

PROCEDURES TO SUBPOENA AN OFFICER OR WITNESS TO TESTIFY IN A CONTESTED INFRACTION HEARING

IRLJ 3.1(a) provides that a defendant may subpoena witnesses for a contested infraction hearing and that a subpoena may be issued by a judge, clerk of the court, or by a party's lawyer. *RCW 46.63.090* further provides that the person named in the Notice of Infraction may subpoena witnesses, including the officer. The subpoena process is as follows:

1. The defendant completes a subpoena, except for the signature block.
2. The defendant submits the completed subpoena for the Court Clerk's signature.
3. The defendant makes **3 (three)** copies of the completed and signed subpoena and files one copy with the court, files one copy with the prosecutor's office, and one copy is retained by the defendant.
4. The defendant serves the subpoena on a witness by:
 - a. Service is provided in *Civil rule 45(c)* which states that a subpoena may be served by any suitable person over 18 years of age by giving a copy of the subpoena to the witness or by leaving such copy at the place of his/her abode. Proof of service shall be made by completing the Certificate of Service. **Personal service should be done at least 7 (seven) days before the hearing IRLJ 3.1(a).**
 - b. Service by first class mail, postage prepaid, sent to the witness' last known address as provided in *IRLJ 3.1(a)*. Service by mail shall be deemed complete upon the third day following the day upon which the subpoena was placed in the mail. **Service by mail should be done at least 10 (ten) days before the hearing per IRLJ 3.1(a).**
5. The defendant serves the subpoena on a police officer by service to the City of Ferndale Prosecuting Attorney's Office at least **7 (seven)** days before the hearing. The Prosecuting Attorney's Office shall date-stamp both the defendant's copy of the subpoena and original. The original will then be transmitted by the Prosecuting Attorney to the officer at the Police Department.
6. Once the witness/officer is served, the person that served the subpoena completes the Certificate of Service. The defendant then makes a copy and retains it. The original for each witness served is filed with the Court prior to the hearing.
7. A copy of all subpoenas served should be served on the prosecutor's office by delivery to:

Ferndale City Prosecutor
David A. Nelson
301 Prospect Street
Bellingham, WA 98225

**MUNICIPAL COURT OF FERNDALE, WASHINGTON
COUNTY OF WHATCOM**

Ferndale Municipal Court v.

D.O.B.:

Respondent(s).

NO:

**SUBPOENA
(SB)**

THE FERNDALE MUNICIPAL COURT TO:

Name: _____

Address: _____

YOU ARE COMMANDED TO APPEAR:

On: _____ (Date) at _____ (Time) a.m./p.m.

Address: 5694 Second Avenue, Ferndale, WA 98248

to testify in the above matter and to remain in attendance until you have given your testimony or you have been dismissed or excused by the court.

**FAILURE TO COMPLY WITH THIS SUBPOENA MAY BE CONSIDERED CONTEMPT OF COURT
AND MAY RESULT IN YOUR ARREST.**

Dated: _____

Signature _____

Print or Type Name/Bar Number _____

cc: Witness
 Court
 Prosecuting Attorney

Address: _____

Phone: _____

CERTIFICATE OF SERVICE

This certifies that my name is _____ . I am 18 years of age or older. I am () a peace officer () not a party to this case.

() **Personal Service:** I served the following court documents: _____

to (name of party) _____
on (date) _____ at (time) _____
by giving the documents directly to them at this address: _____

() **Service by Mail:** I served the following court documents: _____

To (name of party) _____
On (date) _____ at (time) _____
by first-class mail, postage prepaid to this address: _____

I declare under penalty of perjury under the laws of the state of Washington that the statements on this form are true.

Signed at (city and state): _____ Date: _____

Signature of server

Print or type name of server

Law Enforcement Agency (if any)