



How to Issue a Subpoena

1. Basic Information

Subpoenas are a resource that generally do two things:

Subpoena to Appear

- A Subpoena to Appear requires someone to attend a scheduled case event. For example: a deposition, hearing, or trial.
- The case event must be scheduled before the subpoena will be issued.
- It must be personally served no later than 48 hours before the date of the event.

Subpoena to Produce

- A Subpoena to Produce requires someone to provide you documents or other potential evidence.
- Or it can require a witness to bring certain documents with them to a case event. (Also known as a *subpoena duces tecum*.)

For more info, review C.R.C.P. 45, C.R.C.P. 345, and C. R. Crim. P. 17.

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2. Step-by-Step Guide

Terms defined on [page 3](#).

For Criminal Cases, start at Step 1.

For Civil Cases, start at Step 2.

Step 1 – Request Permission

Ask the Court for permission to issue a subpoena.

1) File with the Court:

[JDF 85](#) – Motion and Order to Issue a Subpoena.

If you are requesting **privileged documents** from the victim, also file:

[JDF 85.1](#) – Certificate of Good Faith.

Note: Be sure to read Section 2 of the form for added requirements that deviate from this guide.

2) If the Court grants your request, move on to Step 2.

Step 2 – Paperwork

1) Fill out a separate Subpoena for each witness.

[JDF 80](#) – District Court Subpoena. Or,

[JDF 80.2](#) – County Court Subpoena.

2) Bring the Subpoenas to the Clerk’s Office for signature.

3) For each subpoena, also print

[JDF 80.1](#) – Notice to Subpoena Recipient.

[JDF 98](#) – Return of Service.

Note: Just do the **case caption**.

Step 3 – Write a Check

- 1) For each witness, you will need to cover the cost of travel to the court event.
- 2) As of January 1, 2022, that is 53-cents per mile.
- 2) Calculate the travel distance from their home to the place listed in the subpoena. Write a check for that amount to the witness.
- 3) See C.R.S. § 13-33-103 and C.R.S. § 24-9-104 for more info.

Step 4 – Formal Notification

- 1) Give the paperwork and mileage check to a **process server**.
 - Someone must formally give those items to each witness you subpoena.
 - You cannot be the one who completes service.
 - Contact the Sheriff's office in the county where the witness lives or works. Or,
 - Hire a professional **process server**.
- 2) The **process server** completes [JDF 98](#) - Return of Service.
- 3) File the Return of Service with the court.

3. Common Terms

Case Caption

The boxes at the top of the form. It contains the court's address, parties' names, the filer's contact information, and the case number.

Privileged Documents

Records protected by law. For example, school or medical records. See C.R.S. § 13-90-107.

Process Server

Someone (not you) who delivers court paperwork. This service of process lets a person know what they are required by the Court to do.

4. Fees

There is no filing fee.

You do need to pay the witness for their travel. See [Step 3](#), on page 3 for more info.

5. All Forms *(In numerical order)*

www.courts.state.co.us/Forms

[JDF 80](#) – District Court Subpoena.

[JDF 80.1](#) – Notice to Subpoena Recipient.

[JDF 80.2](#) – County Court Subpoena.

[JDF 85](#) – Motion and Order to Issue a Subpoena.

[JDF 85.1](#) – Certificate of Good Faith.

[JDF 98](#) – Return of Service.

6. ADA Information

For reasonable accommodations under the Americans with Disabilities act contact the court's ADA coordinator:

www.courts.state.co.us/Administration/HR/ADA/Coordinator_List.cfm

7. Legal Advisory

These are basic instructions for informational purposes only. They do not constitute legal advice. If you choose to represent yourself, you are bound by the same rules and process as a lawyer. If you do not understand this information, please contact a lawyer.