



POLICY STATEMENT

Subpoenas, Court Orders, Garnishments,
and Other Legal Processes

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Richard S. Tischner
Director

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Overview

Background

Court Services and Offender Supervision Agency (CSOSA or Agency) and/or Agency employees routinely receive legal actions and processes in the course of normal business. This policy addresses the legal practices to be followed for subpoenas, court orders, garnishment orders, and services of other legal actions and processes provided to the Agency and/or its employees.

This Policy Statement (PS) provides guidance on how legal documents are served, accepted and processed to:

- Conserve the time of the Agency's employees for conducting official business;
 - Minimize the possibility of involving the Agency in controversial issues that are not related to the Agency's mission;
 - Prevent the possibility that the public will misconstrue variances between personal opinions of the Agency employees and Agency policy;
 - Maintain a central repository for subpoenas;
 - Avoid using Agency resources for private purposes; and
 - Protect confidential and sensitive information.
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Summary of Changes

- Assigns a PS number.
 - Separates policy from procedures.
 - Removes warrants from the covered legal processes.
 - Adds court orders to the covered legal processes.
 - Removes PSA employees from coverage.
 - Expands coverage to include exceptions.
 - Updates authorities.
 - Lists additional references
 - Defines additional terms.
 - Clarifies the roles and responsibilities.
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Overview, Continued

Coverage

This PS applies to all CSOSA employees regarding all Federal, state, and local court proceedings, as well as administrative and legislative proceedings.

Exceptions:

1. Proceedings where the United States or another Federal agency is a part of Congressional requests/ inquires or Congressional subpoenas for testimony and/or documents;
2. Requests from the public pursuant to the Freedom of Information Act (FOIA) and the Privacy Act;
3. Consultative services and technical assistance rendered by the Agency in executing its normal functions;
4. Employees making appearances in their private capacities in proceedings that do not relate to their duties at the Agency;
5. Employees making appearances in their official capacity for show cause hearings and United States Parole Commission (USPC) Sanctions hearings pursuant to Office of Community Supervision and Intervention Service (OCSIS) guidance;
6. Requests from law enforcement pursuant to the law enforcement exception of the Privacy Act; and
7. Proceedings concerning facts or events that are outside of the scope of official business of the Agency, and do not involve professional or consultative services.

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Overview, Continued

Authorities

- 5 U.S.C. § 301
 - 5 U.S.C. § 5520a
 - 5 U.S.C. § 5514
 - 11 U.S.C. § 362(a)
 - 11 U.S.C. § 1325 (c)
 - 15 U.S.C. § 1673
 - 15 U.S.C. § 1677
 - 42 U.S.C. § 659
 - 5 C.F.R. Part 550, Subpart K
 - 28 C.F.R. § 802.24
 - 28 C.F.R. § 802.25
 - 28 C.F.R. § 802.26
 - 28 C.F.R. § 802.27
 - 31 C.F.R. Chapter IX
 - 42 C.F.R. Part 2
 - Freedom of Information Act, 5 U.S.C. § 552
 - Privacy Act of 1974, 5 U.S.C. § 552a
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Disclaimer

The contents of this guidance do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

References

- [PS 1113 Privacy](#)
 - [PS 1103 Freedom of Information Act Policy](#)
 - [OI-OGC-1103.1 Freedom of Information Act Procedure](#)
 - [HRD 752.1 Disciplinary and Adverse Actions](#)
 - [PS 1102 Standards of Employee Conduct](#)
 - [OI-OD-OPR-2015-01 The Office of Professional Responsibility](#)
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Overview, Continued

Supersedes PS Subpoenas, Warrants, Garnishments, and Other Legal Process, *dated September 18, 2000.*

Administrator The Office of the General Counsel (OGC) is responsible for the contents of this Policy Statement.

Policy

Principles

- All legal actions and processes provided to CSOSA and/or an employee must be received in, or served directly on, the OGC.
- The Agency reviews all legal actions and processes for applicability and legal sufficiency.
- The Agency receives, processes, and responds to legal actions and processes to:
 - Cooperate with judicial and law enforcement agencies while balancing the interests of the Agency;
 - Preserve the privacy and dignity of individuals; and
 - Adhere to standards parallel to those published by other Federal agencies.
- The Agency responds expeditiously and in compliance with the law in responding to all legal actions and processes.
- The Agency's responses to legal processes are reviewed and forwarded to the requestors by the OGC.

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Policy, Continued

Legal Process Specific Principles The Agency applies additional principles depending on the legal process.

Legal Process	Principle(s)
Subpoenas	<ul style="list-style-type: none"> • The Agency prohibits employees from testifying, producing documents, or answering inquiries from a person not employed by the Agency on any information acquired in the course of normal business without the OGC's legal sufficiency determination.
Court Orders	<ul style="list-style-type: none"> • The Agency, through OGC, reviews and responds to all court orders regarding any litigation, including third party litigation, in accordance with the request outlined in the order and applicable law.
Garnishment Orders	<ul style="list-style-type: none"> • The Agency prioritizes child support and alimony over commercial garnishments. • The Agency returns legally insufficient garnishments and requires it to be served again with adequate information.
Service of Process for the Agency Staff	<ul style="list-style-type: none"> • The Agency does not tolerate the breaking of the letter or spirit of the law by its employees. • The Agency takes all receipts of any legal process of a personal nature (civil or criminal) on an employee seriously.

Definitions

Court Order An order issued from a competent court that requires a party to do or abstain from doing a specified act.

Demand A request, order, or subpoena for testimony or documents to use in a legal proceeding.

Employee

- A person employed in any capacity by CSOSA:
 - Appointed by, or subject to the supervision, jurisdiction, or control of the head of the Agency; or
 - Any current or past Agency official still employed by the federal government.
- A person who is subject to the Agency's jurisdiction or control may include:
 - A person who is hired as a contractor by the Agency;
 - A person performing services for the Agency under an agreement (e.g., an intern, volunteer, etc.); and
 - A person working with a hired consultant, contractor, or subcontractor.
- A former employee is also considered an employee only when:
 - The matter about which the person would testify is one in which he or she was personally involved while at the Agency; or
 - The matter concerns official information that the employee acquired while working at the Agency, such as sensitive or confidential agency information.

Garnishment A judicial proceeding in which a creditor (or potential creditor) asks the court to order a third party who is indebted to or is a bailee for the debtor to turn over to the creditor any of the 'debtor's' property (such as wages or bank accounts) held by that third party.

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Definitions, Continued

Legal Proceeding

- Any pretrial, trial, and post-trial state of any existing or reasonably anticipated judicial or administrative action, hearing, investigation;
 - Any similar proceeding before a court, commission, board, agency, or other tribunal, authority or entity, foreign or domestic;
 - Any deposition or other pretrial proceedings, including a formal or informal request for testimony made by an attorney or other person; or
 - Requests for documents gathered or drafted by an employee.
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Legal Process

Documents or an oral or written request, which are validly issued, served on the Agency to include subpoenas, court orders, records and/or information requests from law enforcement, garnishments, and civil and criminal matters. A summons or writ, especially to appear in court or produce documents or records.

Legal Sufficiency

A review conducted to determine whether the legal process is compliant with the legal form and contains adequate information for identification of the request and action to be taken.

Subpoena

A request to appear before a court or other tribunal or to order the production of documents or other effects as may be outlined in the request.

Roles and Responsibilities

Employees

- Adhere to CSOSA's PS 1102, Standards of Employee Conduct.
- Be familiar with the Agency's policy and procedures on subpoenas, garnishments, and other legal processes.
- Inform OGC of the actions taken to comply (e.g., requesting documents from archives, status update regarding documents being placed in interoffice mail).
- Cooperate with subpoenas wherein a request is made to appear in court.
- Forward all directly-received legal processes to the OGC.
- Refer all process servers to the OGC. Do not accept legal process documents.
- Comply with requests to produce documents, disclose information, or provide material as part of the employee's official status only with prior authorization of the OGC, as necessary.
- Give testimony, produce documents, or answer inquiries from a person not employed by the Agency only with the approval of the OGC following legal sufficiency determination.

Supervisors

- Perform all responsibilities listed under the employees' role.
- Respond to OGC's request for assistance when a subordinate employee ignores or refuses to comply with a subpoena.

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Roles and Responsibilities, Continued

Office of General Counsel (OGC)

- Receives all legal processes and responds promptly to all requests.
- Conducts a legal sufficiency review of the received legal process and forwards the document to the appropriate office for compliance.
- Receive documents consistent with the legal process from the appropriate office and review them and apply any necessary redactions.
- Forwards all information relative to the legal process to the requestor.
- Informs Agency employees of court appearances to give testimony, produce documents, or answer inquiries from a person not employed by the Agency.
- Upon receipt of a garnishment, conducts a legal sufficiency review and informs Office of Human Resources (OHR) of the determination.
- If OGC determines that the Agency should not comply with a subpoena:
 - OGC attempts to have the subpoena withdrawn or modified and, if necessary, obtains representation from the U. S. Department of Justice and moves to have the subpoena modified or quashed.
- In the event of a legal process of a personal nature (civil or criminal) regarding an employee:
 - Informs the Agency Director and the Associate Director of OHR of any legal process received by OGC concerning personnel/EEO litigation or administrative proceedings brought by an Agency employee or labor organization.
- Manages legal responses and any litigation resulting from the Agency's response to the provision of documents responsive to legal process requests.

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Roles and Responsibilities, Continued

Office of Human Resources (OHR) Takes immediate action to process garnishments that have been determined to be legally sufficient.

Office of Professional Responsibility (OPR) Conducts administrative investigations on allegations of civil or criminal law violations by employees and supervisors, which could lead to disciplinary actions, adverse actions, or referral for criminal prosecution.

Agency Director Ensures implementation and compliance with the Agency's subpoenas, court orders, garnishments, and other legal process policy.
