

## United States Marshals Subpoenas and Records Requests - Compliance with Touhy Regulations

If you are issuing a subpoena to a Deputy United States Marshal or a Task Force Officer who is a member of a United States Marshals Service (USMS) task force or are issuing a subpoena for USMS records in connection with pending litigation, your subpoena request is subject to the United States Department of Justice's Touhy Regulations at [28 CFR § 16.21](#), *et seq.*<sup>1</sup> Accordingly, to process your subpoena, you must forward a statement along with the subpoena that provides the anticipated scope of the witness's testimony and how that testimony is relevant to the proceeding, or the relevancy of requested records to the proceeding, in order to comply with federal regulations. *See e.g. 28 CFR § 16.22* (c) and (d) ("If oral testimony is sought by a demand in any case or matter in which the United States is not a party, an affidavit, or, if that is not feasible, a statement by the party seeking the testimony or by his attorney, setting forth a summary of the testimony sought and its relevance to the proceeding, must be furnished to the responsible U.S. Attorney."). This information will be reviewed by the USMS Office of General Counsel along with the local United States Attorney's Office in processing any request for testimony or records. The witness may not provide case information, appear, or testify (or provide any United States Marshals Service records) without written approval from the United States Attorney's Office and the Office of General Counsel.

To facilitate the processing of your subpoena under the Touhy regulations, you may provide this required information in writing to the Deputy Marshal or Task Force Officer along with the subpoena. The Deputy Marshal or Task Force Office will then include your information to the Office of General Counsel along with the subpoena. It is also important to provide the Deputy Marshal or Task Force Officer with the name of the requesting attorney, along with an email address and direct phone number. This information allows us to easily follow up on the subpoena or scope and relevance statement with any questions.

The Office of General Counsel will not authorize testimony (or the disclosure of records), *inter alia*, of the investigative techniques and efforts the USMS undertakes to locate fugitives (*see 28 CFR §16.26(b)(5)* (prohibiting disclosures where "[d]isclosure would reveal investigatory records compiled for law enforcement purposes, and would interfere with enforcement proceedings or disclose investigative techniques and procedures the effectiveness of which would thereby be impaired."). The disclosure of such information is subject to law enforcement and investigative privileges. Other applicable privileges and confidentiality laws may also prohibit the release of USMS records and are determined on a case-by-case basis.

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<sup>1</sup> All requests for **Body Worn Camera recordings** have a separate process and should be submitted to this email box: [OGCBWCReview@usdoj.gov](mailto:OGCBWCReview@usdoj.gov). Records **unrelated** to a pending case or investigation must be sought through the Freedom of Information Act (**FOIA**) process and should be submitted to this email box: <https://foia.usmarshals.gov/>