



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.
- Keep in mind that a subpoena may need to be personally served a minimum time before an event to be enforceable (for example, 48-hours for Civil Court Events, 7 days for a deposition, etc.).

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 tucum*.)

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.

a) File with the Court:

JDF 85 – Motion and Order to Issue a Subpoena.

JDF 80.3 – Subpoena Affidavit.

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.

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

Step 2 – Paperwork

a) Fill out a separate Subpoena for each witness.

JDF 80 – District Court Subpoena. Or,

JDF 80.2 – County Court Subpoena.

b) Complete and attach an affidavit for each Subpoena.

JDF 80.3 – Subpoena Affidavit

c) Bring the Subpoena and Affidavit to the Clerk’s Office for signature.

d) For each subpoena, also print

JDF 80.1 – Notice to Subpoena Recipient

JDF 98 – Return of Service

Note: Just do sections A to C.

Step 3 – Write a Check

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

Step 4 – Formal Notification

- a) 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**.
- b) The **process server** completes JDF 98 - Return of Service.
- c) File the Return of Service with the court.

3. Common Terms

Privileged Documents

Records protected by law. For example, victim's compensation, 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. Forms *(In numerical order)*

www.coloradojudicial.gov/self-help-forms

[JDF 80] – District Court Subpoena

[JDF 80.1] – Notice to Subpoena Recipient

[JDF 80.2] – County Court Subpoena

[JDF 80.3] – Subpoena Affidavit

[JDF 85] – Motion and Order to Issue a Subpoena (criminal cases)

[JDF 85.1] – Certificate of Good Faith (criminal cases)

[JDF 98] – Return of Service.

6. ADA Information

For reasonable accommodations under the Americans with Disabilities Act (ADA) contact the local court's ADA coordinator: [www.coloradojudicial.gov/ada-coordinators].

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.