

## **4.9 – SUBPOENAS & GOING TO COURT**

**RATIONALE:** To prepare Centres in the event staff and/or the Centre records are subpoenaed to appear in court.

**STANDARD:** Supervised Parenting Time staff do not swear affidavits.

If staff or volunteers receive subpoenas related to their work at the Access Centre they must inform the Program Coordinator as soon as they receive it. The Program Coordinator is then to immediately inform the Program Director.

If staff or volunteers are requested by police to provide a statement to police concerning an incident that occurred at the Centre, they must inform the Program Coordinator as soon as they receive the request. The Program Coordinator is then to immediately inform the Program Director. A copy of the statement will be placed on file.

The Coordinator should ensure that a proper subpoena has been properly served prior to acting. Coordinator should consult the legal services of SEC (a subpoena is properly served when it is delivered by hand with the witness fee attached and the seal of the court).

### **POLICY 1– CASES WHERE CENTRE RECORDS OR PERSONNEL ARE SUBPOENAED BY THE COURT**

The Centre is prepared for the possibility that staff and/or records may be subpoenaed by the Court and establishes clear policies and procedures to follow in these situations.

#### **PROCEDURES:**

- The Centre ensures records are maintained according to required standards
- In the event that a staff is summoned to appear in court, the Coordinator contacts the attorney to explain that the Ministry's preference is that only Coordinators/designates or Supervisors attend court. If the staff is still to be summoned, then this will be abided by.
- When served with a summons at the Centre, staff are instructed to step out of the visit space and sign for it as discreetly as possible, if safe to do so (families cannot be left unsupervised). Reception and/or other staff consider what duties staff are undertaking at the time that the process server arrives before allowing the server to proceed.
- The Coordinator thoroughly reviews the file and identifies any issues that are likely to be addressed in court proceedings.
- For the purposes of testifying in court, the "record" is considered to include only the Observation Notes.
- The Centre exercises caution in communications with parties and lawyers.

- The Coordinator avoids giving opinions and ensures that only factual information is provided as documented in the Observation Notes.

**BEST PRACTICES:**

- SEC SAP's fee for court appearance is \$500.00 per staff, per day. This fee must be paid in advance of the court date. This is included in the Agreement for Service and communicated with clients clearly during the intake interview
- Training should be provided to Coordinators and staff on how to be a good witness.
- Centres should contact their local VWAP (Victim Witness Assistance Program) for witness support, if needed.

**POLICY 2 – CASES WHERE PARTIES ARE SUBPOENAED BY THE COURT**

The Centre does not allow subpoenas to be served to participants on site.

**PROCEDURES:**

- Staff inform participants at intake that subpoenas are not to be served on Centre property.
- If a court officer arrives at the Centre with the intent to serve a participant with a subpoena, staff make the officer aware of the program's policy in this regard.
- Any attempt by a court officer to serve a subpoena, whether successful or unsuccessful, is documented in the Observation Notes.
- The Centre can decide to suspend service for a family where a party has been served with a subpoena on site.

