

	<h1 style="color: blue;">City of Helena</h1> <h2 style="color: blue;">Personnel Policy</h2>	Policy number	3-8
		Original Adoption	02-09-1987
		Revision #	4
		Last revision date	November 2006
Section Title	Employee Leave Administration		
Subject	Jury Duty – Witness Leave		

Employees will be allowed necessary time off without loss of pay for jury duty or when summoned to appear or participate in any court case or administrative proceeding as outlined in §2-18-619, MCA. A witness who is served with a subpoena shall attend the hearing at the time stated in the subpoena and unless sooner discharged, shall remain until the testimony is closed. (§26-2-301, MCA) This applies to trials in court, hearings in administrative proceedings and taking of depositions.

A city employee who is subpoenaed as a witness in any type of case or hearing shall collect all fees and allowances payable as a result of the service and forward the fees to the City (§2-18-619, MCA). If a city employee elects to use annual leave to serve as a witness, the employee is not required to remit the witness fees to the City.

The employee is not required to remit any expense or mileage allowances paid by the court. This requirement applies to all subpoenas, regardless of whether or not the action is criminal, civil, an administrative hearing or deposition, or whether the City is a party to the action. Because the subpoena compels attendance as a witness, the City employee must obey it and in doing so is paid regular salary while attending during the time when the City employee would otherwise be scheduled to work, providing the employee has demanded and timely received a witness fee for the subpoena. For those subpoenas issued in civil actions, this means the employee must demand advance payment. If the employee declines or refuses to accept the witness fee or to make a demand for advance payment in civil cases, then the employee is deemed to have accepted the witness fee and has gifted it back to the party requesting the subpoena. In this case, the employee may not be paid salary for appearing as a witness and must take annual leave to receive pay. The timely demand for and receipt of witness fees is a condition precedent to receiving salary from the City while appearing as a witness.

An employee who is subpoenaed to testify at a time outside the employee's scheduled work time is not entitled to be paid a salary while testifying.

The employee is only paid for the time travelling to and from the trial or hearing and the time during which the employee is subject to the subpoena. Once the employee has completed the testimony and is released from the subpoena by the court or the hearing officer, the employee is not entitled to salary for time spent outside this time frame, except for reasonable travel time back to work or home.

When a city employee is a party in a case, as a plaintiff, defendant, petitioner, respondent or legal representative of a party, the employee cannot subpoena himself or herself as a witness. Subpoenas are the legal means to compel persons to appear before a court or hearing and provide testimony. A party does not need a subpoena to appear in that party's case and can testify or not testify as the party chooses.

Jury duty fees paid to the employee for such appearances shall be turned in to the City Human Resources Office or the employee may take annual leave and retain the fee. Employees may keep reimbursements for parking, mileage and meals.

Employees must notify their supervisor as far in advance as possible and provide a copy of the summons. The copy must be submitted with the employees' timesheet for the pay period in which the leave occurs.