



HEALTH & ENVIRONMENTAL TESTING LABORATORY

Forensic Chemistry Section

Subpoena & Courtroom Testimony Policy

1. Scope

This document sets forth the policies of the Health and Environmental Testing Laboratory's Forensic Chemistry Section (FCS) regarding the acceptance of subpoenas and courtroom appearances/testimony.

2. Subpoenas

All seized drug/forensic toxicology related subpoenas should be sent to:

subpoena.HETLforensics@maine.gov

Subpoenas related to Breath Alcohol testing information may also be sent directly to the named Breath Alcohol chemist.

Tentative trial date(s) will be added to the forensic subpoena calendar.

- FCS personnel shall inform the issuer of the subpoena and their unit supervisor of any conflict in availability to discuss possible solutions.

The issuer will be notified if any named FCS personnel are no longer employed and that an attempt to contact them will be made; contact information of former FCS personnel will not be distributed without their consent.

- If contact information for a former staff member is available to the FCS, the subpoena and the contact information of the issuer will be forwarded to the former staff member; the former staff member will be asked to contact the issuer directly.
- If no contact information for a former staff member is available to the FCS, the issuer of the subpoena will be informed of such.

3. Testimony

FCS personnel shall review the details and data of the case to present a complete, truthful & impartial representation of the facts. A pre-trial conference with the prosecutor or defense attorney is recommended to discuss any lines of questioning.

All FCS personnel shall present a professional appearance and demeanor to the court.

Subpoena & Courtroom Testimony Policy: Doc # = 233
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The FCS will not directly provide former personnel with information from the case record; in instances where former FCS personnel may be called to testify, a discovery request to the FCS by the issuer should be made prior to trial. Supply and review of the case record with former FCS personnel is the responsibility of the issuer.

If applicable, travel arrangements prior to the date of the testimony should be made.

4. Courtroom Monitoring

Observation and technical review of testimony shall be performed for each FCS chemist in each accredited discipline at least once per calendar year (if possible) by an individual currently certified in that discipline. If a certified FCS chemist is not available to observe a testimony in person, a review of the testimony transcript may be performed to satisfy the annual technical review requirement.

Other additional (non-technical) testimony monitoring may include:

- Observation/transcript review by the FCS Quality Manager or Forensic Technical Director
- Observation/transcript review by other FCS personnel who are not competent or participating in the annual proficiency testing program for the discipline
- Observation by the prosecutor, defense attorney, or judge

The applicable unit supervisor will evaluate the results of any testimony monitoring and take suitable action to remediate deficiencies as necessary.

5. Invoicing

Parties requesting testimony by FCS personnel will be charged a fee of \$100.00 per hour, including travel time.

- Fees are authorized by Maine law 22 M.R.S. § 565 & Schedule of Charges for Testing and Services Provided by Maine HETL Rule 10-144 Chapter 257).
- Fees will be charged for time spent at court even if testimony is ultimately not needed.

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