



OREGON YOUTH AUTHORITY
Policy Statement
Part I – Administrative Services



Subject:

Response to Subpoenas

Section – Policy Number:

E: Information Management – 1.2

Supersedes:

**I-E-1.2 (7/12)
 I-E-1.2 (3/08)
 I-E-1.2 (5/04);
 Information
 Letter (2/02)**

Effective Date:

09/30/2016

Date of Last

Review/Revision:
None

Related Standards and References:

- [ORS 136.555](#) (Subpoena defined)
- [ORS 136.580](#) through ORS136.595 (Subpoenas when books, papers or documents are required; how served)
- [Attachment A](#): Response to Subpoena Matrix
- OYA policy: [I-E-2.1](#) (Public Records Requests for Agency Records)
- [I-E-2.3](#) (Requests for Youth Records, Reports, and Other Materials)
- [I-E-2.6](#) (Second Look Hearings)

Related Procedures:

- None

Policy Owner:

Public Policy and Government Relations Manager

Approved:

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 Fariborz Pakseresht, Director

I. PURPOSE:

This policy provides guidelines for OYA staff when responding to work-related subpoenas.

II. POLICY DEFINITIONS:

Subpoena: A command to appear at a certain time and place to give testimony upon a matter. Sometimes a subpoena commands the production of books, papers, documents, or tangible things (*subpoena duces tecum*).

Agency subpoena coordinator: The designated staff in the Director's Office whose duties include acting as the agency liaison with the Attorney General's office when responding to subpoenas.

Local subpoena coordinator: A staff designated by the facility superintendent, camp director, or field supervisor to coordinate response to subpoenas for the field office or facility with the agency subpoena coordinator.

Service: Subpoena delivery by certified mail or in person to the person named in the subpoena.

III. POLICY:

OYA will respond to subpoenas issued to gather information or compel appearance in matters involving staff or youth. Subpoenas are time sensitive and the response (which includes sending documentation or appearing at a proceeding) will be made to ensure:

- A. A timely, appropriate, and accurate response;
- B. Confidentiality of agency records is maintained, according to federal and state laws;
- C. A proper legal objection is made when deemed appropriate by legal counsel; and
- D. Staff efforts are not duplicated.

[Attachment A](#) (Response to Subpoena Matrix) summarizes how OYA responds to different types of subpoenas.

IV. GENERAL STANDARDS:

- A. A designated staff member in the OYA Director's Office serves as the agency subpoena coordinator.

The agency subpoena coordinator's duties include:

- 1. Acting as the liaison with the Attorney General's office when responding to subpoenas, including coordinating the release of any OYA records;
- 2. Assisting with records redaction;
- 3. Cross-checking subpoenas and tort claims. Notifying the appropriate OYA work unit, DAS Risk Management, or the Attorney General's Trial Division of potential litigation; and
- 4. Ensuring local subpoena coordinators receive a subpoena process orientation.

The orientation must include identifying legally-sufficient subpoenas, appropriate service, confidentiality, networking with stakeholders, and appropriate agency response.

- B. Each OYA superintendent, camp director, and field supervisor must designate a local subpoena coordinator for that facility or field office. The local subpoena coordinator duties include:
 - 1. Acting as the facility or field office point of contact for subpoena service process and staff questions;

2. Working with the agency subpoena coordinator when responding to subpoenas;
3. Contacting the agency subpoena coordinator immediately upon receipt of the following:
 - a) A subpoena *duces tecum*, or court order for the release of OYA records; or
 - b) A subpoena requesting staff to testify.
4. Serving as a resource for staff questions about testimony and depositions; and
5. Ensuring subpoena activities are entered into JJIS case notes regarding youth who are the subjects of subpoenas.

C. Service of subpoenas

The agency and local subpoena coordinators must follow these guidelines when receiving a subpoena.

1. Service of a subpoena may be made by mail if an attorney has had personal or telephone contact with the witness, and the witness indicated a willingness to appear at trial if subpoenaed; arrangements have been made for payment of witness fees and mileage; and the subpoena was mailed 10 days prior to trial by certified mail or other mail carrier that provides a receipt signed by the recipient.
 2. Service of a subpoena by mail may only be used for a subpoena *duces tecum* commanding production of books, papers, documents or tangible things, and **must not** include a command to appear at trial, hearing or deposition.
 3. Service of a subpoena on a youth may be served on the custodian (OYA) of the youth, and only upon approval by a court.
- D. After verifying appropriate service of a subpoena, the agency or local subpoena coordinator must mail or hand the signed subpoena back to the requestor.
- E. The local subpoena coordinator must send complete, accurate copies of any records requested in the subpoena to the agency subpoena coordinator.

The agency subpoena coordinator must coordinate with the Attorney General's office before releasing the records to the court.

V. **LOCAL OPERATING PROTOCOL REQUIRED: NO**

Attachment A: Response to Subpoena Matrix

Type of case	Appropriate staff response
<p>Second Look hearing</p>	<p>Staff must work with the OYA Second Look Coordinator. See OYA policy I-E-2.6 Second Look Hearings for details.</p> <p>If staff are subpoenaed to appear, the staff's supervisor or Human Resources will arrange court fee handling and the staff's work schedule.</p>
<p>Case involving a youth</p> <p>Case involving a youth as a subject of dependency, divorce, custody, support proceedings, or termination of parental rights.</p>	<p>Records: Local subpoena coordinators work with the agency subpoena coordinator and ensure a case note is entered into JJIS regarding the youth's subpoena activity.</p> <p>Appearance: The local subpoena coordinator works with management staff for the youth's appearance. Contact DOC if DOC youth. Contact the youth's attorney, if applicable.</p> <p>Staff: The local subpoena coordinator will coordinate the staff member's appearance and brief the staff member on courtroom protocol.</p> <p>Staff will limit testimony to personal knowledge and to activities known or services directly provided by the staff member within the scope of his/her job responsibilities. Staff will not make <i>recommendations</i> about the outcomes of the proceeding.</p> <p>If staff are subpoenaed to appear, the staff's supervisor or Human Resources will arrange court fee handling and the staff's work schedule.</p>
<p>Criminal case against an OYA staff member</p>	<p>The agency subpoena coordinator is the primary subpoena coordinator for records and appearance requests in criminal cases against OYA or OYA staff.</p> <p>The local subpoena coordinator immediately contacts the agency subpoena coordinator.</p> <p>No records may be released or appearances made without Director's Office authorization.</p> <p>The agency subpoena coordinator will contact the Attorney General's office and DAS Risk Management, as necessary.</p>