

1 **Rule 14. Subpoenas**

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3 **(a) Subpoenas requiring the attendance of a witness or interpreter and production or**  
4 **inspection of records, papers, or other objects.**

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6 (a)(1) A subpoena to require the attendance of a witness or interpreter before a court, magistrate  
7 or grand jury in connection with a criminal investigation or prosecution may be issued by the  
8 magistrate with whom an information is filed, the prosecuting attorney on his or her own  
9 initiative or upon the direction of the grand jury, or the court in which an information or  
10 indictment is to be tried. The clerk of the court in which a case is pending ~~shall~~ must issue in  
11 blank to the defendant, without charge, as many signed subpoenas as the defendant may require.  
12 An attorney admitted to practice in the court in which the action is pending may also issue and  
13 sign a subpoena as an officer of the court.

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15 (a)(2) A subpoena may command the person to whom it is directed to appear and testify or to  
16 produce in court or to allow inspection of records, papers or other objects, other than those  
17 records pertaining to a victim covered by Subsection (b). The court may quash or modify the  
18 subpoena if compliance would be unreasonable.

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20 (a)(3) A subpoena may be served by any person over the age of 18 years who is not a party.  
21 Service ~~shall~~ must be made by delivering a copy of the subpoena to the witness or interpreter  
22 personally and notifying the witness or interpreter of the contents. A peace officer ~~shall~~ must  
23 serve any subpoena delivered for service in the peace officer's county.

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25 (a)(4) Written return of service of a subpoena ~~shall~~ must be made promptly to the court and to  
26 the person requesting that the subpoena be served, stating the time and place of service and  
27 by whom service was made.

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29 (a)(5) A subpoena may compel the attendance of a witness from anywhere in the state.

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31 (a)(6) When a person required as a witness is in custody within the state, the court may order the  
32 officer having custody of the witness to bring the witness before the court.

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34 (a)(7) Failure to obey a subpoena without reasonable excuse may be deemed a contempt of the  
35 court responsible for its issuance.

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37 (a)(8) ~~Whenever~~ If a party has reason to believe a material witness is about to leave the state, is  
38 so ill or infirm as to afford reasonable grounds for believing that the witness will be  
39 unable to attend a trial or hearing, or will not appear and testify pursuant to a subpoena, either the  
40 party may, upon notice to the other, apply to the court for an order that the witness be examined  
41 conditionally by deposition. The party must file an affidavit providing facts to support the party's  
42 request. Attendance of the witness at the deposition may be compelled by subpoena. The  
43 defendant shall be present at the deposition and the court ~~shall~~ will make whatever order is  
44 necessary to effect such attendance. A deposition may be used as substantive evidence at the  
45 trial or hearing to the extent it would otherwise be admissible under the Rules of Evidence if the

46 witness is too ill or infirm to attend, the party offering the deposition has been unable to obtain  
47 the attendance of the witness by subpoena, or the witness refuses to testify despite a court order  
48 to do so.

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50 **(b) Subpoenas for the production of records of victim.**

51 (b)(1) No subpoena or court order compelling the production of medical, mental health, school,  
52 or other ~~non-public~~ privileged records pertaining to a victim shall be issued by or at the request  
53 of ~~the defendant~~ any party unless the court finds after a hearing, upon notice as provided below,  
54 that the records are material and the defendant party is entitled to production of the records  
55 sought under applicable rules of privilege, and state and federal law.

56 (b)(2) The request for the subpoena or court order shall identify the records sought with  
57 particularity and be reasonably limited as to subject matter.

58 (b)(3) The request for the subpoena or court order shall be filed with the court as soon as  
59 practicable, but no later than 28 days before trial, or by such other time as permitted by the court.  
60 The request and notice of any hearing shall be served on counsel for the victim or victim's  
61 representative and on the ~~prosecutor~~ opposing party. Service on an unrepresented victim ~~shall~~  
62 must be made or facilitated through the prosecutor. The prosecutor must make reasonable efforts  
63 to provide a copy of the request for the subpoena to the victim or victim's representative within  
64 14 days of receiving it.

65 (b)(4) If the court makes the required findings under subsection (b)(1), it ~~shall~~ must issue a  
66 subpoena or order requiring the production of the records to the court. The court ~~shall~~ will then  
67 conduct an in camera review of the records and disclose to the defense and prosecution only  
68 those portions that the ~~defendant~~ requesting party has demonstrated a right to inspect.

69 (b)(5) Any party issuing a subpoena for non-privileged records, papers or other objects  
70 pertaining to a victim must serve a copy of the subpoena upon the victim or victim's  
71 representative. Service on an unrepresented victim must be facilitated through the prosecutor.  
72 The prosecutor must make reasonable efforts to provide a copy of the subpoena to the victim  
73 within 14 days of receiving it. The subpoena may not require compliance in less than 14 days  
74 after service on the prosecutor or victim's representative.

75 ~~(b)(5)(6)~~ (b)(6) The court may, in its discretion or upon motion of either party or the victim or the  
76 victim's representative, issue any reasonable order to protect the privacy of the victim or to limit  
77 dissemination of disclosed records.

78 ~~(b)(6)(7)~~ (b)(7) For purposes of this rule, "victim" and "victim's representative" are used as defined in  
79 Utah Code ~~Ann.~~ § 77-38-2(2).

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81 (b)(8) Nothing in this rule alters or supersedes other rules, privileges, statutes or caselaw  
82 pertaining to the release or admissibility of an individual's medical, psychological, school or  
83 other records.

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85 (c) **Applicability of Rule 45, Utah Rules of Civil Procedure.** The provisions of Rule 45, Utah  
86 Rules of Civil Procedure, ~~shall~~ will govern the content, issuance, objections to, and service of  
87 subpoenas to the extent ~~that~~ those provisions are consistent with the Utah Rules of Criminal  
88 Procedure.