

**THE STATE OF TEXAS**

**SUBPOENA DUCES TECUM**

**County of {{subpoena.witness.mailing\_address.county}}**

Greeting, to any Sheriff or Constable of the State of Texas or other person authorized to serve subpoenas under Rule 176.5 of Texas Rules of Civil Procedure: You are hereby commanded to subpoena and summon the following witness:

**{%p if subpoena.witness.person\_type==”business” %}**

**CUSTODIAN OF RECORDS**

**{%p endif %}**

{{subpoena.witness.name\_full()}}

{{subpoena.witness.mailing\_address.line\_one()}}

{{subpoena.witness.mailing\_address.line\_two()}}

to be and appear before a Notary Public at {{subpoena.witness.mailing\_address.on\_one\_line()}} on or after {{subpoena.due\_date}}, **at the office of the summoned witness**. There to bring and produce the documents described on EXHIBIT A, attached to this subpoena, from {{subpoena.beginning\_production\_date}} through the date of the response and to complete and execute an affidavit for business records. Then and there to so do at the instance of {{case.client.name\_full()}}, represented by {{case.attorney.name\_full()}} Texas Bar No. {{case.attorney.bar\_number}} Attorney of Record, in that Certain Cause No. {{case.id}}, pending on the docket of the {{case.court\_type}} of the {{case.court\_name}} of {{case.county}}, Texas and there remain from day to day and time to time until discharged according to law.

{%p if subpoena.cps\_flag == True %}

Refer to Section 1230 of the DFPS Subpoena Policy, attached below for your convenience.

{%p endif %}

This Subpoena is issued under and by virtue of Rule 205.3 and Notice of Discovery Subpoena on file with the above-named court, styled

*{{case.style}}*

**WITNESS MY HAND**, on {{subpoena.issue\_date}}.

{{case.attorney.name\_full()}}

Attorney at Law

Attorney for {{case.client.name\_full()}}

{{phone\_number\_formatted(case.attorney.telephone\_number)}} / {{case.attorney.email}}

**176.8 Enforcement of Subpoena. (a) *Contempt***. Failure by any person without adequate excuse to obey a subpoena served upon that person may be deemed a contempt of the court from which the subpoena is issued or a district court in the county in Which the subpoena is served, and may be punished by fine or confinement, or both. This subpoena falls under exception to confidentiality, Rule 509 (e) Texas rules of Civil Evidence.

**OFFICER'S RETURN**

Came to hand and executed on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (date), in the following manner: By delivering to the witness \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ a true copy hereof, with attached witness fees of $\_\_\_\_\_\_\_\_\_\_\_.

Returned on \_\_\_\_\_\_\_\_\_\_\_\_\_ (date).

PROCESS SERVER

**CASE ID: {{case.billing\_number}}**

**Duties of Person Served with Subpoena**

Under Texas Rule of Civil Procedure 176, a person served with a subpoena has certain rights and obligations. Rule 176.6 provides the following:

(a) **Compliance required**. Except as provided in this subdivision, a person served with a subpoena must comply with the command stated therein unless discharged by the court or by the party summoning such witness. A person commanded to appear and give testimony must remain at the place of deposition, hearing, or trial from day to day until discharged by the court or by the party summoning the witness.

(b) **Organizations**. If a subpoena commanding testimony is directed to a corporation, partnership, association, governmental agency, or other organization, and the matters on which examination is requested are described with reasonable particularity, the organization must designate one or more persons to testify on its behalf as to matters known or reasonably available to the organization.

(c) **Production of documents or tangible things**. A person commanded to produce documents or tangible things need not appear in person at the time and place of production unless the person is also commanded to attend and give testimony, either in the same subpoena or a separate one. A person must produce documents as they are kept in the usual course of business or must organize and label them to correspond with the categories in the demand. A person may withhold material or information claimed to be privileged but must comply with Rule 193.3. A nonparty's production of a document authenticates the document for use against the nonparty to the same extent as a party's production of a document is authenticated for use against the party under Rule 193.7.

(d) **Objections**. A person commanded to produce and permit inspection or copying of designated documents and things may serve on the party requesting issuance of the subpoena—before the time specified for compliance—written objections to producing any or all of the designated materials. A person need not comply with the part of a subpoena to which objection is made as provided in this paragraph unless ordered to do so by the court. The party requesting the subpoena may move for such an order at any time after an objection is made.

(e) **Protective orders**. A person commanded to appear at a deposition, hearing, or trial, or to produce and permit inspection and copying of designated documents and things, and any other person affected by the subpoena, may move for a protective order under Rule 192.6(b)—before the time specified for compliance—either in the court in which the action is pending or in a district court in the county where the subpoena was served. The person must serve the motion on all parties in accordance with Rule 21a. A person need not comply with the part of a subpoena from which protection is sought under this paragraph unless ordered to do so by the court. The party requesting the subpoena may seek such an order at any time after the motion for protection is filed.

(f) **Trial subpoenas**. A person commanded to attend and give testimony, or to produce documents or things, at a hearing or trial, may object or move for protective order before the court at the time and place specified for compliance, rather than under paragraphs (d) and (e).

**Contempt**. Failure by any person without adequate excuse to obey a subpoena served on that person may be deemed a contempt of the court from which the subpoena is issued or a district court in the county in which the subpoena is served and may be punished by fine or confinement or both. Tex. R. Civ. P. 176.8(a).

**YOU MAY CONTACT {{case.attorney.name\_full()}}  
TO ARRANGE ANOTHER TIME, DATE AND PLACE.**

{{p include\_docx\_template(‘docassemble.UsTxFamilyLaw:dwq\_exhibit\_a.docx’)}}

{%p if subpoena.cps\_flag==True%}

{%p if subpoena.subpoena\_type==”sdt” %}

{{p include\_docx\_template(‘docassemble.UsTxFamilyLaw:dwq\_business\_records\_affidavit.docx’)}}

{%p endif %}

{%p if subpoena.subpoena\_type==”dwq” %}

{{p include\_docx\_template(‘docassemble.UsTxFamilyLaw:dwq\_deposition\_questions.docx’)}}

{%p endif %}

**1200 Custodian of Records (COR)**

DFPS Subpoena Policy January 2012

A subpoena often is simply addressed to the custodian of records and requests that the custodian provide and authenticate all of the records identified in the subpoena.

Because of the number of records that DFPS creates and maintains, no single individual can serve as the custodian of records for all subpoenas received statewide.

The Records Management Group (RMG) is responsible for the storage, retrieval, redaction, release, and, ultimately, the destruction of records. The center, division, or program that created the records is responsible for authenticating and testifying about the records.

A subpoena that is for both a specifically named employee and the custodian of records is handled as a subpoena that specifically names an employee.

See:

1210 The APS Custodian of Records

1220 The CCL Custodian of Records

1230 The CPS Custodian of Records

1240 The SWI Custodian of Records

**1230 The CPS Custodian of Records**

DFPS Subpoena Policy January 2012

The Child Protective Services (CPS) employee who is assigned to function as the custodian of records (COR) depends on who is named in the subpoena.

| **If the subpoena …** | **then …** |
| --- | --- |
| specifically names a current CPS employee … | the employee named in the subpoena is the COR. |
| specifically names a former CPS employee … | no COR is assigned.  The named person cannot serve as the COR because he or she is no longer a CPS employee. For direction in such a case, see the table in [2210](https://www.dfps.texas.gov/handbooks/Subpoena/Files/SUBP_pg_2000.asp#SUBP_2210) Greeting a Process Server Who Delivers a Subpoena in Person. |
| * is addressed only to the custodian of records; and * seeks the records on an OPEN CPS case, or seeks records on a specific client involved in an OPEN CPS case … | the current caseworker is the COR. |
| * is addressed only to Custodian of Records; and * seeks the records on a CLOSED CPS case, or seeks records on a specific client involved in an [sic] CLOSED CPS case … | the most recent caseworker is the COR.  If that caseworker is no longer employed by CPS, the supervisor of the unit that handled the case is assigned as the COR.  If the unit no longer exists, the program director:   * designates a staff person as the COR; or * serves as the COR.   If anything prevents the program director from designating someone as COR or serving as the COR, the program administrator:   * designates an appropriate staff person; or * serves as the COR.   If anything prevents the program director from designating someone as COR or serving as COR, the regional director:   * designates an appropriate staff person as the COR; or * serves as the COR. |

{%p endif %}