

# ST. FRANCOIS COUNTY PROSECUTING ATTORNEY

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## Subpoenas – An Effective Investigative Tool

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Sometimes, information that you want or need for an investigation is not given freely. If you do not yet have probable cause or a suspect identified, a search warrant may not be granted by a judge. Even if it is, if the information you seek is not overly invasive, a search warrant can be quite a hassle. So then, what is the middle ground?

Investigative Subpoenas.

Missouri law authorizes prosecuting attorneys to issue investigative subpoenas with a judge's assent. These subpoenas can demand a huge amount of information, including identification of account owners for social media companies, internet service providers, and cell phone accounts. You can obtain financial records, medical records, surveillance video, and more. This opens the door to a wealth of information in a criminal investigation that can create solid leads, identify a suspect, or deliver clearly inculpatory evidence against the suspect.

To encourage and facilitate the use of these subpoenas, we have created this guide and provided a process and template for officers to follow. You can even obtain a court-issued subpoena without leaving your office!

### 1. Determine Whom to Serve

All subpoenas are proper legal process. As such, they must be directly addressed to the responsible party that would hold the information you seek. This also means that you must have an address for the person, organization, or company that they accept legal process at. A guide of commonly subpoenaed entities can be found on our website.

### 2. Clearly Define what is being Sought

Subpoenas do not have to be as specific as a search warrant, but they need to be specific enough that the person or entity served with the subpoena can reasonably comply. Subpoenaing all medical records of a subject as opposed to medical records from a specific date makes a huge difference in the ability to comply. The same goes for electronic records – providing IP login and logout times and addresses for a week's time is far easier than asking for the same information for the lifetime of the account.

### 3. Identify to Whom the Records will be Sent

A subpoena for records must clearly indicate whom the records or material shall be sent to. Many times, records will not be released to anyone other than the requester, even if you work for the same agency. The person serving the subpoena and the person receiving the records may be different.

### 4. Send the Subpoena to Us

Once you have prepared your subpoena, send it to us for review at [receptionist@sfcgov.org](mailto:receptionist@sfcgov.org). When sending the subpoena, clearly indicate in the subject line that it is for the on-call attorney. For example: “On-Call Attorney – Investigative Subpoena Request.” Alternatively, you can bring the subpoena to our office physically during business hours for a review. Please call ahead to be sure we are available.

Once received we will make a quick spot check to ensure the request is not overly broad. If we feel the subpoena is sufficient, we will sign it electronically and send it back to you via email.

### 5. Send the Subpoena to a Judge

All subpoenas require a judge’s signature to be issued by the court. We will provide an email address for you to send the subpoena to when our attorneys sign your subpoena. You may also call us for this information. Once the judge has signed off on the subpoena, it will be sent back to you.

### 6. Get a Court Number

Send the completed subpoena to the Criminal Division. You may email it to them, or you can take a physical copy for them to process. Contact the Criminal Division for their email address or fax number. Once a court number is assigned to the subpoena, it is ready to be served.

### 7. Serve and Return the Subpoena

Serve the subpoena to the entity described. After doing so, complete the affidavit at the bottom of the subpoena and return it to the criminal division for processing.