



To:	Texas Judges Hearing Child Protective Services Cases
From:	Hon. John Specia (ret.), Jurist in Residence Office of Court Administration
Date:	May 16, 2012
RE:	New DFPS Subpoena Policy

Every half-hour of each working day, a subpoena is served upon an employee of the Texas Department of Family and Protective Services (DFPS) - a rate that amounts to nearly 4,000 subpoenas per year. The nearly 4,000 subpoenas I'm referring to in this JIR are those related to divorce and custody proceedings and do not include all the subpoenas served on DFPS as part of a suit for termination or conservatorship. While DFPS strives to answer all subpoenas timely and effectively, it is a challenge due to high volume and limited resources.

On January 2, 2012, DFPS implemented a new, statewide policy to ensure that every subpoena is handled properly and addressed immediately. These changes are designed to maintain and improve its working relationship with the Courts and other legal professionals, and to promote transparency and accountability. You can review the entire policy at http://www.dfps.state.tx.us/handbooks/Operating_Policy/OP-4105_Subpoena.jsp.

Q:	What are the key points that I need to be aware of?
A:	The new policy sets up a transparent and simple manner whereby an attorney or process server can locate the proper person to serve when testimony or DFPS records are needed.
Q:	How is this accomplished?
A:	There is a new Customer Support Office that can be reached during business hours by emailing records.management@dfps.state.tx.us or by calling 512-929-6764.
Q:	Does the policy define who the Custodian of Records?
A:	Yes. DFPS creates and maintains over 2 million case files, and it is not reasonable or practical to expect one person to serve in that role statewide. Therefore, the custodian will be the caseworker who actually worked the case, and if that person is no longer with DFPS, the subpoena will go up the chain of command from there. DFPS is also requiring training on the new subpoena policy for all DFPS employees.
Q:	Why did DFPS change their subpoena policy?
A:	The policy changes were initiated to increase communication between DFPS attorneys and the attorneys that are serving subpoenas on DFPS in order to reach agreements on what is releasable and to avoid court hearings to deal with Motions to Quash, Protective Orders, etc.
Q:	Where can I find the policy?
A:	The new Subpoena Policy is posted on the DFPS website at http://www.dfps.state.tx.us/handbooks/Operating_Policy/OP-4105_Subpoena.jsp