


<p>Department of Public Safety and Correctional Services</p>  <p>Internal Investigative Unit Procedures</p>	<p><b>Procedure Number: A01.A.09.006.002/IIU.020.0004</b></p>
	<p><b>Title: Subpoena — Authority and Requesting Issuance</b></p>
	<p><b>Effective Date: Draft Dated: August 27, 2007</b></p>
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**.01 Purpose.**

This document establishes policy and procedures for obtaining a subpoena related to Department of Public Safety and Correctional Services (Department) and Internal Investigative Unit (IIU) activities.

**.02 Scope.**

This directive applies to IIU employees.

**.03 Policy.**

- A. An IIU employee shall comply with statute, regulation, and judicial rule when requiring witnesses to appear and testify or provide documents related to IIU duties and responsibilities.
- B. The IIU shall establish, maintain, and comply with procedures for obtaining a subpoena from the Commissioner.

**.04 Authority/Reference.**

- A. Correctional Services Article, §§3-101, 3-203, 3-204, 5-101, 5-202, and 10-701, Annotated Code of Maryland.
- B. Secretary’s Department Directive 04-2005 dated March 10, 2005.

**.05 Definitions.**

- A. In this document, the following terms have the meanings indicated.
- B. Terms Defined.
  - (1) “Director” means the Director of the IIU.
  - (2) “Commissioner” means the Department’s Commissioner of Correction or Commissioner of Pretrial Detention and Services.

- (3) Subpoena.
  - (a) “Subpoena ad testificandum” means an order directed to an individual commanding the individual to appear at a location, on a certain day, and at a certain time to give testimony.
  - (b) “Subpoena duces tecum” means an order directed to an individual commanding the individual to appear at a location, on a certain day, and at a certain time and to produce documents.

**.06 Responsibility/Procedure.**

- A. The Commissioner may issue a subpoena for:
  - (1) A witness to appear and testify at an official Department proceeding; and
  - (2) Production of a document that is related to a Department proceeding.
- B. If an IIU employee is unable to voluntarily obtain testimony or a document related to an IIU case, the IIU employee may apply to the Commissioner for a subpoena requiring an individual to appear and testify or provide a document, or both.
- C. An IIU employee requesting the Commissioner to issue a subpoena shall:
  - (1) Submit the request in written format to the Director, or a designee;
  - (2) Include the significance of the testimony or document to the IIU activity;
  - (3) If the subpoena is for the production of a document include:
    - (a) The official custodian of the document;
    - (b) A requirement for a statement from the official custodian that the requested and produced document:
      - (i) Is a true and correct copy of the requested document;
      - (ii) Was prepared by an individual familiar with the nature of the request and according time dates and times specified in the subpoena; and
      - (iii) Was prepared and maintained as the regular course of business for the party commanded to provide the document; and
  - (4) Complete a draft subpoena in a format approved by the Director.
- D. The Director, or a designee, shall review a request for a subpoena:
  - (1) To ensure that the request meets applicable requirements as to content and format;
  - (2) If acceptable, assign the appropriate control number and record the request in the control log maintained for that purpose; and

- (3) Forward the request to the Commissioner for consideration.

E. The Commissioner shall:

- (1) Review, or have, the request reviewed;
- (2) Decide to sign and issue the subpoena or refuse the request; and
- (3) Return the original of the issued subpoena or declined request to the Director.

F. The Director, or a designee, shall:

- (1) Ensure that a copy of the issued subpoena or the declined request for a subpoena is placed with the control log and; and
- (4) Return the original signed subpoena or declined request for a subpoena to the IIU employee initiating the request.

G. An employee receiving a signed subpoena or declined request for a subpoena shall:

- (1) Include a copy of the document in the appropriate IIU case file;
- (2) If the subpoena was issued, take steps, or have steps taken, to serve the subpoena as indicated in the subpoena; and
- (3) Record the result of service or attempt to serve in the investigative report.

**.07 Attachments.**

There are no attachments to this document.

**.08 History.**

- A. This document replaces IIU Subpoena Authority of Commissioner of Correction dated September 4, 2002.
- B. This document supercedes any current IIU policy or procedure with which it may be in conflict.