



<b>Series</b> 200 Operations	<b>Effective Date</b> TBD	<b>Review Date</b> Three Years	<b>Directive Number</b>  <b>202.4</b>
<b>Chapter</b> 202 - Limits on Authority			
<b>Reviewing Offices</b> Detective Bureau			<input type="checkbox"/> <b>New Directive</b> <input checked="" type="checkbox"/> <b>Revised</b> <small>Revisions in <i>italics</i></small>
<b>References</b>			

## CASE PREPARATION

### 202.4 - 1 PURPOSE

The purpose of this directive is to outline the guidelines and procedures at the Detroit Police Department that are necessary for court case preparation.

### 202.4 - 2 Commanding Officers to Aid in Preparing Cases

Commanding officers shall aid subordinates in the preparation of their cases. When in doubt as to the status of a case, commanding officers shall consult the prosecuting attorney so that there will be no dismissal caused by any neglect on the part of any sworn or non-sworn members of this Department. Commanding officers shall hold sworn and non-sworn members of their command accountable for the proper preparation, attendance, and presentation of cases.

### 202.4 - 3 Importance

A Department member should not depend upon a confession or admission made by a detainee to the extent of becoming lax in the preparation of the case. The member should anticipate a subsequent denial of the confession, admission, or technicalities that may arise, and should spare no effort in investigating the slightest circumstances for the purpose of making the case more secure. *Members must prepare reports promptly.* If a case is adjourned, members appearing as witnesses shall ask the assistant prosecuting attorney whether their presence is required before leaving the courtroom. *All evidence relevant to the case must be preserved including automatic preservation of all calls or any other evidence that may be subject to disposal.*

### 202.4 - 4 Court Conduct

A member's court work shall be given the highest priority. Failure of a member to appear in court after being properly notified shall be investigated by the commanding officer to ascertain if there is any impropriety on the part of the concerned member. If, upon completion of the investigation, it is determined that the member was negligent, the appropriate disciplinary action shall be initiated by the commanding officer. Members at court who are unable to appear for roll call shall notify the officer in charge of their command.

**202.4 Case Preparation****202.4 - 5 Court Medical Examination**

A court medical examination is a medical examination of a complainant or defendant conducted by a physician. The purpose of the court medical examination is to produce expert medical documentation for court presentation of the condition of the person.

**202.4 - 6 Witnesses Required for Appearance in Court****202.4 - 6.1 Medical Witnesses**

Only resident physicians or licensed physicians shall be subpoenaed to testify to their examination of complainants suffering from criminally inflicted injuries. Interns at hospitals may be subpoenaed, provided a resident or licensed physician is subpoenaed to corroborate their testimony.

**202.4 - 6.2 Board of Education Personnel**

In cases requiring the testimony of Detroit Board of Education personnel, subpoenas shall be delivered to the Detroit Public Schools Police Department, 8500 Cameron, Detroit, 48211 (313) 748-6040

**202.4 - 6.3 Liquor Control Commission**

The Liquor Control Commission must be notified in cases of selling liquor without a license. A representative of the commission must be endorsed as a witness.

**202.4 - 6.4 New Witnesses**

In the event that the officer in charge of the case learns of new witnesses, they shall immediately inform the assistant prosecutor assigned to the case.

**202.4 - 6.5 Latent Print Exhibit**

If possible, members requiring an exhibit of latent prints should notify Latent Print at least five (5) days before the desired date on the Court Appearance Notice (DPD422).

**202.4 - 6.6 Laboratory Technicians**

If possible, in cases requiring the testimony of laboratory personnel, the officer in charge of the case should ensure that the necessary witnesses from that section are subpoenaed at least five (5) days before the scheduled court date.

**202.4 - 6.7 Hearing-impaired Witness**

Members shall contact Communications Section to provide a certified interpreter for any hearing impaired witness or victim.

**202.4 - 6.8 Specialized Witnesses at 36<sup>th</sup> District Court, Traffic and Ordinance**

In Operating While Intoxicated (OWI) cases, the officer in charge (OIC) of the case must notify the breath test operator to appear at the trial. If a jury trial is granted in an OWI case, the desk supervisor on duty when the defendant was arrested may be

## 202.4 Case Preparation

subpoenaed. The chemist who analyzed the evidence in open alcoholic containers in occupied vehicle cases must appear at the trial.

### 202.4 - 7 Officer-in-Charge of Case Responsibility

#### 202.4 - 7.1 Advising Complainants of Progress

Complainants in criminal cases shall be contacted at timely intervals by the officer in charge (OIC) of the case for the purpose of advising them of the progress of the case. This shall be done until a final disposition is made. *The Officer in Charge of the case should ask victims and witnesses for their preferred method of contact (e.g. telephone, email, etc.) with special attention given to cases involving intimate partners, same household, and co-workers to avoid risk of conflict with the offender.*

#### 202.4 - 7.2 Aiding Prosecutor

1. All evidence that may foreseeably be relevant to the case must be collected promptly.
2. The officer in charge (OIC) of the case shall aid the assistant corporation counsel or the assistant prosecuting attorney during the trial with the presentation of the case, and shall ensure that all pertinent evidence, reports, and records are made available as requested or as otherwise needed in court. *This may include Member's activity log sheets or officer daily's, witness statements, and other materials obtained in connection with the case or the officer's recollection of the scene.*
3. Any acts or threats of physical violence or intimidation by a defendant against a victim or victim's immediate family shall be reported to the Wayne County Prosecutor's Office by the officer in charge (OIC) of the case. The victim receiving such threats should also be advised to contact the prosecutor. *This includes a general expectation and duty to take action to preserve evidence that may not be available later in the case. (e.g. 911 recordings, digital evidence in the possession of witnesses, etc)*

#### 202.4 - 7.3 Assisting the Probation Department

When the officer in charge of the case receives inquiries from the Probation Department, the officer in charge (OIC) of the case shall comply with the request without unnecessary delay.

#### 202.4 - 7.4 Hospital Arraignments

The OIC of the case shall inform the arraignment officer and arraigning judge when a warrant is secured against a hospitalized detainee. The condition of the detainee will determine whether a hospital arraignment will be conducted. If the arraigning judge agrees to conduct the arraignment at the hospital, the OIC of the case shall call the involved command and Nursing Office sufficiently in advance to enable hospital personnel to make arrangements.

#### 202.4 - 7.5 Preliminary Examination

The OIC of the case shall ensure that all necessary witnesses are present; produce any

**202.4 Case Preparation**

physical evidence, unless waived; testify to any knowledge of the case; and secure evidence in accordance with department property procedures. Sworn and non-sworn members shall not attempt to have cases reassigned to alternate judges.

*The preliminary examination is often the first contested hearing regarding the case. Members must ensure that all relevant evidence is secure and if necessary, available. Members may learn of issues raised by the defense counsel and should be prepared to secure additional evidence or materials that may be relevant later in the case.*

**202.4 - 7.6 Other Charges Pending**

If there are other charges pending against a prisoner after conviction in court, the OIC shall notify the prosecuting attorney so that the prosecuting attorney may use discretion relative to the disposition of such cases.

**202.4 - 7.7 Pre-trial Conference**

If requested, the OIC of the case or their designee shall attend the pre-trial conference to advise the assistant prosecutor. If such action is needed, the OIC of the case or their designee shall report to Room 1158, 3<sup>rd</sup> Circuit Court, with the court jacket.

**202.4 - 7.8 Adjournment**

When adjournments are granted, the OIC shall collect the subpoenas of witnesses present in the courtroom. These subpoenas shall be presented to the court clerk who will stamp the new court date on them. The OIC shall then return the stamped subpoenas, which shall serve as new subpoenas, to the witnesses. The OIC shall ensure that the court issues new subpoenas for any witnesses who are not present when the adjournment is granted.

**202.4 - 7.9 Reinstitution of Charges**

If an assistant prosecutor denies a warrant, or a judge dismisses charges at an arraignment or preliminary examination, the officer in charge of the case may re-institute charges by submitting a revised investigator's report to the same assistant prosecuting attorney. If a recommendation is made for issuance of the warrant by the assistant prosecuting attorney, the officer in charge of the case may appear before the judge who dismissed the original charges.

**202.4 - 8 Subpoenas**

All necessary witnesses must be subpoenaed for appearance in court. Third Circuit Court Criminal Division subpoenas are mailed directly to citizen witnesses and are mailed to the command of police witnesses. The officer in charge of the case shall deliver subpoenas, which could not be delivered by mail. When the officer in charge of the case is unable to locate a witness, the court shall be apprised of the attempts made to notify the witness.

**202.4 Case Preparation****202.4 - 8.1 Processing Subpoenas Duces Tecum**

1. An attorney or other representative in possession of a subpoena for records shall be directed to Legal Advisor. Legal Advisor will review the subpoena and forward it, along with an instruction sheet, to the appropriate command.
2. The member assigned to respond to the subpoena will call the requesting attorney or record copy service and advise them that the records are available for inspection. After review, copies of the requested records shall be delivered directly to the attorney or record copy service by the command responding to the subpoena.
3. All persons presenting a Subpoena Duces Tecum requesting copies of a 911 audiotape shall be referred to Legal Advisor.

**202.4 - 9 Special Consideration**

1. When the OIC of a case has cause to initiate a request for special consideration in a court case, such request shall be prepared on an Inter-Office Memorandum (DPD568) and forwarded through official channels to the concerned deputy chief. Such requests require approval of the concerned deputy chief or their designee.
2. The following information must be included for each request:
  - a. The name of the person for whom special consideration is being sought;
  - b. The juvenile and adult criminal history of the person;
  - c. The criminal involvement of the person for whom special consideration is sought;
  - d. Statements that all other investigative leads have been exhausted;
  - e. The type of consideration being sought;
  - f. The benefits to be derived from granting special consideration;
  - g. If the person for whom special consideration is being sought is not the target of the investigation, then the name, juvenile and adult criminal history of the target of the investigation must also be included;
  - h. If the person for whom special consideration is being sought is not under the jurisdiction of the requesting member, indicate that approval has been obtained from the appropriate departmental entity.
3. Request for special consideration shall include but not be limited to:
  - a. Request for immunity;
  - b. Reduced charge;
  - c. Non-charging of an accomplice at the warrant stage;
  - d. Dismissal of a charge;
  - e. Reduced plea;
  - f. Bond reduction;
  - g. Sentence leniency; and/or
  - h. Probation.

**202.4 Case Preparation****202.4 - 10 Discovery Orders****202.4 - 10.1 36th District Court, Traffic and Ordinance**

1. To ensure compliance with the 36th District Court, Traffic and Ordinance Division, in all instances of a traffic discovery order, or a discovery order involving a misdemeanor case normally processed by the traffic court officer, the following steps shall be taken:
  - a. All defense attorneys, or other concerned persons, in possession of a traffic or misdemeanor ordinance discovery order emanating from the 36th District Court, Traffic and Ordinance Division shall be referred to Legal Advisor. Legal Advisor will then forward the traffic or misdemeanor ordinance discovery order to the traffic court officer of the concerned command, advising *them* to make two (2) copies of the requested items; and
  - b. The concerned command's traffic court officer will then mail one (1) copy of the requested item to the defense attorney, or other concerned person, by registered mail and the other copy shall be delivered to the office of the judge who signed the order in care of the prosecution (Corporation Counsel).
2. Compliance must be accomplished in accordance with the instructions provided by Legal Advisor or prior to the next scheduled court appearance date.
3. An order granting discovery is a written order of the court signed by a judge *ordering* the examination and/or duplication of specific Department records *that must be produced*.

**202.4 - 10.2 36<sup>th</sup> District or 3<sup>rd</sup> Circuit Court Criminal Division Discovery Orders**

1. Generally, a request for a discovery order is prepared when the warrant package is forwarded to the prosecutor's office. When an order granting discovery is served, the representative serving the order shall be directed to the OIC of the case, *who shall ensure the department's compliance with the order*. In the absence of the OIC, the representative shall be directed to the entity's commanding officer.
2. Persons with orders granting discovery for 911 audiotapes shall be referred to Legal Advisor for processing.
3. In every court order, the Department must accomplish compliance within twenty-one (21) days of receiving the court order.

**202.4 - 11 Immediate Arraignment Violation Notice**

1. Certain City of Detroit ordinance violations require the preparation of an ordinance violation notice, also known as a "Green Ticket." The issuance of an ordinance violation notice to a defendant for such offenses requires the defendant's appearance at the next session of 36th District Court, Traffic and Ordinance Division.
2. The arresting officer shall prepare an *incident* report and Ordinance Violation Notice upon which the words IMMEDIATE ARRAIGNMENT shall be written lengthwise across the bottom. The court copy of the Ordinance Violation Notice shall be issued

**202.4 Case Preparation**

3. to the defendant. The *incident* report number shall be written in the remarks section of the ordinance violation notice.

**202.4 - 12 Misdemeanor Offenses**

1. All misdemeanor offenses, with the exception of operating under the influence of alcohol or drugs, shall be written on the applicable citation.
2. Arrests for operating under the influence of alcohol or drugs require a Court Case Envelope (DPD 532), which is available at the DDC. The court case envelope shall contain the arrest report(s) and all other applicable reports, including a certified driving history for the arrestee. Upon completion, the court case envelope shall be submitted to the desk supervisor at the DDC.
3. When members arrest a subject for a misdemeanor traffic offense where an ordinance is issued, the ordinance shall be reviewed by and left with the desk supervisor at the DDC. It is the responsibility of the officer in charge of the DDC to provide precinct court officers with the ordinances and court case envelopes when the detainee has remained in custody pending arraignment. After being reviewed and approved or denied by the prosecutor, the court case envelope shall be transported to the command of origin by precinct court officers for access and storage.

**202.4 - 12.1 Misdemeanor Accident Offenses**

1. When a motor vehicle accident has occurred and there is sufficient evidence to substantiate prosecution under state law and an arrest is made, the command's traffic investigator shall prepare the necessary forms for proper presentation to the prosecutor.
2. The precinct traffic investigator must also notify the complainant to appear at 36<sup>th</sup> District Court, Traffic and Ordinance Division, Room 231, at 8:30 A.M. on the day of arraignment. On cases where a future court date is set, the Court Liaison will obtain subpoenas necessary for proper notification to witnesses. The command's court officer shall deliver the subpoenas or appropriate paperwork to the officer in charge of the concerned command for proper distribution.

**202.4 - 12.2 Processing**

A copy of the defendant's record shall be taken to the court stenographer who will type the warrant, complaint, and court file. The arraignment officer, officer in charge of the case, or the citizen complainant shall sign the completed warrant and complaint, which shall receive a docket number and be forwarded to the presiding judge for signature. The warrant and complaint shall then be forwarded to the arraignment courtroom. A court clerk will call the arraignment officer or the officer in charge of the case so that either may notify witnesses to appear on the day of arraignment.

**202.4 - 12.3 OWI Repeat Offenders**

Upon the issuance of an OWI repeat offender warrant, the arraignment officer shall be responsible for securing a Certification of Conviction from the court of jurisdiction, relating to all past OWI convictions. The arraignment officer shall ensure that the Certification of

**202.4 Case Preparation****202.4 - 12.4 Processing of Immediate Arraignment Violation Notices**

The OIC of the case or arraignment officer must obtain a copy of the defendant's record. The original copy of the Ordinance Violation Notice shall be submitted to court personnel in Room 307, 36<sup>th</sup> District Court, Traffic and Ordinance Division, for processing. The OIC of the case or arraignment officer shall then proceed to the arraignment courtroom. Court personnel shall arrange for transfer of the defendant to the arraignment courtroom.

**202.4 - 12.5 36<sup>th</sup> District Court, Traffic and Ordinance Division - Trial**

1. On the day of the trial the officer in charge of the case will find the court jacket in Room 225, 36<sup>th</sup> District Court, Traffic and Ordinance Division. After the trial the OIC of the case is to return the court jacket to the officers' assembly room with the court disposition or adjournment date entered on the back of the jacket. Any evidence property must be taken to Property Control.
2. The OIC of the case must produce any evidence at the trial, as well as the court jacket and contents. In improper plate cases, the member present at the arraignment must notify the Secretary of State of the date of the trial, and the OIC of the case must present the confiscated plate at the trial.

**202.4 - 13 Supervisors Responsibility for Court Notifications**

Supervisors are responsible for ensuring that all necessary witnesses receive notification of court appearance dates, including adjournments, by the OIC of the case or another officer so designated for all misdemeanor traffic cases.

**202.4 - 14 Adjournments of 36<sup>th</sup> District Court, Traffic and Ordinance Division Cases**

If the defendant is granted an adjournment, the arraignment officer must subpoena the OIC of the case for the chosen date and enter the new court date on the court jacket. The OIC of the case shall obtain subpoenas from 36<sup>th</sup> District Court, Traffic and Ordinance Division for those witnesses who must appear for a future court date.

**202.4 - 15 Assault on a Police Officer**

It is the policy of the Wayne County Prosecutors Office to approve warrants against subjects who assault law enforcement officers when the facts presented support a specific charge. Prosecution of an assault against a law enforcement officer shall be pursued in the same manner as a criminal allegation made by a citizen. The degree of injury to the law enforcement officer is not relevant unless it is a requirement of the specific charge.

**202.4 Case Preparation****202.4 - 16 Hold/Notification Procedures****202.4 - 16.1 Specific Charge**

1. When an investigation has established probable cause for the arrest of a particular individual, a request for a warrant shall be presented to an assistant prosecuting attorney for approval or denial. If an individual has a record with this Department, a probable cause hold may be placed at Records and Identification prior to the issuance of a warrant, with the approval of the member's supervisor.
2. When a specific charge is placed on the Hold/Notification Card (DPD450) without a warrant or capias number, the information establishing probable cause shall be entered in detail on the reverse side of the card. To ensure the validity of the probable cause, the card must be signed by the seeking member.
3. In addition, the card shall be reviewed and countersigned by the member's commanding officer or supervisor. This information will be sufficient cause to arrest the individual. A temporary felony want may be placed into the NCIC wanted person file, based on probable cause prior to the issuance of a warrant. This temporary felony want is automatically removed from NCIC after 48 hours. Similarly, Hold/Notification Cards (DPD450) in this category will, after 48 hours, automatically revert to a NO SPECIFIC CHARGE status. A NO SPECIFIC CHARGE status is not sufficient authority to arrest. Hold/Notification Cards (DPD450) containing a specific charge and warrant shall be forwarded to Records and Identification who shall be responsible for removing the capias number after the wanted individual is arrested.

**202.4 - 16.2 No Specific Charge**

1. When a Department member wishes to be notified that an individual is in custody, but has no specific charge, the words "Upon Arrest Notify" shall be inserted on the "Charge" line of the Hold/Notification Card (DPD450). The card must be reviewed and countersigned by the seeking member's commanding officer or supervisor. This is not an authority to hold an individual, but is merely a request to be notified.
2. Upon arrest and identification of the individual for another charge, Records and Identification will notify the detaining command and the command wishing to question the individual.
3. The seeking member or another member of the involved command will then have the responsibility of coordinating with the detaining command as to the disposition of the individual. They shall be informed that no hold is being placed on the arrest ticket. The name of the member notified, the name of the person from Records and Identification making the notification, and the time and date of the notification must be noted in the spaces provided on the back of the card.
4. Hold/Notification Cards (DPD450) placed in Records and Identification files with no specific charge will expire 90 days after receipt by Records and Identification. It shall be the responsibility of the seeking member to submit a new card if the member wishes the Hold/ Notification Card (DPD450) to remain in effect after 90 days.

**202.4 Case Preparation****202.4 - 17 Warrant Recall**

1. The Criminal Division of the 36<sup>th</sup> District Court may cancel warrants or capiases. In such cases a Warrant Recall (R.C. 37) is forwarded to the command's court officer directing the officer to return a particular warrant to the court and remove the warrant information from the LEIN system. When a warrant recall is issued, there should be no subsequent arrest as a result of the warrant specified on the recall form. The command's court officer must notify Records and Identification to cancel the Hold/Notification Card (DPD450) in *their* files.
2. Upon receipt of the warrant recall, the command's court officer shall immediately notify the Message Center. After the Message Center has been notified, Identification should receive notice. The command's court officer shall then prepare an Inter-Office Memorandum (DPD568), requesting that the hold/notification be canceled. The Inter-Office Memorandum (DPD568) shall be prepared in duplicate and shall include the wanted person's name (as shown on the warrant), date of birth, race, sex, date of arrest, warrant number, and identification number, if any. The original shall be forwarded to the commanding officer of Records and Identification with the requesting command retaining the copy.
3. In the event the command's court officer is not available, it shall be the responsibility of the officer's commanding officer to ensure immediate compliance with the above procedure.
4. Upon initial notification of a warrant recall, Records and Identification personnel shall ascertain the caller's name, rank and place of assignment. Such information shall be recorded on the reverse side of the Hold/Notification Card (DPD450). In the space provided for the apprehension date, the words "Warrant Recall," along with the time and date of the call, shall be recorded. The word "Void" or "Canceled" shall be written in ink or stamped across the face of the Hold/Notification Card (DPD450). The Records and Identification member or employee canceling the hold shall sign the back of the Hold/Notification Card (DPD450) on the line labeled, "Notified by Records and Identification." The file shall be removed from the wanted or red jacket and returned to its original jacket and the canceled Hold/Notification Card (DPD450) shall be placed in the jacket.
5. The commanding officer of Records and Identification shall attach the memorandum requesting cancellation to the appropriate Hold/Notification Card (DPD450) and retain both in the individual's identification jacket.

**202.4 - 18 Return on Arrest Warrant**

A return on a warrant shall be made and dated on the day the prisoner is arraigned on the warrant. This information shall be prepared accurately and completely on the reverse side of the warrant. The command's court officer shall enter signature without rank. This procedure also applies to the processing of bench warrants and attachments for defaulting witnesses.

**202.4 Case Preparation****202.4 - 19 Felony, High Misdemeanors, and Circuit Court Misdemeanors**

In the event a defendant does not appear in 36th District Court Criminal Division or 3<sup>rd</sup> Circuit Court to answer to an arrest warrant or hearing date, on a felony, high misdemeanor, or Circuit Court misdemeanor, the appropriate court judge may issue a capias for the arrest of the defendant. The court liaison officer to the commanding officer of the command to which the investigator in charge of the case is assigned will forward the capias. The concerned commanding officer shall ensure that the Warrant Information Card (DPD72) and Hold/Notification Card (DPD450) are completed, including as much information as possible, and forwarded within 48 hours to the Court Liaison Office, Frank Murphy Hall of Justice. Both cards are then validated and forwarded to Records and Identification. Records and Identification will retain the Hold/Notification Card (DPD450) for the defendant's file and immediately forward the Warrant Information Card (DPD72) to the Message Center for entry into the LEIN system.

**202.4 - 19.1 Simple Misdemeanor**

Personnel of the 36th District Court process capiases issued for the arrest of persons in simple misdemeanor cases. The capias will be forwarded to the commanding officer of the command to which the investigator in charge of the case is assigned. Court personnel prepare the Warrant Information Card (DPD72) and Hold/Notification Card (DPD450) and forward both cards to Records and Identification. Records and Identification will retain the Hold/Notification Card (DPD450) for the defendant's file and immediately forward the Warrant Information Card (DPD72) to the Message Center for entry into the LEIN system.

**202.4 - 19.2 Probation Status**

The Special Services of the Probation Department should be contacted to determine if the defendant is on probation.

**202.4 - 20 Warrant Served Card**

One (1) copy of the Warrant Served Card (DPD2) shall be prepared by the court when a person wanted on a not-in custody misdemeanor warrant or capias has been brought before a 36th District Court, Criminal Division judge. The Warrant Served Card (DPD2) shall be forwarded to the Message Center.

**202.4 - 21 Green Light Warrant Requests**

All warrant requests submitted to the Wayne County Prosecutor's Office, involving a project "Green Light" location, must have video of the incident included in the warrant package.