

# I Have A Lawyer. How Do I Get A Witness To Come To Court?

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You have a lawyer. This information will help understand what it takes to get a witness to come to court.

## Your Responsibility

- ∞ Your lawyer must tell the prosecutor the names, addresses of your witnesses and any statement they made.
- ∞ Your lawyer must make sure your witnesses appear for your hearing or trial.
- ∞ A witness can agree to voluntarily come to court on your behalf.
- ∞ If a voluntary witness does not come to court, the judge probably won't give you a continuance so they can testify.

## Will the judge order my witness to appear?

- ∞ Yes. A judge can order a person to come to court on your behalf. This type of order is called a subpoena.

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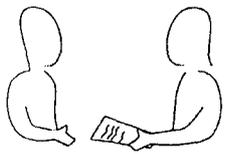
## Can I make a witness bring documents to court?

- ∞ Yes. The judge can order a witness to produce documents. This is called a subpoena duces tecum.



**Your lawyer will file the appropriate papers with the court.**

- ∞ Your lawyer will file the original and 3 copies of the subpoena or subpoena duces tecum with the court clerk.
- ∞ The court clerk will sign the *original* and stamp the copies.
- ∞ The clerk will give your lawyer the original and one copy. The clerk will keep one copy for the court file.



## How do I get the subpoena to the witness?

- ∞ A subpoena must be hand-delivered to a witness. This is called serving a subpoena.
  - ∞ You **can't** serve a subpoena in your own case.
  - ∞ Only certain people may hand-deliver a subpoena.
    - A peace officer
- OR**
- Any other person who is not a party and who is 18 years of age or older
- ∞ Your lawyer will get the subpoena served on the witness.

## Will I be charged to hand-deliver the subpoena?

- ∞ Sometimes. Usually a peace officer or company that hand-delivers documents charges money.

## Where can it be served?

- ∞ If your case is in a City, Justice of the Peace, or Municipal court, the subpoena may be served anywhere in Montana.

## The witness is served, what next?

- ∞ The person who served the subpoena must complete the bottom part of the original subpoena.
- ∞ The process server or your lawyer will file the completed original subpoena with the court clerk.

## The witness was served, but didn't show up for my hearing or trial?

- ∞ Your lawyer may ask the judge for a continuance to get them into court.
- ∞ Your lawyer may also ask the judge to issue a warrant to arrest the witness