

# EARLY CAREER SECTION: WHAT HAPPENS WHEN WE GET SUBPOENAED?



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The notion of being subpoenaed is often a dreaded situation that can arise for any licensed professional, and can be especially daunting for an early career psychologist. We all know to be diligent on our notes and treatment plans in order to ensure that we are following ethical and legal regulations, while simultaneously offering the best care for our clients. However, there may come a time when our clinical judgment, ethical decisions, and treatment of a client will be questioned.

Recently, one of our own early career psychologists, Dr. Alex L. Andrade Jr. was subpoenaed. After learning about his situation, it felt like an opportunity to share his experience with other psychologists. In sitting down with Dr. Andrade, I sought to gain insight into his experience. As he reflected on his first receiving the subpoena, Dr. Andrade described imagining that many early career psychologists might also feel uncertain in this type of situation.

One of the questions that one might have is “What do I do first?” When a psychologist is subpoenaed, current ethical guidelines recommend that you must first clarify what the subpoena is requesting and how you should respond. Therefore, one should never ignore a subpoena and must always respond. However, this does not mean that the psychologist is permitted to release or discuss confidential information. Given the level of complexity involved in a legal matter, it is recommended to consult with experienced professionals. In addition, various psychological associations, including the American Psychological Association (APA), the California Psychological Association (CPA), and the Sacramento Valley Psychological Association (SVPA) offer free ethical resources to their members.

After consulting with the appropriate professionals to help you navigate your unique legal complexities, you then have to prepare yourself for the questioning. Once you are subpoenaed, you might be called into a deposition, or even into a courtroom where you are likely to be asked to answer several questions. Dr. Andrade shared that he was initially nervous about the deposition. However, he prepared himself by reviewing his client's file, including diagnostic considerations from the DSM and several other relevant factors specific to the particular client and context. He discussed feeling worried about presenting as confident and competent enough to defend his clinical decisions. In thinking of the developmental stage of an early career psychologist, many people can likely relate to feelings of doubt and uncertainty in the face of legal scrutiny.

Another element that I found interesting after speaking with Dr. Andrade was the financial aspect. After consulting with other psychologists, he learned that he could request financial compensation for his time. Which again, as an early career psychologist who has spent the majority of his time training in unpaid practica, it was a bit of a surprise to be reminded that he was now at a level where his professional time and knowledge should be compensated appropriately. This required additional research with fellow psychologists to learn about standard fee rates and negotiating tactics. In the end, he was adequately reimbursed for his time.

When asked what Dr. Andrade's key takeaways were, he said, "It is important to remember that you are the expert in working with your client." He mentioned that despite the worry and fear that can lead one to question oneself, it was important to remind himself what he did know. Dr. Andrade noted that as an early career psychologist, it might sometimes be difficult to exemplify our knowledge and expertise in the face of unfamiliar questioning, such as that from lawyers. Overall, being informed about the process of responding to a subpoena and knowing about the available resources is one of the primary ways that early career psychologists can prepare themselves to confidently justify their clinical decisions.

How to deal with a subpoena. (n.d.). Retrieved February 27, 2018 from <http://www.apapracticecentral.org/update/2008/12-17/subpoena.aspx>