

## LARA Subpoena Process

Subpoena requests received by the Department will be logged and tracked by the LARA FOIA Office. The Agency/Bureau/Commission Director (Director) is responsible for coordinating the response to the subpoena.

- A. When a LARA Agency/Bureau/Commission Director receives a Subpoena for **records**, they should immediately send an electronic copy of the subpoena to the LARA FOIA Office via email, noting the response due date in the transmittal. The Director must either redact Private Identifying Information (PII) or send the Subpoena in encrypted format. (PII instructions to be provided.)
- The Director is responsible for the Subpoena response. An electronic copy of the final response should also be sent to the LARA FOIA Office.
  - The Director determines whether privacy and confidentiality are at issue.
    - o If an Authorization for Release of Information accompanies the Subpoena, the Director shall ensure the requested information is provided. If records sent via email, they must be encrypted in the appropriate PII format.
    - o If privacy and confidentiality are at issue, the Director should contact their assigned AAG for advice and consider whether to seek a protective order. The Director may also contact the Legal Risk Officer to discuss.
  - No Responsive Records: The Director notifies the Requester with appropriate writing that responsive records do not exist.
  - Have Responsive Records: If the Director determines the Subpoena involves controversial, high-profile, and/or unique situations they should contact the Legal Risk Officer to discuss handling.
  - Director should contact their assigned AAG (if they have one) or contact the Legal Risk Officer to discuss concerns that may lead to challenging the subpoena.
  - Director is responsible for retrieval, coping, and redacting (if applicable) requested information/records and sending the appropriate records to the Requester. If necessary, the response shall include a certification that a true copy of the requested records are being provided, and a statement that “The Department conducted a thorough search of its electronic databases and other records, and I certify that, to the best of my knowledge, information, and belief, it has no additional records responsive to the request.” [See Subpoena Certification Template]
  - Governmental Agencies are not charged copy fees.
- B. If the Director receives a Subpoena requiring **staff attendance** to testify in non-routine hearings or trials, the Director should discuss the request with the Legal Risk Officer.
- o If attendance is required because of an employee’s specialized knowledge, an AAG may be asked to be involved.