



# County Court of Victoria Information Sheet: Subpoenas

## About the County Court Registry

The County Court's Registry is the official record keeper of pleadings and other documents that are filed in relation to a case. In Melbourne, the Registry is located on the ground floor of the County Court. The Registry's counter service operates from 9:00am to 4:00pm and the telephone service is available from 8:45am to 5:00pm on (03) 8636 6570. Both counter and telephone services are open Monday to Friday, excluding public holidays.

Please refer to the 'Circuits' page for contact details for the Court's circuit locations.

If you wish to issue a subpoena in a criminal or appeal proceeding, you can only do so using:

- Form 1D - subpoena to attend to give evidence
- Form 1E - subpoena to produce
- Form 1EA - subpoena both to attend to give evidence and to produce

The 'Notice to addressee and declaration' (previously known as a Form 1E) is now included in the 1E or 1EA subpoena and is no longer a separate form.

If the addressee (person you are issuing the subpoena to) resides interstate, you must also include a Form 2 Notice to Witness.

All forms are available on the County Court Website: [www.countycourt.vic.gov.au](http://www.countycourt.vic.gov.au).

## What do I need to know before I issue a subpoena?

- A subpoena cannot be issued if it requires the production of a document or thing in the custody of a Court;
- A subpoena cannot be addressed to more than one person;
- Your subpoena must be addressed to an individual if you require that person to attend and give evidence. You may address the subpoena to 'The proper officer' if the proper person is not known and you are seeking them to produce material only;
- A subpoena must identify the document to be produced and specify the date, time and place of production and last date for service.

## How do I issue a subpoena at the County Court?

The subpoena template is available on the County Court website: [www.countycourt.vic.gov.au](http://www.countycourt.vic.gov.au).

To have your subpoena issued at the County Court you must include the following on each subpoena:

- The case number;
- The 'last date for service' must be entered on the subpoena. This must be five (5) business days before the production date if in Victoria and fourteen (14) days if the addressee is interstate;

- The 'date for production' must be entered on the subpoena. This must be the date of your trial, circuit commencement date, or any other date ordered by the Judge/Court.

Three (3) completed copies of your subpoena – one (1) for the court, one (1) for you to serve on the addressee and one (1) for you to keep - must be lodged with the Court so that they can be issued. Once issued, the subpoena can be served on the addressee.

#### **How do I serve the subpoena on the addressee?**

You must serve the addressee personally with a sealed copy of the issued subpoena. If you are not in a position to personally serve the addressee, speak with a licensed process server who can do this on your behalf.

An affidavit of service must be completed and filed with the Registry once you have served the addressee.

#### **Do I need to serve the other parties in my case with the subpoena?**

Yes. You must serve the prosecution with a copy of the subpoena that has been issued by the court. You do not need to serve these parties personally, you may post or fax them a copy of the subpoena.

#### **What if there is an objection to my subpoena?**

If the addressee or other party objects to the production or release of any document or thing specified in the subpoena schedule, that person may notify the Registrar in writing of their objection. This should be done before the production date specified in the subpoena.

If this occurs, a Judge shall determine whether or not they need to comply.

#### **How do I inspect the subpoenaed material produced?**

No subpoenaed material can be viewed by any party in a criminal or appeal case unless an order has been obtained from a County Court Judge.

To obtain an order, you must contact the Criminal Registry on (03) 8636 6570 to obtain a hearing date for this application.

#### **Are there inspection/photocopy facilities at the County Court?**

Yes. The Melbourne County Court Registry has a space for inspection and copying of subpoenaed documents.

Once material has been released by a Judge for inspection/copying purposes, you can attend the ground floor registry counter. A photocopy fee is charged for any material copied in accordance with the Judge's order. This fee cannot be waived.

**I have been subpoenaed to give evidence at court but I am unable to attend. What should I do?**

You should immediately contact the person who has subpoenaed you and advise them that you are unable to attend. You must also advise the Court in writing, outlining your reasons for not attending.

**It is important to note that a Judge has the power to issue a warrant for your arrest if you do not comply with a subpoena.**

*Information included in this information sheet is of a general nature and does not constitute legal advice. It should not be relied upon for such purposes. Litigants are encouraged to obtain legal advice prior to taking any step in the legal process. The County Court of Victoria does not accept any liability for loss or damage incurred as a result of reliance placed upon the content of this information sheet.*