

KITSAP COUNTY DISTRICT COURT

GUIDE TO SUBPOENA A WITNESS

[THIS APPLIES ONLY FOR CONTESTED HEARINGS]

IMPORTANT NOTICE – District Court personnel are not permitted to fill out any forms. District Court personnel are also not authorized to give legal advice. District Court strongly encourages an unrepresented party to seek legal advice from an attorney. If you need help, please review the “*Guide To Website Forms*” on the District Court website.

The information contained here is intended to address the most frequently asked questions. It is not comprehensive and should not be construed as legal advice.

IMPORTANT NOTICE REGARDING LITIGANT CONFIDENTIAL INFORMATION – District Court needs information about every party involved in a case so the court can accurately identify the parties and be able to contact them.

If you have not already done so, please complete a Litigant Confidential Information Form and provide it to the court. You should also use the form to update information previously provided to the court. The form is available at many locations on the District Court website (www.kitsap.gov/dc).

HOW DO I GET A WITNESS TO APPEAR AT MY CONTESTED HEARING? You have the right to have witnesses be present at your contested hearing and to testify, including the officer who issued your ticket. You have two options if you want a witness to be present and to testify at your contested hearing –

- (1) Witness Voluntarily Appears. You can ask the witness to be present at your hearing. The witness may choose to voluntarily appear but does not have to do so. If you ask a witness to appear but the witness does not appear at your hearing, you will have to ask the court to continue the case so you can seek a subpoena. But the court may deny your request to continue which means you would have to proceed at your hearing without the witness being present.
- (2) Subpoena. If you want to compel (make) the witness appear for your contested hearing, the witness must be served with a subpoena. You cannot issue a subpoena. Only a judge, court commissioner, clerk of the court, or a lawyer may issue a subpoena. Infraction Rules For Courts Of Limited Jurisdiction (IRLJ) 3.1(a).
- Subpoena For Mitigation Hearing Prohibited. A subpoena is not permitted for a mitigation hearing. If you want to subpoena a witness to be present at the hearing on your infraction case, you must choose a contested hearing. IRLJ 3.1(a).

I AM NOT A LAWYER. HOW DO I GET THE COURT TO ISSUE A SUBPOENA? You must fill out an “*Infraction Subpoena Request*” form and return it to the court at least 14 days prior to your hearing date. The form must be completely and accurately filled out or the court may deny your subpoena request.

WHAT HAPPENS AFTER I FILE THE “INFRACTION SUBPOENA REQUEST”? After the court receives your completed “*Infraction Subpoena Request*” form, the court will decide whether to issue the subpoena you requested. If the court decides to issue the subpoena you requested, the court will provide the subpoena to you by email unless otherwise requested.

THE COURT ISSUED THE SUBPOENA. DO I HAVE TO DO ANYTHING ELSE? Yes. You are responsible for having every witness served (given a copy) of their subpoena.

The court will not serve the witness with the subpoena. That is your responsibility.

If a witness is not served with the subpoena, the witness will not know to appear at your contested hearing. You will have to ask the court to continue the case so you can serve the subpoena. But the court may deny your request to continue which means you would have to proceed at your hearing without the witness being present.

A “PROOF OF SERVICE OF INFRACTION SUBPOENA” MUST BE FILED WITH THE COURT. If a witness is served with a copy of the subpoena by anyone other than a law enforcement agency, a “*Proof Of Service Of Infraction Subpoena*” form must be completed, signed by the person serving the subpoena, and filed with the court. IRLJ 3.1(a); Superior Court Civil Rules (CR) 45(b).

You must make sure the completed “*Proof Of Service Of Infraction Subpoena*” form is filed with the court before the date of your contested hearing.

WHO CAN SERVE A SUBPOENA IN AN INFRACTION CASE? You are responsible for having a witness served with the subpoena you requested the court to issue. You are also responsible for any costs you incur to have a witness served with the subpoena. RCW 46.63.151. Service must occur as follows (IRLJ 3.1(a)) –

- Personal Service. If you are over 18 years of age, you may personally serve the witness with the subpoena by giving a copy of the subpoena to the witness. Any other person over 18 years of age may also personally serve a witness with a copy of the subpoena.
- Service By Mail. You may serve the witness by mailing a copy of the subpoena by first-class mail, postage prepaid, sent to the witness’s last known address. Service by mail shall be deemed complete upon the third day following the day upon which the subpoena was placed in the mail. Any other person may also serve a witness with a subpoena by mailing a copy of the subpoena to the witness.
- Service By Law Enforcement. Law enforcement may serve a copy of the subpoena on a witness. You need to contact the law enforcement agency where the witness resides. The agency will charge a fee to serve a witness.
- Service By Process Server. You may hire a process server to serve a copy of the subpoena on a witness. The process server will charge a fee to serve a witness.
- Place Of Abode. A witness may be served at their place of abode by leaving a copy of the subpoena with some person of suitable age and discretion then residing therein.

WHAT IF THE SUBPOENA IS FOR A LAW ENFORCEMENT OFFICER? If the subpoena you requested is for a law enforcement officer to appear at your contested hearing, you may personally serve a copy on the law enforcement agency. Local agencies may be served at the following locations –

- Kitsap County Sheriff's Office. Deputies may be served by delivering a copy of the subpoena to the Sheriff's Office located at 614 Division Street, Port Orchard, WA 98366. Staff will place the subpoena in the deputy's office mailbox.

The office is open Monday through Friday (except holidays) between 9:00 AM and 4:30 PM (closed noon to 1:00 PM).

Sheriff's Office phone number – (360) 337-7101.

- Washington State Patrol. Troopers may be served by delivering a copy of the subpoena to the Washington State Patrol Office at 4811 Werner Road, Bremerton, WA 98312.

The office is open Monday through Friday (except holidays) between 8:00 AM and 5:00 PM. Staff will place the subpoena in the trooper's office mailbox.

State Patrol phone number – (360) 473-0300.

SPEED MEASURING DEVICE EXPERT. If you want an electronic or laser speed measuring device (SMD) expert to testify at your contested hearing, you must complete a "*Request For Speed Measuring Device (SMD) Expert*" form. You must then complete the following three requirements –

- (1) Serve Prosecutor. Serve a copy of the completed "*Request For Speed Measuring Device (SMD) Expert*" form on the prosecutor by delivering or mailing the form to the Kitsap County Prosecutor's Office, 614 Division Street, MS-35, Port Orchard, WA 98367; and
- (2) File Original With Court. File the original of the completed "*Request For Speed Measuring Device (SMD) Expert*" form with the court; and
- (3) At Least 30 Days Before Hearing. Serve both a copy on the Prosecutor and file the original "*Request For Speed Measuring Device (SMD) Expert*" form with the court at least 30 days before your contested hearing.

You do not need to subpoena a speed measuring device expert. The prosecutor has the responsibility to subpoena a speed measuring device expert if you complete the above requirements.

If you do not complete the above requirements, a speed measuring device certificate is admissible as evidence at your contested hearing. A speed measuring device expert witness will not be required to appear at your contested hearing. IRLJ 6.6.