	Agency Name	Office of Community Services (OCS)			
	Chapter No./Name	1. Administrative Policy			
	Part No./Name	5. Confidentiality			
	Section No./Name	1-525 Subpoenas and Court Orders for Case Record Information			
	Dates	Issue/Reissued	September 2010	Replacing	May 2009

1-525 SUBPEONAS AND COURT ORDERS FOR CASE RECORD INFORMATION

Generally, no information shall be released until a court order for disclosure is duly served upon the agency. This includes testimony as well as case record material. Under no circumstances may an employee offer to voluntarily testify in any proceeding in which the agency is not a party.

A. RELEASE OF INFORMATION IN A PROCEEDING INVOLVING AN EMPLOYEE

[LA R.S. 46:56 \(L\)](#) provides for the admission of client case records in any hearing before the State Civil Service Commission, the Equal Employment Opportunity Commission, and any office in the ***Louisiana Workforce Commission**** in its capacity of administering Louisiana Employment Security law, or in any civil or criminal judicial proceeding where the work performance or conduct of an employee of the department is at issue.

The agency shall provide to the employee copies of the relevant case records with client names and identifying data obliterated. This includes copies of all files, records and information on investigations of child abuse/neglect with findings of invalid and inconclusive as authorized by LA Children Code [Article 615 E \(2\)](#). No court order is necessary to give the information to the employee. However, if the employee is disciplined as a result of allegations made by a guardian, tutor, parents for family members of the client, the name of the accuser shall not be withheld.


Article 615 E (2) also states that all files, records and information regarding an investigation with a final finding of invalid or inconclusive shall be admissible in any civil litigation or criminal proceeding against the ***Department of Children and Family Services (DCFS)**** or its employees when work performance or conduct is at issue. The statute requires the court to place the records under seal to prevent disclosure to the public and the Department to maintain the files, records and information during the pendency of the litigation or prosecution.

B. COURT REQUEST FOR INFORMATION WITH A FALSE REPORT

Identifying information about a reporter of child abuse/neglect is released to a court in only one circumstance. When a court has reviewed a CPI case record in camera, finds reason to believe that the reporter knowingly made a false report, and issues a court order to release the information regarding the reporter, the information shall be released to the court. Refer to Section 1-515 B, Release to District Attorney with Valid Findings and Petitions.

C. SUBPOENA OR COURT ORDER IN PROCEEDING IN WHICH DEPARTMENT IS NOT A PARTY

As provided by [LA R.S. 46:56 H. \(1\)](#), information pertaining to foster care of children, reports and investigations of abuse or neglect of children, and records of other child welfare services administered by the Department shall not be subject to discovery or subpoena in a civil suit in which the Department is not a party. This includes, but is not limited to, divorce proceedings, civil child custody disputes, or

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civil suits for damages. The following procedures should be followed with requests and subpoenas in proceedings in which DSS is not a party:

1. Civil Child Custody Proceeding

LA R.S. 46:56 F. (1) permits a judge in any civil child custody proceeding, after the issue has been raised of the potential existence of a relevant departmental record concerning the abuse or neglect of a child who is the subject of that proceeding, to contact a local OCS office to determine if such a record exists.

When a local office is contacted by a judge in a civil child custody proceeding with a request for such information, a State Central Registry records clearance shall be conducted immediately. When there is a valid finding involving the child, the case record shall be reviewed by agency staff to assure that the information on the SCR is accurate and consistent with the finding information documented in the case record. Once the information has been verified, the judge will be notified of the existence of a case record with a valid finding of abuse/neglect involving the child.

If the court finds that information which may be contained in the report is necessary for deciding an issue before the court, the court may order the release of such information to the court. The local office shall then respond to any court order in accordance with the policy for subpoenas for case records.


When there is no information on the SCR involving the child, the judge will be so advised. In the case of a current incomplete investigation, the judge will be advised that the agency is involved in an investigation for which a final finding has not yet been established.

2. Civil Court, Criminal Court or Grand Jury Requests

In all cases where an employee of ***DCFS Child Welfare**** and/or a case record is subpoenaed by a court in any civil or criminal case or by a Grand Jury, the subpoena shall be referred to the ***DCFS**** Regional Attorney for consultation.

D. BOARDS WITH SUBPOENA POWER

Any subpoena from a Board with subpoena power shall be referred to the ***DCFS**** Regional Attorney for consultation for compliance with the subpoena.

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E. GENERAL PROCEDURES WITH ALL SUBPOENAS

1. Notification of Regional Attorney of Subpoena

In all situations involving a subpoena for the testimony of an agency employee or for agency records, the ***DCFS*** Regional attorney shall be immediately contacted.

2. Preparation of Case Records for Disclosure

When directed by the Regional Attorney to prepare the case record for disclosure, local office staff shall prepare a true and correct copy of all the records described in the subpoena. However, under no circumstances shall the copy include the ***name, location*** or identifying information ***regarding:**

- The reporter of a complaint of child abuse or neglect;
- A victim of domestic abuse or dating violence as per Louisiana Children's Code Article [652](#). (Refer to R.S. [46:2132](#) (Definitions) and [46:2151](#) (Dating Violence));
- Protected substance abuse treatment information.

Refer to policy sections [1-520, Release in CINC or TPR Proceedings](#) and [1-500, Staff Responsibility for Confidentiality](#).** The ***DCFS*** Regional Attorney will make arrangements to prepare a certification affidavit that shall accompany the copy of the case record.

- *3. Per Article [652](#) Fees for copying shall be charged per DCFS [policy 6-03, Uniform Fee Schedule for Copies of Public Records](#). If the child or parent is indigent, no charge shall be made for such copies.**