

LCrR17 – Subpoena

LCrR17-1 Subpoena to Testify at a Hearing or Trial in a Criminal Case (Form AO-89).

(a) No Motion Required. A witness subpoena returnable at the time of trial or other hearing may generally be issued by the Court Clerk, in accordance with Fed. R. Crim. P. 17(a), except as provided in LCrR17-1(b)-(d).

(b) Motion Required – Unable to Pay. If a defendant is unable to pay witness fees, the defendant must file a sealed ex parte motion, in accordance with Fed. R. Crim. P. 17(b). A motion under this section shall be entitled:

(1) “Sealed Ex Parte Motion for Witness Subpoena.”

(c) Motion Required - Victim Records. If the subpoena requests the witness to bring personal or confidential records about a victim, a party must file a motion stating that victim notice has been provided; requesting authority to provide victim notice; or setting forth exceptional circumstances that justify foregoing victim notification, in accordance with Fed. R. Crim. P. 17(c)(3). If a defendant is unable to pay witness fees, the motion may also request fees. A motion under this section shall be entitled:

(1) “Motion for Witness Subpoena – Victim Records”; or

(2) “Sealed Ex Parte Motion for Witness Subpoena – Victim Records.”

(d) Attachments to the Motion. The movant must attach to the motion:

(1) The proposed subpoena; and

(2) A proposed order. The proposed order shall also be submitted to the Court following the Instructions for Providing Non-Electronically Filed Documents to the Court, available on the Court’s website.

(e) Referral. Unless otherwise ordered by the presiding judge, the Court Clerk shall refer all motions under LCrR17-1 to the magistrate judges.

(f) Additional Requirements. Motions under this rule are subject to the procedures, limitations, and requirements set forth in the Procedures for Criminal Subpoenas, available on the Court’s website.

LCrR17-2 Subpoena to Produce Documents, Information, or Objects in a Criminal Case (Form AO-89B).

(a) Motion Required. A motion shall be filed by any party seeking the issuance of a subpoena that orders the production of books, papers, documents, data, or other objects at a date, time, or place other than the date, time, or place of the trial, hearing, or proceeding at which they will be offered in evidence, in accordance with Fed. R. Crim. P. 17(c). If a defendant is unable to pay witness fees, the motion may also request fees. A motion under this section shall be entitled:

- (1) "Motion for Document Subpoena";
- (2) "Sealed Ex Parte Motion for Document Subpoena";
- (3) "Motion for Document Subpoena – Victim Records"; or
- (4) "Sealed Ex Parte Motion for Document Subpoena – Victim Records."

(b) Attachments to the Motion. The movant must attach to the motion:

(1) The proposed subpoena; and

(2) A proposed order. The proposed order shall also be submitted to the Court following the Instructions for Providing Non-Electronically Filed Documents to the Court, available on the Court's website.

(c) Referral. Unless otherwise ordered by the presiding judge, the Court Clerk shall refer all motions under LCrR17-2 to the magistrate judges.

(d) Additional Requirements. Motions under this rule are subject to the procedures, limitations, and requirements set forth in the Procedures for Criminal Subpoenas, available on the Court's website.

SUMMARY OF CHANGES

This new rule incorporates General Order 21-34 into the local criminal rules.