundred dollars under the provisions of [General Laws \(Ter. Ed\) C. 262, S. 50](#).

Sec. 23 An officer submitting a Court Attendance Form for overtime payment, in accordance with the provisions of the relevant Collective Bargaining Agreement then in force, and the Department Rules and Orders governing court appearances then in effect, shall be held strictly accountable for the accuracy and completeness of the form and the submission of the form by the officer shall be an indication by the officer that he is making claim for payment to which he is rightfully entitled.

Sec. 24 The submission of a Court Attendance Form by an officer which is inaccurate in any material fact or for which the submission is not justified shall be considered a grave offense for which the commanding officer of the officer concerned shall thoroughly investigate and report in writing to the Police Commissioner with his recommendations.

Sec. 25 The Supervisor of Cases shall be held responsible to assure that all Court Attendance Forms submitted to him are filled out completely and accurately and that they are submitted by officers entitled to do so.

Sec. 26 A police officer assigned or detailed to a court for the purpose of supervising the presentation of cases by officers of this department shall observe closely the conduct of the officers and shall report, in writing, any irregularities or violations of this rule to the commanding officer of the officer concerned.

Addendum 1

- [Boston Police Evidence Control Unit Standard Operating Procedure \(See attachment\).](#)
- [Appendix B State Lab Sample Submission Procedure \(See attachment\).](#)

NOTE:

- Rule No. 320 was amended in January, 1982, in Section one the requirement that on-duty officers shall submit a Court Attendance Form to the Supervisor of Cases, was added.
- Special Order 97-57, issued December 22, 1997, deleted the old Rule 320, § 4, which previously mandated that officer's complete a Supervisor of Cases Report. That report is no longer required. The Rule was then re-numbered accordingly.
- Additional comments on "Review Process on Police Officer Court Conduct" is provided in Special Order 91-13, February 6, 1991.
- Amended by SO 08-002, issued January 4, 2008, adding Addendum 1.
- Amended by SO 08-012, issued March 25, 2008, section 9. Amended by SO 08-034, issued 09/12/2008, all references to the "Ballistics" or "Ballistics Unit" shall be amended to Firearms Analysis Unit. All references to the "Ballistician" or the "Department Ballistician" shall be amended to the Firearms Examiner. Section 18.