

# Subpoenas

A subpoena is a legal, written order compelling a witness to testify at trial or demanding them to appear at trial or deposition and produce documents or other physical things. You should subpoena any witness who will testify at trial, even people who support you. This way, if your witness doesn't show up, you might be able to get the evidence in court under an exception to the hearsay rule. To learn more about the hearsay rule, read this article.

In Menominee Tribal Court criminal proceedings, subpoenas can be issued if any party involved in a case asks. A Court can also do it on its own. The goal of the subpoenas are to force the testimony of witnesses or make someone present relevant physical evidence such as:

- Books
- Records
- Documents that are necessary for determining the case

Subpoenas cannot place an undue burden on the person providing the testimony or physical evidence. An undue burden is when the subpoena creates an unreasonable or unacceptable difficulty, expense, or inconvenience. Subpoenas forcing the witness to bring records or physical evidence with them is called a subpoena duces tecum.

You can ask for a subpoena by contacting the Clerk of Court. You can ask them to issue one. Your ask should include the name and full physical address of the witness.

If a tribal judge signs a subpoena and it will be served within the reservation, the Clerk of Court is authorized to issue subpoenas on behalf of the Court. Each subpoena must be signed by a tribal court judge and include the name of the court, the name of the person or description of the evidence being subpoenaed, the title of the proceeding, and the time and place for appearance or production.

A subpoena must be personally served to the witness. This can be done by Tribal Police Officers or other people appointed by the Court. Service is completed by delivering a copy directly to the named person. Service is also complete leaving it at the person's residence with a competent person who is sixteen or older who also lives there. Proof of service must be filed with the Clerk of Court. The proof of service must include the date, time, and place of delivery, and must be signed by the person who served the subpoena. This is done by filing a signed, notarized document stating that service happened. You should ask the Clerk for a copy of the filed proof of service.

If a witness fails to do what the subpoena says without a showing of good cause, they may be held in contempt of Court, and a bench warrant can be issued for their arrest.

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