

ARIZONA HOUSE OF REPRESENTATIVES – 56TH LEGISLATURE
INVESTIGATION PROTOCOLS

Lawmaking is inherently and inevitably a fact-driven endeavor. To fulfill its core constitutional obligation to enact laws that reform and improve the infrastructure of government while safeguarding the rights and liberties of citizens, the Legislature must understand how existing laws are being implemented, identify deficiencies or gaps in the legal landscape, and develop solutions. Courts have long recognized an intrinsic legislative “power to obtain information,” which “is broad and indispensable. It encompasses inquiries into the administration of existing laws, studies of proposed laws, and surveys of defects in our social, economic or political system for the purpose of enabling the [Legislature] to remedy them.” *Trump v. Mazars USA, LLP*, 140 S. Ct. 2019, 2031 (2020); *see also Fann v. Kemp*, 253 Ariz. 537 (2022). Arizona has formalized this investigatory function in statutes and rules that govern the issuance and enforcement of subpoenas compelling the production of documents or the provision of testimony.

This document outlines in general terms the customary practices and protocols of the Arizona House of Representatives, 56th Legislature (“House”), when conducting fact-finding inquiries, and is intended to provide greater transparency into the House’s investigative process.

Step 1: Request for Voluntary Cooperation

Because legislative investigations are most fruitful when they are collaborative, the House regards the enforcement of compulsory process as a last resort, not a routine tool. Accordingly, should the Speaker or a committee chair wish, in discharging their legislative duties, to elicit information from a third party, the legislator usually will send a letter to the third party requesting the voluntary sharing of relevant facts or documents. If the letter recipient is a public officer or public body, the Speaker or chair may invoke a right to obtain the requested materials pursuant to a generally applicable statute, such as the Arizona Public Records Act. The objective is to invite a productive dialogue with the letter’s recipient. If the recipient has concerns about the scope of the request or the burdens of compliance, the Speaker or committee chair will attempt to devise a mutually acceptable resolution.

Step 2: Subpoena Issuance

If the recipient of an informal request ignores the request or chooses not to engage in good faith discussions, then the Speaker or committee chair typically will issue and serve a subpoena, which imposes on the recipient a binding legal obligation to provide sworn testimony and/or divulge documentary materials to the House. Even after a subpoena is issued, however, the House’s goal remains facilitating the communication of information, and the Speaker or chair will continue to seek a negotiated solution that balances the House’s fact-finding imperatives with any logistical, privacy or other legitimate concerns raised by the subpoena recipient.

Step 3: Subpoena Enforcement

If the subpoena recipient remains obstinate in refusing to comply with the subpoena’s demands or to advance a productive resolution, then the Speaker may exercise his enforcement powers. Enforcement mechanisms may include the initiation of civil proceedings to obtain an injunction, writ or other judicial order compelling compliance; a resolution of contempt, which may entail a directive to the Sergeant at Arms to arrest and detain a contumacious subpoena recipient; and/or a referral to a prosecuting agency for the pursuit of criminal charges.

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The foregoing is only an informational overview of the House's non-binding investigatory protocols. The protocols are subject to change at any time and without notice. The Speaker or committee chairs may, in their discretion and in accordance with applicable laws and rules, diverge from its terms in specific investigations. This document does not confer on any person any rights, privileges, or interests. The House, the Speaker, and the committee chairs fully reserve and do not waive any rights, privileges, or powers conferred on them by applicable laws or rules.