§ 610.25 Securing attendance of witness by subpoena; possession of physical evidence.

1. Where a subpoena duces tecum is issued on reasonable notice to the person subpoenaed, the court or grand jury shall have the right to possession of the subpoenaed evidence. Such evidence may be retained by the court, grand jury or district attorney on behalf of the grand jury.

2. The possession shall be for a period of time, and on terms and conditions, as may reasonably be required for the action or proceeding. The reasonableness of such possession, time, terms, and conditions shall be determined with consideration for, among other things, (a) the good cause shown by the party issuing the subpoena or in whose behalf the subpoena is issued, (b) the rights and legitimate needs of the person subpoenaed and (c) the feasibility and appropriateness of making copies of the evidence. The cost of reproduction and transportation incident thereto shall be borne by the person or party issuing the subpoena unless the court determines otherwise in the interest of justice. Nothing in this article shall be deemed to prohibit the designation of a return date for a subpoena duces tecum prior to trial. Where physical evidence specified to be produced will be sought to be retained in custody, notice of such fact shall be given the subpoenaed party. In any case where the court receives or retains evidence prior to trial, it may, as may otherwise be authorized by law, grant the issuing party a reasonable opportunity to inspect such evidence.