

**COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF WORKFORCE DEVELOPMENT**

**DIRECTIVE:** Legal Advisory Bulletin No. 3-07 (Supersedes 1-06)

**TO:** All Agency Personnel

**FROM:** Robert K. Ganong, Chief Counsel

**SUBJECT:** Service of Subpoenas and Summons

**DATE:** March 26, 2007

**PURPOSE:** The purpose of this Bulletin is to provide agency personnel with updated information and to standardize the manner in which the employees and *contractors*<sup>1</sup> of the “agency” accept service of a *subpoena* or a *summons* by *process servers* for agency related matters.

**AGENCY:** The term “agency” will be used in this document to include the total of all three “groups” within the Department of Workforce Development, namely: the Division of Career Services (DCS), the Division of Unemployment Assistance (DUA), and the Division of Apprenticeship Training (DAT). The term “agency” also includes facilities other than the Hurley Building which, for purposes of this LAB, will be identified as “*the Centers.*”

**APPLICABILITY:** This bulletin applies to all employees and *contractors* of the Agency and to all security personnel assigned to any Agency facility.

**ORGANIZATION OF THIS LEGAL ADVISORY BULLETIN:** For ease of reference, this document is organized into six (6) separate sections with instructions, definitions, and guidance on actions to be taken when an employee/contractor is approached by a process server and asked to accept service of a summons or a subpoena on an Agency related matter. The sections are:

- I. Definitions of words, terms, and expressions unique to “service of process.”
- II. General information and instruction applicable to all Agency personnel.
- III. Hurley Building Personnel: Guidance, Instructions, and Actions to be taken.
- IV. Center Offices Personnel: Guidance, Instructions, and Actions to be taken.
- V. Security Guards: Guidance, Instructions, and Actions to be taken.
- VI. Witness Fees: Accountability, Administration, and Processing.

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<sup>1</sup> When a word or phrase is highlighted by *bold and italics* font the definition of that word or phrase may be found in Section I: Definitions.

**SECTION I: Definitions of Words, Terms, and Expressions.**

1. **Complaint:** a document indicating that a lawsuit has been filed in court. It begins a legal action, provides the names of the parties, gives the grounds for the claim, and states the desired outcome.
2. **Contractor:** a “contractor” means a person who is performing services for the Agency and is commonly referred to as an “03” contractor, and may work full or part-time hours. The person can also be a temporary worker, intern or volunteer.
3. **Defendant** (or “respondent”): a “party” named in the lawsuit who may be a person, persons, business, or governmental agency against whom recovery is sought.
4. **Plaintiff** (or “petitioner”): the “party” named in a civil lawsuit who initiates the legal proceeding, and may be a person, persons, business, or governmental agency that seeks recovery from a defendant(s).
5. **Process:** in legal terms “process” may involve a “subpoena.” or a “summons,” or some other document with legal authority issued by a court of law which requires some responsive action from a person, persons, business, or governmental agency receiving it.
6. **Process Servers:** A person, who may be a constable, deputy sheriff, or a “disinterested person” (not involved in the legal matter) authorized by law to serve “process” upon a named person, business, or governmental agency.
7. **Service of Process:** the act of delivering to or leaving with a party or a witness in the lawsuit certain documents known as “complaints, subpoenas, summons,” etc.
8. **Subpoena:** a legal document which orders a named individual to appear at a designated time and place to testify as a witness in a legal action, or to produce documents the individual has in her or his control, or both. The named individual is usually not a party to the lawsuit. A subpoena may be served by anyone over the age of 18 who is not a party to the legal action. It is not necessary to use a constable or deputy sheriff. Failure to obey a properly served subpoena may subject the named individual to sanctions by the court. Most often, subpoenas for agency documents are served upon the Keeper of Records.
9. **Summons:** a legal document, sometimes accompanied by a **complaint**, which notifies a defendant that a lawsuit has commenced in a court against the defendant, and requires the defendant to respond to the lawsuit by either personally appearing in court or by filing a written response. The Legal Department accepts summonses accompanied by complaints for the following named defendants:

- a. Suzanne M. Bump, Director, Department of Workforce Development;
  - b. Susan V. Lawler, Director, Division of Career Services;
  - c. Edward T. Malmborg, Director, Division of Unemployment Assistance;
  - d. John S. Rich, Director, Division of Apprentice Training; or
  - e. any other "title" or "name" of a past official of the Agency (e.g., John A. King), or any similar designation.
10. **The Centers:** any of several subdivisions of the DCS and DUA located in facilities other than the Hurley Building. These facilities include One Stop Career Centers (including UI Walk-In Centers), Regional Hearings Centers, Telephone Claims Centers, and any other facility other than the Hurley Building in which there are Agency personnel.

## **SECTION II. General Information and Instructions.**

1. The Agency is frequently visited at the Hurley Building and in its many Centers throughout the Commonwealth by "*process servers*" such as deputy sheriffs, constables, and other legally authorized individuals for the purpose of serving subpoenas and summonses on Agency personnel or the Agency itself. The following situations are most common:
  - a. service of a subpoena to obtain official Agency records;
  - b. service of a summons and a complaint on the Director of DUA concerning unemployment insurance;
  - c. service of a subpoena to obtain testimony from Agency personnel about an Agency matter; or,
  - d. service of a subpoena or summons on Agency personnel regarding a private legal matter that has nothing to do with the Agency.
2. If an Agency employee accepts service of a subpoena or summons addressed to him or her, and the subject matter is related to the Agency, the employee must notify his or her supervisor immediately. The supervisor must, in turn, immediately contact the **Legal Department** at **(617) 626-5600** for further instruction on what to do in response to receiving the subpoena or summons. ***Time is of the essence in these issues, so notification to the Legal Department must occur immediately.***
3. Agency employees, including managers and supervisors, should not accept service of a subpoena or summons which is not addressed to them personally unless otherwise directed to do so by instructions within this bulletin.

4. For subpoenas or summonses addressed to the Keeper of Records, the supervisor should contact the Keeper of the Records, Disclosure Unit for further instruction. Contact the Disclosure Unit personnel in the order listed:
  - a. **Jeffrey Merra, (617) 626-5081; and, if not available, then**
  - b. **Karen Pare, (617) 626-6425; and, if not available, then**
  - c. **Janet Fleming, (617) 626-5034.**
5. If none of the above listed employees are available, notify the process server. **Do not accept the service of any documentation.** Inform the process server that s/he must serve the subpoena or summons only on one of the above named individuals. No other Agency personnel or Security Guards are authorized to accept service for the "Keeper of Records" except the individuals listed above.
6. In the event that a process server leaves a subpoena or summons on the premises, and not an "in-hand" delivery to the person named on the document, the Office Manager of the Department or Center must immediately contact the Legal Department at (617) 626-5600 for further instruction on what to do with the document.. Time is of the essence in these issues, so notification to the Legal Department must occur immediately.

### **SECTION III. Hurley Building Personnel: Instructions, Procedures, or Actions to Be Taken.**

1. All process servers seeking to serve a subpoena or summons on "Agency personnel" or the "Agency" should be directed to the "security booth" in the main lobby of the Hurley Building at the 19 Staniford Street entrance.
2. For subpoenas and summonses naming:
  - a. Suzanne M. Bump, Director, Department of Workforce Development;
  - b. Susan V. Lawler, Director, Division of Career Services;
  - c. Edward T. Malmborg, Director, Division of Unemployment Assistance;
  - d. John S. Rich, Director, Division of Apprentice Training; or
  - e. any other "title" or "name" of a past official of the Agency (e.g., John A. King), or any similar designation; security personnel should contact the Legal Department at (617) 626-5600. A designated employee from the Legal Department will go to the lobby to accept service. **Deputy Sheriffs, Constables, or other authorized process servers must never be permitted to proceed beyond the first floor main lobby waiting area.**

3. For subpoenas and summonses addressed to the Keeper of the Records for DUA, DCS or any of the former names of the agency; e.g., DET, DES, Division of Employment and Training, etc.; the supervisor should contact Jeffrey Merra, (617) 626-5081; and, if not available, then the following personnel in the order listed:
  - a. **Karen Pare, (617) 626-6425; and, if not available, then**
  - b. **Janet Fleming, (617) 626-5034.**
4. If none of the above listed employees are available, notify the process server. **Do not accept the service of any documentation.** Inform the process server that s/he must serve the subpoena or summons only on one of the above named individuals. No other Agency personnel or Security Guards are authorized to accept service for the "Keeper of Records" except the individuals listed above.
5. For subpoenas and summonses addressed to a specific Agency employee, notify the employee by telephone that a process server is in the "security booth" seeking to serve a legal document on the employee. The employee has the option of accepting service by going to the security booth, or declining to go to accept service. If the employee is not available or opts not to go to the security booth, notify the process server that the employee is not available or unwilling to accept service. A supervisor should **NEVER** order an employee to accept, or accept themselves, a summons or subpoena for any employee. **Deputy Sheriffs, Constables, or other authorized process servers must never be permitted to proceed beyond the first floor main lobby waiting area.**
6. If an Agency employee accepts service of a subpoena or summons addressed to him or her, and the subject matter is related to the Agency, the employee must notify his or her supervisor immediately. The supervisor must, in turn, immediately contact the **Legal Department** at **(617) 626-5600** for further instruction on what to do in response to receiving the subpoena or summons. ***Time is of the essence in these issues, so notification to the Legal Department must occur immediately.***
7. For subpoenas and summonses addressed to Agency personnel not located in the Hurley Building or not in the building at that time, the Security Guard should notify the process server that the person s/he seeks is not located in the Hurley Building or not there at that time. Do not volunteer any further information.
8. For subpoenas and summonses addressed to the **Board of Review**, security personnel should contact the Board of Review at **(617) 626-6400** and request that the Board send an authorized representative to the main lobby Security Booth to accept service.

9. If the subpoena or summons is in an envelope and/or the person to be served is otherwise unknown, **do not accept service.** *Should the Process Server refuse to identify the person to be addressed, contact the Legal Department immediately at (617) 626-5600.*

#### **SECTION IV. Center Personnel Instructions, Procedures, and Actions to Be Taken.**

1. All process servers attempting to serve a subpoena or summons to agency personnel or to the Agency should be directed to the “**reception**” area of the “Center.” **Deputy Sheriffs, Constables, or other authorized process servers must never be permitted to proceed beyond the reception area of the “Center.”**
2. For subpoenas and summonses naming:
  - a. Suzanne M. Bump, Director, Department of Workforce Development;
  - b. Susan V. Lawler, Director, Division of Career Services;
  - c. Edward T. Malmborg, Director, Division of Unemployment Assistance;
  - d. John S. Rich, Director, Division of Apprentice Training; or
  - e. any other “title” or “name” of a past official of the Agency (e.g., John A. King), or any similar designation:

reception personnel should notify the process server that service must be made in Boston at the Charles F. Hurley Building, 19 Staniford Street, Boston, MA 02114. If the process server has any questions, the Center personnel should instruct the process server to contact the Legal Department at (617) 626-5600. **Reception personnel must never accept a subpoena or summons for one of the above-named persons.**

3. For subpoenas and summonses addressed to the Keeper of the Records for DUA, DCS or any of the former names of the agency; e.g., DET, DES, Division of Employment and Training, etc.; the supervisor/reception person should tell the process server that the Keeper of Records is located in Boston at the Charles F. Hurley Building, 19 Staniford Street, Boston, MA 02114. **Do not accept the service of any documentation. Inform the process server that s/he must serve the subpoena or summons on the Keeper of Records.**
4. For subpoenas and summonses addressed to any Agency personnel located in a Center, notify the employee by telephone that a process server is at the “reception area” seeking to serve a legal document on the employee. The employee has the option of accepting service by going to the security/reception area or declining to go to the reception area to accept service. If the employee is not available or opts not to go to the reception area, notify the process server that the employee is not available or unwilling to accept service. Do not volunteer any further information. A

supervisor should **NEVER** order an employee to accept, or accept themselves, a summons or subpoena for any employee.

5. If an Agency employee accepts service of a subpoena or summons addressed to him or her, and the subject matter is related to the Agency, the employee must notify his or her supervisor immediately. The supervisor must, in turn, immediately contact the **Legal Department** at **(617) 626-5600** for further instruction on what to do in response to receiving the subpoena or summons. *Time is of the essence in these issues, so notification to the Legal Department must occur immediately.*
6. For subpoenas and summonses addressed to Agency employees not located at a Center, the receptionist should notify the process server that the employee is not located in that facility. Do not volunteer any further information.
7. For subpoenas and summonses addressed to the Board of Review, Center personnel should inform the process server that the Board of Review is located at 19 Staniford Street, Boston, MA 02114; and the telephone number is (617) 626-6400.
8. In the event that a process server leaves a subpoena or summons on the premises, and not an “in-hand” delivery to the person named on the document, the Office Manager of the Center must immediately contact the Legal Department at (617) 626-5600 for further instruction on what to do with the document. Time is of the essence in these issues, so notification to the Legal Department must occur immediately.

#### **SECTION V. Hurley Building Security Guard Instructions and Actions to Be Taken.**

1. All process servers seeking to serve a subpoena or summons on “Agency personnel” should be directed to the “security booth” in the main lobby of the Hurley Building at the 19 Staniford Street entrance.
2. For subpoenas and summonses naming:
  - a. Suzanne M. Bump, Director, Department of Workforce Development;
  - b. Susan V. Lawler, Director, Division of Career Services;
  - c. Edward T. Malmberg, Director, Division of Unemployment Assistance;
  - d. John S. Rich, Director, Division of Apprentice Training; or
  - e. any other “title” or “name” of a past official of the Agency (e.g., John A. King), or any similar designation;

security personnel should **contact the Legal Department at (617) 626-5600**. A designated employee from the Legal Department will go to the lobby to accept service. **Deputy Sheriffs, Constables, or other authorized process servers must**

**never be permitted to proceed beyond the first floor main lobby security waiting area.**

3. For subpoenas and summonses addressed to the Keeper of the Records the supervisor should contact the Keeper of the Records, Disclosure Unit for further instructions. Contact the Disclosure Unit personnel in the order listed below:
  - a. Jeffrey Merra, (617) 626-5081; and, if not available, then
  - b. Karen Pare, (617) 626-6425; and, if not available, then
  - c. Janet Fleming, (617) 626-5034.
4. **If none of the above listed employees are available, inform the process server that s/he must serve the "Keeper of the Records" subpoena only on one of the above name individuals.** No other Agency personnel or Security Guards are authorized to accept service for the "Keeper of Records" except the individuals listed above.
5. For subpoenas and summonses addressed to a specific Agency employee, notify the employee by telephone that a process server is in the "security area" seeking to serve a legal document on the employee. The employee has the option of accepting service by going to the security area, or declining to go to accept service. If the employee is not available or opts not to go to the security area, notify the process server that the employee is not available, or unwilling to accept service. ***Do not volunteer any further information. Deputy Sheriffs, Constables, or other authorized process servers must never be permitted to proceed beyond the first floor main lobby security waiting area.***
6. For subpoenas and summonses addressed to Agency personnel not located in the Hurley Building or not in the building at that time, the Security Guard should notify the process server that the person s/he seeks is not located in the Hurley Building or not there at that time. Do not volunteer any further information.
7. For subpoenas and summonses addressed to the **Board of Review**, security personnel should contact the Board of Review at **(617) 626-6400** and request that the Board send an authorized representative to the main lobby "security booth" to accept service. **Security guards MUST NEVER accept service of a subpoena or summons for the Board of Review.**
8. For subpoenas and summonses addressed to the "**Group Insurance Commission**" ("GIC"), security personnel should contact the GIC at **(617) 727-2310, Ext. 3016**, to send an authorized representative to the main lobby Security Booth to accept service or escort the process server to the GIC and, after service has been made, to escort the process server back to the Security Area. Security and GIC personnel must **never permit a process server to proceed beyond the first floor main lobby waiting area**

**unescorted. This is the only exception to the rule that process servers must never be permitted to proceed beyond the first floor main lobby waiting area unescorted.**

9. Security guards **MUST NEVER** accept service of a subpoena or summons for the Agency or for any Agency employee, regardless of what the process server may say.
10. Security guards **MUST NEVER** allow process servers to roam through the Hurley Building looking for a DUA employee, regardless of what the process server may say.

**VI. Witness Fees: Accountability, Administration, and Processing.**

1. Action to Be Taken Upon Receipt of Witness Fee With a Subpoena. Non-supervisory personnel who receive a witness fee with a subpoena for an appearance in their official capacity as an employee of the Agency must turn over any fee, whether cash or check, to their immediate supervisor. **Any such witness fees must never be kept for personal use.**
2. Supervisor to Provide Receipt. When an employee delivers a witness fee to the supervisor, the **supervisor must give the employee a photocopy of the signed Memorandum (see Attachment 1) as a receipt for the witness fee.**
3. Action to Be Taken By Supervisor.
  - a. The supervisor shall forward all “cash” or “checks” received either directly or from an employee as witness fees and a photocopy of the subpoena to the Records Management Department, Attn: Karen Pare, Administrative Assistant, 19 Staniford Street, 4<sup>th</sup> Floor, Boston, MA 02114. All cash and all checks must be accompanied by a memorandum using the attached form (see Attachment 1).
  - b. In addition, the supervisor must send a photocopy of the Memorandum and the Subpoena to the Keeper of the Records, ICS, 19 Staniford Street, 4<sup>th</sup> floor, Boston, MA 02114 and to the Legal Department at 19 Staniford Street, 5<sup>th</sup> Floor, Boston, MA 02114.
4. Administration and Processing. The Administrative Assistant in the Records Management Department shall process all cash and checks received with a subpoena for deposit into the Commonwealth’s “General Fund.”

**Attachment 1, Section VI: Witness Fees: Accountability, Administration, and Processing.**

*Commonwealth of Massachusetts*

Division of Unemployment Assistance  
Division of Career Services  
Division of Apprentice Training

Memorandum

TO: Karen Pare, Administrative Assistant  
Records Management Department

FROM: \_\_\_\_\_  
(Position/Title)

\_\_\_\_\_  
(Address)

RE: Receipt of Witness Fee

DATE: \_\_\_\_\_

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Attached, find a check/cash in the amount of \$ \_\_\_\_\_, issued to \_\_\_\_\_, an employee whose position is \_\_\_\_\_. This employee was served with a subpoena in his/her official capacity as the \_\_\_\_\_ in the matter of \_\_\_\_\_ v. \_\_\_\_\_.

If you have any questions regarding this matter, please contact me at (\_\_\_\_) \_\_\_\_ - \_\_\_\_\_.

\_\_\_\_\_  
Printed Name:  
Title:

c: Keeper of the Records  
Legal Department