

PHOENIX FIRE DEPARTMENT

VOLUME 1 – Operations Manual

INTERVIEW REQUESTS AND SUBPOENAS

MP106.05 07/09 – R (In Review)

PURPOSE AND SCOPE

This procedure will establish guidelines for interview requests and subpoenas issued to employees of the Phoenix Fire Department in both civil and criminal cases. This procedure pertains only to interview requests and subpoenas that relate to the performance of an employee’s official duties or responsibilities.

INTERVIEW POLICY

It is the policy of the Phoenix Fire Department that interview requests in civil cases will not be granted, except under extraordinary circumstances. Where extraordinary circumstances exist, a civil interview request may be granted only upon approval of the City Attorney. This policy applies equally to written and verbal interview requests.

It is the policy of the Phoenix Fire Department that employees will grant interview requests in all criminal cases.

ADMINISTRATIVE RESPONSIBILITIES FOR INTERVIEW REQUESTS

Phoenix Fire Department Administration, Section Heads, Battalion Chiefs, and Personnel staff is responsible for the efficient and expeditious distribution of interview requests to Fire Department employees.

Personnel staff will receive and log all interview requests. Personnel staff will notify those requesting civil interviews that the Phoenix Fire Department does not grant civil interview requests as a matter of policy. A civil interview request may be granted only when the employee subject to the request believes extraordinary circumstances exist, and the City Attorney approves the interview. For criminal interview requests, Personnel staff will verify the employee’s contact information and obtain pertinent documentation from ETS staff. Personnel staff will contact the Emergency Services Staffing (ERS) Officer/Deputy Chief and or staff at South Shift Command. ERS staff will notify the employee by telephone that the employee has received an interview request. ERS staff also will notify the employee that the interview request will be sent to the employee via email, or that the employee may pick up the interview request packet at Fire Administration in the Personnel Section.

EMPLOYEE RESPONSIBILITIES FOR CIVIL INTERVIEW REQUESTS

Upon receiving an interview request in a civil case, the employee should notify the Personnel Section of such request. The employee does not need to take any action. The Personnel Section will notify the requestor that the Fire Department does not grant interview requests in civil cases as a matter of policy.

If an employee feels that extraordinary circumstances exist to grant an interview, the employee should notify the Personnel Section of the circumstances. The Personnel Section will contact the Law Department to determine whether the City Attorney will approve the interview request. Under no

circumstances shall an employee grant an interview request in a civil case without prior approval of the City Attorney.

EMPLOYEE RESPONSIBILITIES FOR CRIMINAL INTERVIEW REQUESTS

Upon receiving an interview request in a criminal case, the employee will coordinate scheduling of the interview with the employee's supervisor and the Emergency Response Staffing Officer/Deputy Chief at South Shift Command or his staff. The interview should be scheduled during the employee's work hours from 8:00 to 18:00 hours, Monday through Friday.

(1) Maricopa County Criminal Case Interviews

For criminal cases under the jurisdiction of the Maricopa County Superior Court, the employee will contact the prosecutor assigned to the case for assistance. If the employee does not have the prosecutor's contact information, the employee may obtain the information by calling the Maricopa County Attorney's Office at (602) 506-3411. The prosecutor will assist the employee with setting the date, time, and location of the interview, giving consideration to the employee's work hours and days off. The prosecutor will normally attend the interview.

(2) Phoenix Municipal Court Case Interviews

For criminal cases under the jurisdiction of the Phoenix Municipal Court, the employee will contact the City Prosecutor's Office at (602) 262-6461 to determine if the prosecutor wishes to be involved in the interview. If the prosecutor wishes to be involved in the interview, the prosecutor should assist the employee with scheduling the interview, giving consideration to the employee's work hours and days off. If the prosecutor does not wish to participate in the interview, the employee will contact the defense attorney to schedule the interview. Interviews for Municipal Court cases may be conducted by telephone upon agreement of the attorneys and the employee.

SUBPOENA POLICY

It is the policy of the Phoenix Fire Department to record, log, and distribute all subpoenas to Fire Department employees in an efficient and expeditious manner, so that the employees may comply with the subpoena.

It is the policy of the Phoenix Fire Department that all employees shall comply with all properly issued subpoenas.

ADMINISTRATIVE RESPONSIBILITIES FOR SUBPOENA DISTRIBUTION

Phoenix Fire Department Administration, Section Heads, Battalion Chiefs, and Personnel staff is responsible for the efficient and expeditious distribution of interview requests to Fire Department employees.

Personnel staff will receive and log all subpoenas. Personnel staff will verify the employee's contact information and obtain pertinent documentation from ETS staff. Personnel staff will contact the Emergency Response Staffing (ERS) Officer/Deputy Chief at South Shift Command or his staff. The ERS Deputy Chief or his staff will notify the employee by telephone that the employee has received a subpoena. The ERS Deputy Chief or his staff will notify the employee that the subpoena packet (subpoena, Incident History Report, EMS Report and the emergency transportation report) will be sent

to the employee, **via email**, or that the employee may pick up the subpoena packet at Fire Administration in the Personnel Section.

If a subpoena is received with less than five (5) days remaining before the employee's appearance, the Personnel Section will contact the Law Department to see if the appearance can be rescheduled. The Personnel Section also will contact the Battalion Chief/Section Head, who will immediately contact the employee to provide all pertinent information, including the defendant's name, the case number, and the date, time, and location of appearance. If available, the fire incident report number and type of incident (DUI, Assault, etc.) will be given. A copy of the incident report, if available, will be attached to the subpoena and furnished to the member being subpoenaed. If the reports are not with the subpoena, copies may be obtained at Computer Services for F.I.R. reports or E.T.S. for E.M.S. reports. All disseminated information will meet HIPAA requirements. The employee will be notified if the appearance can be rescheduled.

EMPLOYEE RESPONSIBILITIES FOR SUBPOENAS

Employees must comply with all subpoenas, or be subject to contempt of court proceedings. When an employee is notified of a subpoena, the employee shall obtain a copy of the subpoena along with the corresponding documents (Incident History Report, EMS Report and the emergency transportation report) either **via email** or in person at Fire Administration in the Personnel Section. The employee must follow the instructions on the subpoena, including calling the contact number on the subpoena on the afternoon before the required appearance to verify the need to appear. To inquire about a trial or hearing, use the defendant's name and the case number. **DO NOT** use the EMS/FIRE incident report number.

When appearing for a hearing or deposition, employees should wear the Fire Department dress uniform, be on time and conduct himself/herself as a representative of the Phoenix Fire Department.

In the event that an employee has pre-scheduled leave on the day of the appearance, the employee shall contact Personnel staff. Personnel staff will contact the Law Department to attempt to reschedule the appearance. If the appearance cannot be rescheduled, the employee will be responsible to comply with the subpoena or be subject to contempt of court proceedings. Personnel staff will contact the employee if the appearance is rescheduled.

There may be occasions when subpoenas relating to an employee's official duties are served personally to an individual employee. Should this occur, the employee shall call the Personnel Section so that the proper information can be logged.

The employee must attach a copy of the subpoena to all leave forms and overtime slips submitted for witness duty.

If an employee has any questions regarding a subpoena, the employee should contact Personnel staff, who will contact the Law Department if necessary.

COURT WITNESS TIME AND COURT STANDBY TIME ON A REGULARLY SCHEDULED DAY OFF

When an employee is placed on official "standby" status by the court while off duty, the employee must be able to return to court within one hour of a telephone contact by the court. When an employee is on Court "standby," the employee will be compensated at a rate of one dollar and fifty cents (\$1.50) per hour. In all cases a photocopy of the subpoena must be attached to an overtime slip with the words

"Court Standby" written in the reason box of the O.T. slip. Comp time may not be accrued for Court Standby time.

All "Court Witness Time" will be paid at the "Call Back" rate specified in the M.O.U., provided that a photocopy of the subpoena is attached to an overtime slip and the words "Court Subpoena" are written in the reason box of the overtime slip. Comp Time credit may be accrued for court witness time worked.

COURT WITNESS TIME AND COURT STANDBY TIME ON A SCHEDULED SHIFT DAY

Employees who are subpoenaed on a scheduled shift day must coordinate the time away from their assignment through their assigned District office. In most cases the subpoena will require the witness to phone the Court on the afternoon before the trial or hearing to verify the need to appear. Immediately following this verification with the Court the employee must contact the District office to schedule City Business for the time at Court.

When an employee is placed on Court Standby Status while on duty the employee will report to work, but must provide the Court the station telephone number where the employee can be reached (includes Rovers). The employee is also responsible for informing his/her immediate supervisor and the District/Section office of the employee's Court standby status.