



How to Serve a Subpoena in Oklahoma

A Step-by-Step Guide for Civil and Criminal Cases

Covers personal service, certified mail, witness fees,

subpoena duces tecum, and out-of-state subpoenas via UIDDA

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What Is a Subpoena?

A subpoena is a court order that tells a person to do something. It may tell them to come to court to testify as a witness. Or it may tell them to bring papers or other items to court.

In Oklahoma, there are two main types of subpoenas:

- Subpoena ad testificandum: Orders a person to come to court and testify as a witness.
- Subpoena duces tecum: Orders a person to bring documents, records, or other items to court.

Subpoenas are used in both civil cases and criminal cases. A civil case is a dispute between people or businesses. A criminal case is when the state charges someone with a crime.

This guide explains how to serve a subpoena in Oklahoma. It covers who can serve, how to serve, what fees to pay, and what to do if service fails.

Required Documents Checklist

Before you serve a subpoena, make sure you have all of these items ready. Use the checklist below to track your progress.

Item	Notes
<input type="checkbox"/> Subpoena form (signed by clerk or attorney)	Must be properly issued before service
<input type="checkbox"/> Witness fees for one day of attendance	Required by 12 O.S. 2004.1(B)
<input type="checkbox"/> Mileage allowance	Pay for round trip from witness's home to court
<input type="checkbox"/> Copy of subpoena for the person served	Give them their copy at time of service
<input type="checkbox"/> Affidavit of Service form	File with court after service is complete
<input type="checkbox"/> Return envelope (if mailing)	For certified mail with return receipt
<input type="checkbox"/> Photo ID (if serving in person)	Any person age 18+ may serve
<input type="checkbox"/> Out-of-state subpoena (if via UIDDA)	Submit foreign subpoena to Oklahoma clerk

Item	Notes
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Note: Witness fees and mileage must be tendered (offered) at the time of service if the person's attendance is demanded. 12 O.S. 2004.1(B)(1).

Service Methods Comparison

Oklahoma law allows several ways to serve a subpoena. Each method has different rules. Pick the one that works best for your case.

Method	How It Works	Requirements	Best For
Personal Delivery	Hand the subpoena copy directly to the witness	Any person age 18+ may serve; tender witness fees	Most reliable method
Certified Mail	Mail by certified mail, return receipt requested	Delivery restricted to addressee only; 12 O.S. 2004.1(B)(2)	Witnesses who live far away
Peace Officer	Sheriff or deputy serves the subpoena	Officer must serve in their county; 22 O.S. 711	Criminal cases
Alternate Delivery	Commercial courier or overnight delivery	Written or electronic receipt required; 12 O.S. 2004.3	Urgent requests

Key rule: Service of a subpoena may be accomplished by any person who is 18 years of age or older. 12 O.S. 2004.1(B)(1). This is different from serving a summons, which requires a licensed process server, sheriff, or specially appointed person.

Timeline and Deadlines

Subpoenas must be served with enough time for the witness to prepare and attend. These deadlines come from Oklahoma statutes.

Deadline / Rule	Time Frame	Source
Serve subpoena before trial date	Reasonable time before hearing	12 O.S. 2004.1(B)
Criminal subpoena service	Same manner as civil subpoenas	22 O.S. 712
Any person age 18+ may serve	No license required for subpoenas	12 O.S. 2004.1(B)(1)
Witness fees must be tendered	At time of service if attendance demanded	12 O.S. 2004.1(B)(1)
Proof of service (affidavit)	File promptly after service	12 O.S. 2004(G)(1)
Service by certified mail	Return receipt + delivery restricted	12 O.S. 2004.1(B)(2)
Out-of-state subpoena (UIDDA)	Submit to clerk in county where discovery sought	12 O.S. 3252
Subpoena duces tecum	Allow reasonable time to gather documents	Case law / court rule

Step-by-Step Procedure

Follow these steps to serve a subpoena in Oklahoma. Each step is important. Do not skip any steps.

Step 1: Draft the Subpoena

Start with a blank subpoena form. You can get forms from the court clerk or from OSCN.net. Fill in these details:

- The name of the court case
- The case number
- The full legal name of the witness
- The date, time, and place where the witness must appear
- Whether the witness must bring documents (subpoena duces tecum)

If you are not an attorney, have the court clerk sign and seal the subpoena.

Step 2: Calculate Witness Fees and Mileage

Oklahoma law requires you to pay the witness a fee for one day of attendance. You must also pay mileage for the round trip from the witness's home to the courthouse.

The exact witness fee amount is set by law. Verify the current rate with the court clerk. Mileage is paid at the rate allowed by Oklahoma law for state officers.

12 O.S. 2004.1(B)(1): "Service of a subpoena upon a person named therein shall be made by delivering or mailing a copy thereof to such person and, if the person's attendance is demanded, by tendering to that person the fees for one (1) day's attendance and the mileage allowed by law."

Step 3: Choose a Service Method

Pick one of the service methods from the comparison table above. Personal delivery is the most reliable. Certified mail works well for witnesses who live far away.

Remember: any person age 18 or older may serve a subpoena. You do not need a licensed process server.

Step 4: Serve the Subpoena

If serving in person, hand a copy of the subpoena directly to the witness. If the witness is not home, you may leave a copy at their dwelling house with a person age 15 or older who lives there.

If serving by certified mail, go to the post office. Use certified mail with return receipt requested. Make sure delivery is restricted to the addressee only. Keep your mailing receipt.

Step 5: Tender Witness Fees

At the time of service, offer the witness their fee for one day of attendance plus mileage. If the witness refuses the fees, write down that you offered and they refused.

Step 6: Complete the Affidavit of Service

After service is complete, fill out an Affidavit of Service. This is also called a Return of Service. The affidavit must include:

- The county where the subpoena was issued
- The name of the person who was served
- The date of service
- The place of service
- The method of service (personal, mail, etc.)

12 O.S. 2004(G)(2): "The return shall set forth the county of issuance, the name of the person served and the date, place and method of service."

Step 7: File the Affidavit with the Court

Take the completed Affidavit of Service to the court clerk. File it promptly. The affidavit is your proof that the subpoena was served.

12 O.S. 2004(G)(1): "The person serving the process shall make proof of service thereof to the court promptly."

Subpoena Duces Tecum

A subpoena duces tecum orders a person to bring documents or items to court. The name means "bring with you under penalty."

When you serve a subpoena duces tecum, you must:

- Describe the documents or items with enough detail so the witness knows what to bring
- Allow a reasonable time for the witness to gather the documents
- Pay witness fees and mileage just like a regular subpoena

You cannot use a subpoena duces tecum to get documents from someone who is a party to the case. For parties, use the discovery rules instead.

Out-of-State Subpoenas (UIDDA)

Sometimes you need to get testimony or documents from a person who lives in Oklahoma, but your case is in another state. The Uniform Interstate Depositions and Discovery Act (UIDDA) makes this easier.

Oklahoma adopted the UIDDA in 2021. It is found at 12 O.S. 3250 through 3257.

How to Use UIDDA to Serve an Out-of-State Subpoena

Follow these steps:

0. Get a subpoena issued by the court in the state where your case is pending.
1. Submit that foreign subpoena to a court clerk in the Oklahoma county where the witness lives.
2. The Oklahoma clerk will issue a local subpoena that matches the foreign subpoena.
3. Serve the Oklahoma subpoena using the methods described in this guide.

12 O.S. 3252: "A party must submit a foreign subpoena to a clerk of court in the county in which discovery is sought. The clerk shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed."

Important UIDDA Rules

- The Oklahoma subpoena must use the same terms as the foreign subpoena.
- You must include the names, addresses, and phone numbers of all attorneys in the case.
- A foreign attorney requesting an Oklahoma subpoena is not making a court appearance in Oklahoma.
- The witness can ask an Oklahoma court to quash (cancel) or modify the subpoena.
- 12 O.S. 3255: Applications to quash or modify must be filed in the Oklahoma county where discovery is sought.

Serving an Oklahoma Subpoena in Another State

If your case is in Oklahoma and the witness lives in another state, do the opposite:

Contact the court clerk in the state where the witness lives. Give them a copy of your Oklahoma subpoena. They will issue a local subpoena in that state. Then have it served under that state's laws.

Criminal Subpoenas

Subpoenas in criminal cases follow most of the same rules as civil cases. But there are a few differences.

Who Can Serve a Criminal Subpoena

A peace officer (sheriff or deputy) must serve any subpoena delivered to them. But a subpoena may also be served by any other person.

22 O.S. 711: "A peace officer must serve in his county, city, town or village, as the case may be, any subpoena delivered to him for service, either on the part of the state or of the defendant, and must make a written return of the service. A subpoena may, however, be served by any other person."

Service Method for Criminal Subpoenas

Criminal subpoenas are served the same way as civil subpoenas under 12 O.S. 2004.1.

22 O.S. 712: "Service of subpoenas for witnesses in criminal actions shall be made in the same manner as in civil actions pursuant to Section 2004.1 of Title 12."

This means any person age 18+ can serve a criminal subpoena. Service may also be by certified mail with return receipt requested.

Witness Fees for Criminal Cases

Just like in civil cases, criminal subpoenas require payment of witness fees for one day's attendance plus mileage. These fees must be tendered at the time of service.

Common Reasons Service Fails

Service of a subpoena can fail for many reasons. Learn from these common mistakes so you can

avoid them.

Reason	What Happened	How to Prevent It
Wrong address	Witness moved and did not update address	Use skip tracing to find current address
Witness evades service	Witness avoids answering door or phone	Try service at different times of day
No witness fees tendered	Failed to offer payment at service	Always have exact cash or check ready
Certified mail refused	Witness refused to sign for mail	Use personal delivery instead
Subpoena not signed/sealed	Clerk or attorney did not sign	Check subpoena before leaving court
Wrong person served	Served a family member with same name	Verify full legal name and birth date
Service too late	Subpoena served too close to trial	Serve at least 7-10 days before hearing
Affidavit filed late	Return not filed promptly	File affidavit within 1-2 days of service

What to Do If Service Fails

If you cannot serve the subpoena on the first try, do not give up. You have options.

Option 1: Make More Attempts

Try again at a different time of day. Try on a weekend. Try at the witness's workplace (if allowed). Oklahoma law requires "diligent efforts" before you can use other methods.

Oklahoma Administrative Code defines diligent efforts as at least three repeated attempts at different times of day or on different days.

Option 2: Try a Different Service Method

If personal delivery did not work, try certified mail. If certified mail was refused, go back to personal delivery. You can also use a commercial courier service.

12 O.S. 2004.3 allows alternate delivery by commercial courier or overnight delivery with a written receipt.

Option 3: Ask the Court for Help

If you still cannot serve the subpoena, file a motion with the court. Ask the court to:

- Allow service by another method (such as publication)
- Order the witness to accept electronic service
- Issue an order to show cause why the witness should not be held in contempt

12 O.S. 2004(C)(6): "If service cannot be made by personal delivery or by mail, a defendant may be served as provided by court order in a manner which is reasonably calculated to give actual notice."

Option 4: Subpoena Someone Else

If the witness cannot be found, you may need to subpoena a different witness. Or you may need to ask the court for a continuance (a new trial date) to allow more time for service.

This guide provides procedural information only. It is not legal advice.

Important Disclaimer

Not a law firm. This document provides procedural information only.

Verify all statutes, deadlines, and fees with the court before relying on this information.

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