

	Ben Lomond Fire Protection District	Policy # 1090 Date 3/26/90
	SOP GENERAL INFORMATION	TITLE: Subpoenas Rev Date 06/2012

1090.1 The Ben Lomond Fire Protection District, in compliance with the Government Code of the State of California, has established the following procedure regarding employees receiving a subpoena in the course of the employee's duties. This SOP was created in order to insure that subpoenas are properly received and forwarded to the concerned individuals. This procedure was also created to ensure that the personnel receiving subpoenas receive assistance necessary from the Fire District.

1090.2 DEFINITIONS

1090.2.1 SUBPOENA: A legal writ requiring the person named to appear as a witness before a court or other tribunal at a specified time, date and place.

1090.2.2 CUSTODIAL OF RECORDS: The person to be known as the "Custodian of Records" for the Ben Lomond Fire Protection District shall be the Fire Chief or his authorized representative.

1090.2.3 PEACE OFFICER: The word peace officer shall mean all safety members of our District as used in the Government Code of the State of California.

1090.3 RESPONSIBILITIES

1090.3.1 All personnel are responsible to follow the procedures outlined in this SOP when receiving a subpoena..

1090.4 PROCEDURES

1090.4.1 CIVIL SUBPOENA - Whenever an employee of Ben Lomond Fire Protection District is required to appear as a witness before a court or other tribunal in a civil action or proceedings in connection with a matter regarding an event or transaction which he/she has perceived or investigated in the course of his/her duties, a subpoena shall first be served by delivering a copy to such employee personally or to the Ben Lomond Fire Protection District office.

Only a Chief Officer of the Ben Lomond Fire Protection District can receive subpoenas for other employees of the Ben Lomond Fire Protection District. Subpoenas requiring the release of records shall be forwarded to the Custodian of Records.

In either case, the subpoena will be checked for compliance with law. To be in compliance with law the subpoena must indicate that it is being served to a peace officer (safety member of our department).

The party of whose request such subpoena is issued shall reimburse the Ben Lomond Fire Protection District for the full cost to the District incurred in paying the employee his/her salary or other compensation for traveling expenses, for each day that such employee is required to remain in attendance pursuant to such subpoena. The amount of one hundred fifty dollars (\$100.00) shall be deposited with the Ben Lomond Fire Protection District and proof of that deposit shall be filed with the clerk of the court or with the tribunal prior to the issuance of the subpoena.

If the actual expense should later prove to be less than the amount deposited, the excess of the amount deposited shall be refunded.
If the actual expenses should later prove to be more than the amount deposited, the difference shall be paid the Ben Lomond Fire Protection District by the party at whose request the subpoena is issued.

No employee of the Ben Lomond Fire Protection District shall be ordered to return by the court for subsequent proceedings beyond the day stated in the subpoena referred to or the day upon which such witness appeared pursuant to the provisions of the law, unless the party at whose request the witness is ordered to return, shall first deposit with the Clerk of the Court or with the tribunal the same sum required to be deposited for the issuance of a subpoena at the first instance.

If a court continues a proceeding on its own motion, no additional deposit may be required prior to the issuance of an order directing such employee to appear on the date the proceeding is continued.

The employee, who is obliged by a subpoena issued pursuant to the Government Code to attend as a witness, shall receive the salary or other compensation to which he/she is normally entitled. This entitlement also includes expenses incurred from the time that he/she travels to and from the place where the court or other tribunal is located and while he/she is required to remain at such place pursuant to such subpoena.

The employee shall also receive from the District the actual necessary and reasonable traveling expenses incurred by the employee in complying with such subpoena.

Any person who pays or offers to pay any money or other form of consideration for the services of an employee of the Ben Lomond Fire Protection District as a witness in any action or proceeding in connection with a matter regarding an event or transaction which he/she has perceived or investigated in the course of his/her duties in any manner other than provided in Government Code State of California, is guilty of a MISDEMEANOR and any employee of the Ben Lomond Fire Protection District who asks or receives any such payment except

as provided in the Government Code, State of California is likewise guilty of a MISDEMEANOR.

An employee of the Ben Lomond Fire Protection District who has been subpoenaed pursuant to the provisions of California law may, in lieu of attendance at the time specified in the subpoena, agree with the party at whose request such subpoena was issued to appear at another time or pursuant to such notice as may be agreed upon.

Whenever an employee of the Ben Lomond Fire Protection District appears as a witness pursuant to California law and reimbursement is not made as provided for in the law, then the Ben Lomond Fire Protection District being the public entity employing the employee, shall have standing to bring an action in order to recover such funds.

1090.5 CRIMINAL SUBPOENA - Whenever an employee is required to appear as a witness before a court or other tribunal in a criminal action or proceeding in connection with a matter regarding an event or transaction which he/she has perceived or investigated in the course of his/her duties, the cost shall be borne by the Fire District as to the employee's salary or other compensation to which he/she is normally entitled as well as actual necessary and reasonable traveling expenses incurred by the employee in complying with such subpoena.

Action outside the employment of the Fire District (civil or criminal action) where there is no involvement with the District, the individual will be paid normal witness fees from the courts or person(s) issuing said subpoena and without any compensation from the Fire District.