

ILLINOIS STATE POLICE DIRECTIVE OPS-006, SUBPOENAS RECEIVED

RESCINDS: OPS-006, 2015-0004, revised 01-12-2015.	REVISED: 06-16-2015 2015-004A
RELATED DOCUMENTS: ADM-007, ADM-137	RELATED CALEA STANDARDS: 82.2.4, 82.2.5

I. POLICY

The Illinois State Police (ISP) will comply with legal requests for records and testimony, or present a motion to quash or modify a subpoena.

II. PROCEDURES

II.A. Satisfying a subpoena

II.A.1. The unit receiving a subpoena is responsible for complying or forwarding to the appropriate unit. The appropriate unit will coordinate a thorough response and advise the issuing party of activity taken to comply.

II.A.2. The response to a criminal subpoena should be sent to the presiding judge, if listed, at the address on the subpoena or to the Office of the Circuit Clerk of the county issuing the subpoena. Formal notification of compliance with the subpoena should be made to the State's Attorney's Office and the defendant's attorney (if known). This can be accomplished by providing a copy of the cover letter and subpoena only (not the documents sent in response to the subpoena) by phone, email, facsimile or by another approved mechanism.

II.A.3. The response to a civil subpoena should be sent only to the attorney issuing the subpoena.

II.B. Department compliance/subpoena validity

II.B.1. When an employee receives a subpoena against the Department's interest, he/she will notify his/her Supervisor/Commander and the Supervisor/Commander will notify the ISP Legal Office. The following are examples of subpoenas against the Department's interest:

II.B.1.a. When there is reason to object to compliance with the subpoena (the requested information would reveal a confidential source, the investigation is not completed, the subpoena requires reproduction of an unduly burdensome number of documents, an unreasonable timeframe of compliance, a civil subpoena where the criminal case has not been adjudicated, the request is for juvenile information, etc.).

II.B.1.b. When an employee is subpoenaed to testify against the Department's interests for the defense in any criminal or quasi-criminal trial or hearing.

II.B.1.c. When an employee is subpoenaed to testify in a matter and the Department or another agency of the state of Illinois is a party to the action.

II.B.1.d. When an employee is subpoenaed to testify in a matter that may lead to controversy or conflict between another law enforcement agency and the Department or the employee.

II.B.2. When there is reason to question the validity of a subpoena, the subpoenaed employee will notify his or her Supervisor/Commander. If the Supervisor/Commander is unable to establish the validity of the questioned subpoena, the Supervisor/Commander will contact the Legal Office for direction.

II.B.3. If other questions arise, the unit receiving a subpoena should contact the Legal Office.

II.B.4. The Legal Office will determine if there is cause to quash, modify, or deny the request.

II.B.5. All subpoenas for confidential source (CS) files should be forwarded to the CS Specialist for appropriate handling in conjunction with the case agent, his/her supervisor, and the Legal Office.

II.C. Fees

Various fees apply to some types of subpoenas served on the ISP.

II.C.1. Civil subpoenas

- II.C.1.a. A fee remittance is required for processing a subpoena in a civil case.
- II.C.1.b. The per subpoena fee, established by practice, for producing subpoenaed records in civil cases is \$20.00 for the first 80 pages, with the cost being 25 cents per page for each page after the first 80.
- II.C.1.c. In those cases where a remittance is not provided with the subpoena, the subpoena may be complied with, but the law firm/attorney shall be apprised of the fee requirement and requested to pay.
- II.C.1.d. Questions relating to the amount of fee required for a particular subpoena should be addressed to the Legal Office.

II.C.2. No fee is assessed for records requested in a criminal proceeding.

II.C.3. In the event there is an objection to payment of reasonable expenses, contact the Legal Office.

II.C.4. All fees received in conjunction with a subpoena (whether document or personal appearance subpoena) will be processed by the cost center producing the records and forwarded to the Public Safety Shared Services Center. (District 15 is exempt from this requirement.)

II.D. Subpoenas for copies of photographs/video recording

II.D.1. All subpoenas for copies of photographs will be processed by the Imaging Section, Crime Scene Services Command (CSSC), Division of Forensic Services.

II.D.2. The Imaging Section will process all civil subpoenas requesting video recordings of crime scenes or investigations.

II.D.3. The District, or designee, will handle and process all requests regarding car video recordings.

II.E. Division of Operations (DOO)

II.E.1. If a subpoena requires records only and the documents required are solely district, bureau, zone or officer documents and are maintained at the receiving location, the district, bureau, zone or officer should respond directly.

II.E.2. If a subpoena requires records only and the specified records are no longer located at the receiving location but are maintained at the Records Bureau, DOA, the original subpoena and the fee remittance will be forwarded to the Records Bureau for processing.

II.E.3. If a subpoena requires a personal appearance or deposition and the officer needs records only available from the Records Bureau, the officer will request such records by telephone, email or facsimile.

II.E.4. The receiving unit will notify all interested parties of the receipt of the subpoena (e.g., chain of command, other units, other agencies, respective state's attorney/U.S. Attorney, etc.).

II.E.5. Subpoenas hand delivered, and not applying to the named unit, will be accepted and forwarded to the appropriate unit.

II.E.6. Subpoenas requesting personal appearances will be verified by the individual subpoenaed as to the actual time and if an appearance is actually required due to changes in court scheduling or subpoena requirements.

II.F. Other Divisions

II.F.1. Subpoenas received

When a subpoena requesting records is received by divisions other than DOO, a determination should be made whether the receiving unit can physically comply.

II.F.2. Receiving unit

If the subpoena can be satisfied by the unit receiving the order, that unit will comply unless division policy states otherwise.

II.F.3. When the Records Bureau is the original recipient of the subpoena, it will be responsible for determining if documents other than those in the Records Bureau are on file.

II.G. Subpoena file retention

II.G.1. Each district, unit or section shall appoint a subpoena file custodian responsible for retention of subpoenas. This may be the District Court Officer.

NOTE: For the Division of Forensic Services, Forensic Sciences Command, each laboratory will ensure a process is in place by which all subpoenas will be maintained in the master file and subject to the retention period of that case.

II.G.2. Subpoenas will be retained for five years from the date the case is closed.

II.G.3. Prior to destroying the subpoena file, the subpoena file custodian will contact the Agency Records Retention Coordinator, Logistics Bureau, DOA, for instructions in completing the proper form(s).

| Indicates new or revised items.

-End of Directive-