



TRANSIT POLICE

COURT NOTIFICATION

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Reviewed Date:

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Office of Primary Responsibility: Inspector Support Services

POLICY

Definitions

Chief Officer – The Transit Police Chief Officer or delegate.

Designated Constables – The Transit Police police officers appointed by the Police Board.

LENS – BC Courts Law Enforcement Notifications for Court.

Member – A Transit Police police officer appointed by the Police Board.

SCBCTA – The South Coast British Columbia Transportation Authority commonly referred to as “TransLink”.

Police Act – The BC Police Act, RSBC 1996, c. 367, and the regulations thereto, including the Transit Police Operations Regulation, all as amended from time to time.

Police Board – The South Coast British Columbia Transportation Authority Police Board.

Transit Police – The South Coast British Columbia Transportation Authority Police Service.

V-Mail – Versadex Email sent through the PRIME system.

Authority

1. The Transit Police must comply with requirements of the *Police Act* and other applicable laws.

General

2. Court notifications to which a Member is obliged to respond include:
 1. Supreme Court of British Columbia,
 2. Provincial Court of British Columbia,
 3. Coroner's Court, and
 4. Traffic Court.

3. A Member is required to attend Court or a prosecutor's interview on the date and at the time specified in notification regardless of personal commitments, unless excused by Crown Counsel (in writing), or the authorized person in charge of the proceeding.
4. Court Liaison will be responsible for processing all Court notifications received by the Transit Police, including internal tracking and control, and for resolving Court conflicts when Members are on approved leave.
5. Members notified to attend Court will attend Court in accordance with the procedures outlined within this policy, or as otherwise legally required.

PROCEDURES

Law Enforcement Notifications (LENS)

Service of LENS

6. Where the Transit Police receives a Law Enforcement Notification (LENS) form (PCR042) requesting a Member to attend Court or an interview:
 1. Court Liaison will have the LENS entered on PRIME in the Court sub-system for Master File tracking and control purposes. This will generate a V-Mail notification of the court date to the Member; and
 2. Court Liaison will forward two copies of the LENS to the Member's Supervisor for actioning with the Member.
7. The Supervisor will make an operational note of the Member's court date.

Attendance

8. If the Member can attend as required by the LENS:
 1. the Member will immediately sign the Court Services copy of the LENS, after ensuring that they have evidence to give in the case,
 2. if the Member has NO evidence to give, the Member will sign the form and write, "No Evidence" in the area marked "Remarks from Law Enforcement Member", and immediately return the LENS to their Supervisor who will verify the reason for no evidence, if applicable;
 3. in Traffic Court cases only, the Member will not attend Court if they have marked the notification "No Evidence." In all other cases, the Member WILL attend Court unless de-notified by Crown Counsel or their designate.
9. The Member will retain the witness copy of the LENS and forward a signed LENS to Court Liaison. The Member will retain the witness Member copy until after the Court appearance, following which it is no longer required.

10. Acceptance of the LENS will be deemed a Member's official notification requiring Court attendance.
11. A LENS must be acknowledged by a Member and sent back to Court Liaison regardless of the fact that a Member has yet to sign up for approved leave.
12. If Court attendance requires overtime, the Member will complete an overtime slip (attaching a copy of the LENS for reference) and submit it to their Supervisor for approval, who will forward a copy to Transit Police Payroll.
 1. A Member attending Court when on scheduled leave/time off will not complete the boxes on the Court notification marked "time excused" and "evidence given". These boxes are to be filled in by the Court administration staff (e.g., Sheriff).
 2. A Member attending Traffic Court when on scheduled leave/time off will complete the "time excused" and "evidence given" portions of the notification and attach the notification to the overtime slip.

Non-Attendance/Rescheduling

13. If a Member cannot attend as required by the LENS, the LENS will not be signed and both copies will immediately be returned to Court Liaison by the Supervisor with the reasons for inability to attend listed in the "Remarks" section of the form.
 1. Annual Leave for Members is entered on JUSTIN after the leave sign-up. If a LENS is in conflict with scheduled Annual Leave, the Member will make a notation on the LENS and immediately return to LENS via their Supervisor.
 2. When the LENS is in conflict with other approved leave, the Member will make a notation on the LENS and attach a copy of the approved leave form (TP Form AZ480) and immediately return the documents to their Supervisor.
14. In unusual circumstances of annual leave or other leave being approved after the LENS was signed and returned, the Member will immediately return all copies of the conflicting LENS in their possession, along with a copy of the approved TP Form AZ480, to Court Liaison via the Member's Supervisor.
15. Every effort will be made by Court Liaison to secure a re-scheduling of the Member's attendance to a date outside of the Member's period of approved leave or training.
16. In the event that Court Liaison is unable to secure a re-scheduling of a Member's attendance, the Member will be responsible for contacting their Supervisor to discuss the matter (e.g., the potential to re-schedule the Member's annual leave/other leave/training as permitted by the Collective Agreement or otherwise mutually agreed to by the Member and their Supervisor).
17. Members are not authorized to attend Court while on approved annual leave/other leave/training until such attendance is confirmed by the Operations Support Staff Sergeant. Members will NOT be paid Court compensation unless prior approval is received in advance from the Operations Support Staff Sergeant or such other person so designated by the Chief Officer.

18. Under no circumstances is a Member to personally approach a trial prosecutor to make re-scheduling arrangements.

Maternity/Paternity Leave

19. Members anticipating commencement of maternity/parental leave will be required to send notification to Court Liaison noting the anticipated/inclusive dates of leave as soon as is practicable, or not less than four weeks prior to commencement of the leave.
20. Any Member who receives a LENS falling during maternity/parental leave will immediately notify, through the chain of command, the Operations Support Staff Sergeant. While efforts will be made to secure re-scheduling of the Member's attendance, this does not preclude the Member from being required to attend Court on leave.

Additional Court Notification

21. Members requiring additional Court notification due to continuation of a trial, or for any other reason, will seek a new LENS from Crown Counsel with the augmented date/times, and forward through their Supervisor to Court Liaison.

Conflicting Court Times

22. Members receiving two (2) or more LENS for the same trial date and with conflicting times will immediately contact their Supervisor. The Supervisor will contact Court Liaison so that the trial prosecutors can be notified.
 1. Members will attend the Court of higher jurisdiction, or as directed by the trial prosecutors.
23. If it appears that a trial may continue into another Court commitment, the involved Member will notify the trial prosecutors involved in the conflict. The trial prosecutor of the superior Court is responsible for coordinating the location of attendance.

Notice of Hearing – Violation Tickets

24. A Member receiving a notice for a Violation Ticket dispute and requiring the notification of police or civilian witnesses will:
 1. complete a General Occurrence (GO) report and attach a copy of the Violation Ticket; and
 2. notify Court Liaison via Email of the GO file number.
25. Court Liaison is responsible for acquiring a civilian witness subpoena(s) or LENS (outside agency Police Officers) for service in the usual manner.

Court Attendance – Outside of Transportation Service Region (TSR)

26. Expenses and overtime wages (excludes regularly scheduled duty hours – unless extenuating circumstances) will be sought from jurisdictions outside the TSR when a Member is being required, by virtue of Subpoena or LENS, to give evidence in such a jurisdiction. Any exception to this requirement will be at the discretion of the Deputy Chief Officer Support Services or designate.

***Note:** In the case of Civil Court, recovery of costs will usually be from the party issuing the Subpoena.*

27. A Member who receives a LENS or Subpoena in these circumstances will immediately:

1. inform their immediate Supervisor (who will notify the Watch Commander); and
2. forward a copy of the notification document to Court Liaison.

28. The Watch Commander will ascertain the necessity of the Member attending for the full period identified on the LENS or subpoena.

29. When attendance has been confirmed for Criminal Court, the Member will contact the notifying agency to make travel and accommodation arrangements for the Member. The Member is responsible for determining from the notifying agency, their process for reimbursing the Member for any additional out of pocket expenses that the Member may incur.

***Note:** In the case of civil trials, the matter is to be discussed with the Inspector Support Services, prior to contact with the party (or legal counsel for the party) issuing the subpoena.*

Member Witness Fees

30. Any witness fees received by a Member attending a Criminal or Civil Court and for which the Member will either be appearing on duty or claiming pay or credit, will be turned over to the Finance Manager, who will issue a receipt to the Member.

31. If the Member was off duty during a Court appearance and will be claiming pay or credit, the overtime slip and receipt will be attached to the Court notification form and submitted to their Supervisor and then to the Finance Manager.

Court Notification – Arising from Previous Employment

32. Sections 26 to 31 of this policy do not apply to any Court notification that a Member receives that is related to matters arising from previous employment with another police agency or organization.

33. It is the responsibility of the Member to contact their former employer to ascertain the necessity to attend, and to make arrangements for payment of travel costs and time. The Transit Police will not be responsible for covering any costs related to such Court attendance.

34. Members receiving a Court notification related to previous employment will notify their Supervisor of the notice and dates involved. If the Court notification relates to a criminal proceeding, the Transit police will release the Member from their regularly scheduled duty hours, with regular pay, in order to comply with the notice.
 1. The Transit Police will not compensate the Member for any overtime hours or travel costs, as the Court attendance is not related to their current employment.
35. When a Member's Court attendance, related to previous employment, is to exceed four (4) workdays, the Supervisor will notify the Inspector Operations. The Inspector Operations will determine whether to seek reimbursement of salary costs for the Member and, if so determined, contact the Member's previous employer for billing information to be passed on to the Finance Manager to invoice the respective party.

Former Members

36. Court notification for former Members (retired, resigned, or revoked Designated Constable appointment) or any Member who is absent from duty on authorized unpaid leave of absence will be forwarded to Court Liaison for review and processing as appropriate to the matter.
37. Unless exceptional circumstances, Court Liaison will request Crown to enter a stay of proceedings for provincial statutes.
38. The Transit Police will be responsible for compensating the former Member (or any Member who is absent from duty on authorized unpaid leave of absence) for their authorized Court attendance. Compensation will be as set forth in the Collective Agreement or contract with the employer. The applicable rate of pay for a former Member (or a Member absent on authorized unpaid leave) will be that prevailing for the rank held by such Member at the date of resignation, retirement, revocation of appointment, or commencement of unpaid leave.
 1. Only pre-approved travel costs will be reimbursed to former Members. Expense Claims must be submitted and authorized for any travel costs related to the Court attendance.
39. Court Liaison will act as the liaison with the former Member regarding their Court attendance.
40. Any former Member (or Member who is absent from duty on authorized unpaid leave of absence) who is paid pursuant to this policy will be required to return to the Transit Police any witness fees received in connection with the attendance or attendances at Court.

Members on Sick Leave, Income Continuance, WorkSafeBC (WCB) or Unpaid Leave of Absence

41. Members are not compelled, by LENS, to attend Court while on sick, income continuance (IC) or WCB leave. Members are however, encouraged to attend Court if able and if the injury or illness will not be aggravated.

42. When a Member is unable to attend Court due to their condition, then the Member will notify their Supervisor and Court Liaison so that the Court can be properly notified.
43. Members on sick leave, IC, WCB, or unpaid leave of absence will receive their normal, active duty rate of pay for the time that they are in Court. Court attendance will be considered on-duty and for any attendance falling within the day, the Member will not be considered on sick leave, IC, WCB or unpaid leave of absence. As soon as the Court duty is concluded, the Member will return to the applicable leave payment source. Members are responsible to advise their Supervisor of any such Court attendance so that salary attendance profiles will reflect the appropriate duty day(s). Employees on IC or WCB must notify their respective Claims Adjudicator prior to Court attendance.
44. A Member who is on a graduated return to work or light duty arrangement and attends Court will be paid their normal rate of pay.
45. Compensation will not be paid for Crown Counsel interviews or for appearances in Traffic Hearing Rooms while a Member is on sick leave, IC, WCB leave, or unpaid leave of absence.
46. A Member's compensation for Court duty will be processed by payroll through the normal timesheet process.

Denotification

47. Members will be compensated for Court attendances and late denotifications in accordance with the Collective Agreement.
48. Where Crown Counsel or the authorized person in charge of the proceeding has cancelled a scheduled Court appearance, Court Liaison will immediately notify the affected Member in writing, person or by telephone (in person and telephone denotification to be confirmed in writing and to comply with provisions of s. 50 of this policy). Compensation for denotification will be in accordance with the Collective Agreement.
49. The Member will be considered denotified with respect to a scheduled Court appearance when the in person or telephone denotification is communicated to:
 1. the Member;
 2. an adult residing in the residence of the Member;
 3. a babysitter employed by the Member;
 4. a child of the Member if such child is of sufficient age to be left unattended by an adult;
 5. the Member's telephone answering service;

6. the Member's Transit Police cell phone or cell phone voice-mail box, including a date and time of call feature.
50. Members will be required to access their Transit Police cell phone voice mail once, anytime within four (4) hours of their scheduled Court appearance and/or interview.
51. Given the seriousness of improper denotifications, the Transit Police will provide a system whereby Members can verify a denotification.
 1. Unless otherwise so determined by the Deputy Chief Officer Support Services, denotifications can be verified by the Member contacting Court Liaison, the Operations Support Staff Sergeant or the Watch Commander on duty.
 2. Denotification will be communicated by a Member whose identity is known to the Member being denotified, or whose identity may be immediately verified by the Member being denotified.

Multiple Day Trials

52. Unless otherwise specified in the Collective Agreement, Members will follow the procedures below regarding claims and denotification related to multi-day trials, or as otherwise provided for in the current Collective Agreement:
53. When the interview is on the same day as the first appearance of a multi-day trial and the prosecutor is aware that the police witness will not be required for more than that day, the prosecutor should indicate on the LENS, "required for one day," or words to that affect. This will serve as the formal denotification for the next day(s).
54. When the interview is on the same day as the first appearance of a multi-day trial and the prosecutor requires the police witness for the next day(s), the prosecutor should indicate on the LENS that the Member is required for the next day, or note specific days. Compensation will be in accordance with the Collective Agreement.
55. When the interview is on a separate day preceding the first appearance on the multi-day trial, the prosecutor should note on the LENS the day(s) the Member is required; with the other day(s) therefore being denotified. To be properly compensated, Members are to have these discussions at the interview stage with the prosecutor. A clarifying notation in the remarks section of LENS should be made by the prosecutor or the submitting Member. The Member is to obtain the prosecutor's signature on the notification.

Other Notification

56. If a Member receives notification to attend Court or a prosecutor's interview through any process other than a LENS, a copy of the notification will be immediately forwarded to Court Liaison.

Civil Court

57. When a Member or Public Service Counter staff is approached by a process server wishing to serve a Member for Civil Court attendance, the process server is to be directed to Court Liaison during normal business hours.
1. If the Process Server is insistent on personally serving the Member, Court Liaison, a Supervisor or Public Service Counter staff may provide the time and date of the Member's next scheduled duty day and the phone number for the Member when they report for their next duty day. The Process Server will then need to arrange with the Member for a mutually agreeable time for the service.
58. Where Court Liaison accepts service from a process server for a Subpoena for Civil Court appearance arising from a police related incident, Court Liaison will personally serve the Member, notify the Member's Supervisor and notify TransLink Legal and Claims.
59. Members directly served a Subpoena for Civil Court matters arising from police related incidents will immediately notify their Supervisor and Court Liaison (who will then notify TransLink Legal and Claims). If a conflict exists with approved leave, the Operations Support Staff Sergeant is also to be notified to assist in resolving any Court conflicts.

Service/Delivery - Other Employees

60. Court notifications and Subpoenas received by the Transit Police for non-Member employees of SCBCTA or any of its subsidiaries will be forwarded to Court Liaison for service (for Subpoenas) or delivery (Court notices and LENS).