



## Policy and Procedure # 250

### Subpoenas and Search Warrants

Approval: \_\_\_\_\_ Effective Date: 5/8/24

#### POLICY:

Exceptional Foresters, Inc. (EFI) is subject to various federal, state, and local regulatory agencies, law enforcement departments, and governmental agencies. If an individual from a governmental agency appears, please immediately contact an administrator. Unless the official presents a search warrant, EFI employees are not to release information, formally or informally. EFI is committed to protecting its personnel when actions of the organization are being put under scrutiny. Employees will be given assistance during any investigative process.

#### PROCEDURE:

##### SUBPOENAS AND SUMMONS:

A subpoena is an order directing the recipient to appear and testify at a specific time and place. A subpoena duces tecum requires the recipient to produce certain documents listed in the subpoena on the date and time designated in the subpoena. A subpoena does not grant authority to search the premises. Should a process server attempt to serve an EFI employee with a subpoena or court summons for the individual employee or EFI as a whole the following actions shall be taken:

1. When EFI is a party named in a Summons and Complaint
  - a. If a process server attempts to serve a Summons and Complaint on EFI to an employee, the process server must be referred to the Executive Director. Only the Executive Director may accept service on behalf of EFI.
2. When both EFI and an employee are named as parties in a Summons and Complaint
  - a. If a process server attempts to serve an employee who is personally named in a complaint along with the EFI, the employee may accept service of the Summons and Complaint only on his or her own behalf. In addition, the employee must immediately notify the Executive Director.
  - b. The process server must be referred to the Executive Director for service of the Summons and Complaint on EFI. Only the Executive Director may accept service on behalf of EFI. No other EFI Employee is authorized to accept service of process on EFI's behalf.
3. When an employee alone is a party named in a Summons and Complaint
  - a. A Work-Related Complaint
    - i. If the complaint, naming only the employee, is based on the employee's conduct within the course and scope of his or her employment with EFI, the employee must accept the complaint and contact the Executive Director immediately.



## Policy and Procedure # 250

### Subpoenas and Search Warrants

- b. A Non-Work-Related Complaint
  - i. If the complaint naming the employee is based on conduct occurring outside the course and scope of his or her employment with EFI, the employee shall act on his or her own behalf without involving EFI.
- c. Accepting Service on Behalf of Another Employee
  - i. An employee asked by the process server to accept service of a Summons and Complaint on behalf of another employee should not do so. Contact the Executive Director for instructions.
- 4. Subpoena relating to EFI employment
  - a. If an employee is served with a subpoena in his or her capacity as an employee or agent of EFI, he or she must contact the Executive Director prior to accepting service.

#### SEARCH WARRANTS:

A Search Warrant is a written court order entitling law enforcement to search a defined area and seize property which constitutes evidence of commission of the alleged crime described in the warrant. A Search Warrant is available only in criminal actions.

- 1. If a search warrant is presented at your work location, notify an administrator to assist you. (immediate supervisor, department directors, AOC)
- 2. Identify the agent in charge of executing the warrant.
  - a. Ask for a business card or record the name, title, agency, and telephone number of the agent.
  - b. Ask for a copy of the warrant and any affidavit submitted to the court to obtain the warrant.
  - c. Have the agent identify the prosecutor by name and phone number, if that person is not indicated on the document.
- 3. Inform the agent in charge that an administrator has been contacted and is on the way. Request agent in charge not to proceed until the administrator arrives.
- 4. If agent will not wait for the administrator to arrive, take the following steps to monitor the search:
  - a. Carefully read the warrant.
  - b. Make sure the warrant is signed by a judge or magistrate. If there is any discrepancy, notify the agent in charge.
  - c. Determine the scope of the warrant, the area to be searched and type of evidence to be seized. A Search Warrant permits the designated agent to search and seize property. If there is any discrepancy between the scope of the search document and the search actually conducted by the agent, notify the agent in charge. Attempt to assist the agent in retrieving those documents that are the subject of the search.
  - d. Persons executing the warrant may ask you questions. It is your choice whether or not you want to speak with an agent; you are not required to do so.



## Policy and Procedure # 250

### **Subpoenas and Search Warrants**

- e. Monitor the search, but do not impede or obstruct.
- f. Photocopy or photograph each item seized. If the agent in charge refuses to permit you to photocopy, record in detail all items seized.
- g. Agents sometimes number the rooms that they enter. Record the numbering scheme.
- h. Request backup copies of all documents and computer disks, etc. before agents seize computers.
- i. If agents attempt to seize privileged (e.g. attorney/client privileged communications) documents or other documents that you believe are outside the scope of the warrant, notify the agent in charge. Ask that the privileged material be segregated from the other materials and marked as "privileged".
- j. The agent in charge will prepare an inventory of the items seized. Ask for a copy of that inventory before the agent leaves, but do not sign anything verifying the content or accuracy.
- k. Do not discuss the Search Warrant or any related events with the press or other employees other than the department director, immediate supervisor or the executive director.