



**Updated: March 21, 2024**

## **Responses to Subpoenas and Court Orders**

The following terms apply when we (AppClose, Inc.) receive a request to produce documentation of records on our apps. A user may always download their own records from the app without charge. If the user wishes us to issue a Business Records Affidavit with records attached, we must first receive a valid subpoena as described below.

AppClose<sup>®</sup> complies with all subpoena requests and court orders to produce records that comply with the Texas Rules of Civil Procedure, or other applicable procedural or substantive rules. AppClose will follow Texas law unless otherwise required by other laws that may apply to litigation or law enforcement. To determine our legal obligations and the appropriate response, we reserve the right to evaluate each individual request. Note that Texas has not adopted the Uniform Interstate Depositions and Discovery Act.<sup>1</sup> Subject to the policy below for Adverse Party Records (as defined below), AppClose will generally accept a subpoena for records from or through an out of state court if the requirements in this policy are followed. AppClose reserves the right to require that a subpoena be issued and served in accordance with FRCP Rule 45 or that an out of state civil subpoena be issued through a Texas court under the Texas Rules of Civil Procedure.

Our general policy requires the following:

- A valid and enforceable court order to produce the subpoenaed records; or a valid subpoena issued in accordance with FRCP Rule 45, under the Texas Rules of Civil Procedure, a summons, search warrant, or subpoena from law enforcement, or otherwise accepted by AppClose as described in this policy.
- A civil subpoena MUST either comply with HIPAA regulations at 45 C.F.R. 164.512(e) or be accompanied by a HIPAA compliant authorization signed by the parent(s) to release, for the purpose of responding to the subpoena, any protected health information that may be contained in such parent's records. The HIPAA compliant authorization must cover the parent requesting the records, as well as the children entered in the App.
- Upon request, after receipt of a subpoena, we will provide a HIPAA compliant authorization form. We will also provide our own form of Business Records Affidavit, which is based upon the manner in which our records are created, stored, and maintained.
- Each subpoena MUST identify the email that is associated with the account for which records are requested. We do not associate a person's name with their account.
- Producing records from the app requires decryption by our authorized technical personnel. We do not currently charge a subpoena response fee.

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<sup>1</sup> Texas has adopted the Uniform Act to Secure Attendance of Witnesses From Without State. See Texas Code of Criminal Procedure, Art. 24.28. Any subpoena or order issued under that act, or the Stored Communications Act (18 U.S. Code § 2701 *et seq.*), is beyond the scope of this subpoena policy.

- When responding to a valid subpoena or court order, AppClose unencrypts and compiles the data specifically described in the subpoena or court order. AppClose does not screen or otherwise review the contents of the unencrypted data.

Should you wish to contact us about requesting records, you will be directed to this policy and advised to produce a valid subpoena, court order, and other appropriate documents described above. We are a Delaware corporation, with our principal executive offices in Austin, Texas. We are registered to do business in Texas. Our records are maintained by our principal executive office in Austin. Our agent for service of process in Texas is Igor Litinsky, 7300 Ranch Road 2222, Bldg 2-260, Austin, TX 78730. You may e-mail a pdf of the subpoena or court order to [legal@appclose.com](mailto:legal@appclose.com). E-mail of a subpoena will not of itself constitute service of the subpoena. AppClose may voluntarily and in its sole discretion sign and accept service of an e-mailed subpoena. Acceptance of any such e-mailed subpoena is more likely if the subpoena or other communications (a) meet the requirements of this subpoena policy; (b) include the required signed HIPAA authorization(s); and (c) clearly state that the subpoena seeks only the production of documents and/or records, and not the appearance of AppClose personnel at any legal proceeding related to the subpoena.

In connection with information provided in response to a subpoena or court order, AppClose makes no warranties, representations, statements, or guarantees (whether express or implied) regarding the material and information transmitted or to provide any updates to information transmitted.

#### **Policy Regarding PII and Adverse Party Records**

A civil subpoena must identify the account (email address) of the co-parent requesting the records. The records associated with that account will automatically include all communications from the other co-parent to the requesting co-parent. Absent a court order or proof of a confidentiality agreement or protective order for the benefit of the adverse party, we will **not** produce records or PII (such as telephone numbers or email addresses) that are **unique** to the non-requesting co-parent's account ("**Adverse Party Records**").

1. AppClose is an out of state nonparty to subpoenas. For an out of state subpoena, Texas is not a party to the Uniform Interstate Depositions and Discovery Act. AppClose reserves the right to require that any out of state civil subpoena be issued through a Texas court.
2. AppClose may choose to respond to a civil subpoena that requests Adverse Party Records only upon proof of a confidentiality agreement or protective order that relates to such Adverse Party Records, or other assurances satisfactory to AppClose in its discretion that the adverse party has been notified of the subpoena request and had the opportunity to seek a confidentiality agreement or protective order. For an out of state civil subpoena that requests Adverse Party Records, we reserve the right to require the subpoena to be issued by a Texas court.
3. Currently, we maintain the following records: chat conversations, call detail records (but **not** call recordings or call transcripts), check-ins, expenses, requests, and session logs (which include IP addresses and mobile device operating system). Each subpoena should identify (a) the specific types of records sought from the list above; and (b) the time period for which the records are sought. As noted, we use the email address associated with an account to identify each account (some users optionally provide phone numbers).
4. We do NOT maintain other personally identifiable information, including any of the following:
  - a. Device IDs
  - b. Social security number, drivers license number, or passport number
  - c. Postal address
  - d. Bank account numbers
  - e. Geolocation data