

Fairfax Circuit Court

Criminal Division

Subpoena Duces Tecum Requirements

The following information must be included in the request for issuance of a Subpoena Duces Tecum. No form is available in the Clerk's Office.

1. Defendant's Full Name
2. Circuit Court Case Number
3. Name and address of person or place with custody of the record
4. Description of record(s) being subpoenaed
5. Date the records are to be produced in the Clerk's Office
6. Sworn affidavit in support of the Subpoena Duces Tecum
7. Certificate of Service on opposing counsel
8. Clerk's fee of \$5.00 if defendant is pro se or if counsel is retained. Court appointed counsel and public defenders are not required to pay this fee.

All records subpoenaed in a criminal case MUST be made returnable to the Circuit Court Clerk's Office.

Be sure to file Subpoena Duce Tecum request *no less than 3 weeks prior* to the requested return date. Subpoenas being served in a jurisdiction other than Fairfax County will be processed by the Clerk's Office then mailed to the Sheriff's Department in that jurisdiction for service.

Records received and then quashed by the court will be sealed.

Pursuant to rule 3A:12, a subpoena for attendance of a witness or for production of documents may not be issued by the Clerk's Office, if the person or entity being served resides or is located outside of the Commonwealth of Virginia. The only exception is if the person requesting the Subpoena or Subpoena Duces Tecum files and affidavit with the request, stating that the party being served has agreed to accept service. Otherwise, the requesting party should follow the procedure for a Foreign Witness as provided in § 19.2-272 et seq. the 1950 Code of Virginia, as amended.