

Subpoenas

802.1 PURPOSE AND SCOPE

The purpose of this policy is to establish procedures for receiving, processing and responding to summons and subpoenas to appear or to produce records or evidence.

802.1.1 DEFINITIONS

Definitions related to this policy include:

Subpoena - A time sensitive court order requiring a person or entity to appear at a particular time and place to testify as a witness at a deposition, trial or hearing and/or to provide documents, records or evidence in a legal proceeding.

Subpoena duces tecum - A time sensitive court order requiring a person to produce in court specific documents or evidence.

Subpoena/Summons Request (SSR) log - The District log documenting the receipt of each subpoena or summons delivered to the District, and that includes the document's source, the date received and the date of response to a request to produce documents or delivery to a member.

802.2 POLICY

It is the policy of the Fresno County Fire Protection District to make reasonable efforts to comply with valid subpoena requests for records or evidence and personal appearances and to cooperate with court processes.

802.3 PROCEDURE

All subpoenas should be directed to the Custodian of Records or the authorized designee.

802.3.1 CUSTODIAN OF RECORDS

The Custodian of Records and any authorized designees should receive training in proper intake and processing of subpoenas. Members not designated by the Custodian of Records and properly trained are not authorized to accept subpoenas for District records.

If the Custodian of Records determines that a subpoena or a request for public records involves a request for a confidential record or relates to pending litigation against the District or District, the request should be promptly brought to the attention of the Fire Chief and legal counsel for the District.

802.3.2 SUBPOENAS FOR RECORDS

Subpoenas for records shall be date-stamped and logged on the subpoena/summons request (SSR) log.

The Custodian of Records will consult with the District Administrative officer regarding any request for medical records. The Custodian of Records or the authorized designee will only produce the

Fresno County Fire Protection District

Policy Manual

Subpoenas

requested records as provided in this policy and the Patient Medical Record Security and Privacy Policy.

A Declaration of Records shall be prepared, signed, copied and attached to the records provided in response to a subpoena (Evidence Code § 1271; Evidence Code § 1561). The Custodian of Records shall make reasonable efforts to produce the requested records, or provide a response noting the lack of records, by the date specified in the subpoena.

The District is entitled to recoup any reasonable costs incurred in production of business records in response to a subpoena duces tecum. The Custodian of Records should provide a statement reflecting the assessment of these reasonable costs and require payment at the time subpoenaed records are delivered.

802.3.3 CIVIL SUBPOENAS FOR DEPOSITION OR NOTICE TO APPEAR

Upon receipt of a civil subpoena for a deposition or notice to appear, the Custodian of Records shall date-stamp and log the subpoena on the SSR log.

The Custodian of Records shall ensure timely delivery of the subpoena to the identified member, noting on the log the date and time it was accepted. The receiving member should acknowledge receipt by signing and dating the log.

No subpoena for a member of this District as a witness in a civil action should be accepted unless it is accompanied by the statutory fee of \$275 for each day the member's appearance is required pursuant to the subpoena (Government Code § 68097.2).

Members shall notify their supervisor of receipt of a subpoena. Members should contact the attorney issuing the subpoena to confirm the date and time of appearance or to confirm an on-call status. The member shall comply with all instructions on the subpoena and monitor the status of all required appearances to ensure compliance with judicial process. In the event a member will be unavailable to respond to a subpoena, the member shall promptly notify the attorney issuing the subpoena and the member's supervisor. Members shall provide a copy of the subpoena to the staffing station and provide updates on subpoena status.

Members who are deposed will request a copy of the transcript.

802.3.4 ON-CALL SUBPOENAS

Upon receipt of a subpoena and after contacting the issuing attorney, a member may make arrangements with the issuing attorney to be placed in an on-call status.

The subpoenaed member shall promptly notify his/her supervisor of the subpoena and any on-call status and make arrangements regarding any potential scheduling conflicts, potential overtime compensation or other follow-up required to coordinate on-call appearance status.

802.3.5 CRIMINAL SUBPOENAS

Upon receipt of a criminal subpoena related to District

Fresno County Fire Protection District

Policy Manual

Subpoenas

business, the member shall promptly notify their supervisor of his/her appearance and contact legal counsel if he/she has any questions.

802.3.6 CIVIL SUBPOENAS UNRELATED TO OFFICIAL DEPARTMENT BUSINESS

Members served with or receiving subpoenas for civil matters unrelated to their District duties shall comply with the requirements of the subpoena. Members are not entitled to compensation for any such appearance or deposition and arrangements for time off should be coordinated with their supervisor.

802.3.7 WORKER'S COMPENSATION

A copy of any subpoena for a matter related to workers' compensation shall be promptly provided to the Administration and/or the risk manager.

802.4 RESPONSIBILITIES

802.4.1 MEMBERS

Members subpoenaed to appear in court for any District-related reason or who are subpoenaed to produce records or evidence shall:

- (a) Document the date, time and manner of receipt.
- (b) Promptly contact the Custodian of Records and provide the Custodian with a copy of the subpoena.
- (c) Make arrangements through the Custodian of Records to obtain any related reports or information.
- (d) Notify their supervisor of the subpoena.
- (e) Contact legal counsel for the District for any necessary guidance.

Employees who are subpoenaed to testify about District-related matters shall receive their normal wages. Any witness fees provided to an on-duty employee shall be promptly transmitted to the District. Members shall coordinate any scheduled appearances with their supervisor to ensure minimization of any appearances requiring the payment of overtime.

Employees subpoenaed to testify about non work-related matters shall be permitted to take time off to testify but are not entitled to receive wages. Employees shall be entitled to use vacation, personal leave or compensatory time off for the time they will be away from work.

Members appearing in court or appearing for court-related functions such as depositions shall appear for court or other judicial proceedings in uniform or conservative business attire.

Any questions regarding this policy or its requirements shall be promptly directed to a supervisor or District legal counsel.

Subpoenas

802.4.2 SUPERVISORS

Supervisors should monitor the schedules of members who have been served subpoenas requiring their appearance to ensure appropriate shift coverage and compensation for the subpoenaed member.

Supervisors shall not intentionally adjust a member's duty schedule for the purpose of creating overtime.

802.5 TESTIFYING AGAINST THE INTEREST OF THE DISTRICT

Any member who has been subpoenaed to testify, has agreed to testify or who anticipates testifying or providing information on behalf of, or at the request of, any party other than the state, any city, county or any of their officers, agents or employees in which any of those entities or persons are parties to the litigation, will promptly notify his/her supervisor. The supervisor shall notify the Fire Chief, prosecuting attorney in a criminal case and the District's legal counsel, as may be indicated by the case.

(a) This requirement includes:

1. Providing testimony or information for the defense in any criminal trial or proceeding.
2. Providing testimony or information for the plaintiff in a civil proceeding against any city, county or their officers, agents or employees.
3. Providing testimony or information on behalf of, or at the request of, any party other than any city, county or District official in any administrative proceeding, including, but not limited to, personnel and/or disciplinary matters.

802.6 RECEIPT AND PROCESSING OF A SUMMONS

Upon receipt of a summons and complaint in a matter related to District business, the member shall document the date, time and manner of receipt and promptly notify his/her supervisor and contact legal counsel for the District.

802.7 JURY DUTY

If a member receives a summons for jury duty and it falls on an on-duty day, the member shall promptly notify his/her supervisor and staffing station. Members shall be granted leave for jury duty for the hours required by the court.

The member should obtain a jury duty excuse form from the court and present the document to his/her supervisor upon returning to work.