

## DSS Policy and Procedure Guide

Division 03: Child Welfare

Chapter 01: Director's Policies

### Item 008: Access to Confidential Records/ WIC §827 Requests

Suggested changes send to: [DSS PSOA](#) Mailbox

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References: [WIC §827](#), [WIC §10850](#), [Penal Code §11167.5](#), Government Code [§ 70627\(a\)](#), Form [JV-570](#), California Rules of Court Rules [5.546](#) and [5.552](#); Fresno County Superior Court Rules of Court [Rule 6.2](#), Fresno County Standing Order [#03-01](#); CDSS Manual of Policies and Procedures, [Division 31-002](#); [ACL 08-13](#), [ACL 09-02](#)

Revisions in Red

Replaces Issue: May 18, 2010

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### Preamble

Child Welfare (CW) Policy and Procedure Guides are meant to be used as tools to relay best practice and staff expectations. It is understood that specific case scenarios may not always align themselves with the stated practices and that at all times what is of paramount importance is the Safety and Well-being of the children we are charged to protect.

### Policy

The Department of Social Services (DSS) will follow a standardized procedure for handling requests from children, parents, and third parties for inspection and/or copies of confidential CW case file information.

### Purpose

To ensure that all parties obtain requested case file information, while protecting the release of otherwise confidential information, in the manner prescribed by law. **Welfare and Institutions Code (WIC) §827** is not applicable to routine discovery in dependency court proceedings. Records that pertain to a child who has died as a result of abuse or neglect are treated differently than other case records. All inquires shall be directed to DSS **CW Continuous Quality Improvement (CQI) Support (formerly Quality Assurance)**, either by email through the "[DSS Child Welfare CQI Support](#)" mailbox or by calling (559) 600-9450.

## Definitions and Overview

**Case File Information** - Documents filed in a juvenile court case, any agency document pertaining to a child who is or was the subject of an investigation, or any information, records, reports by **Social Workers (SW)**, **Court Appointed Special Advocate (CASA)** or probation, photographs, transcripts, tapes or electronic data obtained during the course of any investigation.

**Confidentiality Contact Person (CCP)** - DSS staff person in each **CW** program, designated to receive and respond to requests for case file information. The CCP will review the request and applicable law, prepare the records for review, and arrange for the review of records and/or preparation of copies. **Requests from any attorney regarding any case or referral shall be directed to DSS CW CQI Support either by email through the “[DSS Child Welfare CQI Support](#)” mailbox or by calling (559) 600-9450.**

**Inspect** - Requestor is permitted to view records and write down the date and title or other description of a specific document, but is not permitted to copy or receive a copy of the text or record.

Pursuant to [WIC section 827](#), subdivision (a)(1)(A-P), the following persons, agencies and entities have a right to inspect confidential juvenile records in the possession of DSS:

- A) Court personnel.
- B) The district attorney, a city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases under state law.
- C) The minor who is the subject of the proceeding.
- D) The minor’s parents or guardian.
- E) The attorneys for the parties, judges, referees, other hearing officers, probation officers, and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the minor.
- F) **The county counsel, city attorney, or any other attorney representing the petitioning agency in a dependency action.**
- G) The superintendent or designee of the school district where the minor is enrolled or attending school.
- H) Members of the child protective agencies such as city and county law enforcement agencies, and county child protective services agencies.
- I) The **California** Department of Social Services (**CDSS**) to carry out its duties...to oversee and monitor county child welfare agencies, children in foster care or receiving foster care assistance, and out-of-state placements.

- J) Authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the **CDSS**, as necessary to the performance of their duties to inspect, license, and investigate community care facilities.
- K) Members of children’s multidisciplinary teams, persons, or agencies providing treatment or supervision of the minor.
- L) A judge/commissioner, or other hearing officer assigned to a family law case with issues concerning custody or visitation, or both, involving the minor, and the following persons, if actively participating in the family law case:
  - A family court mediator assigned to a case involving the minor pursuant to Family Code sections 3160 et seq.
  - A court-appointed evaluator or a person conducting a court-connected child custody evaluation, investigation, or assessment pursuant to Family Code sections 3111 or 3118.
  - Counsel appointed for the minor in the family law case pursuant to Family Code section 3150. Prior to allowing counsel appointed for the minor in the family law case to inspect the file, the court clerk may require counsel to provide a certified copy of the court order appointing him or her as the minor’s counsel.
- M) A court-appointed investigator who is actively participating in a guardianship case involving a minor and acting within the scope of his or her duties in that case.
- N) A local child support agency for the purpose of establishing paternity and establishing and enforcing child support orders.
- O) Juvenile justice commissions as established under WIC Section 225.
- P) Any other person who may be designated by court order of the judge of the juvenile court upon filing a petition.

NOTE: Out-of-state persons, agencies and entities falling within the above listed categories are also entitled to inspection of confidential juvenile records and information.

[WIC §827\(a\)\(5\)](#) indicates that those persons listed in WIC §827(a)(1)(A,B,C,D,E,F,H,I) may upon request receive copies of the records which they are authorized to inspect.

**Protected Information** - Attorney-client privileged information (i.e. communications with County Counsel), the identity of any reporting party, results of background checks, drug and alcohol records, confidential addresses, medical and mental health records, including court ordered mental health evaluations, HIV/AIDS status/records/information, educational records, adoption records, and information regarding non-dependent siblings or unrelated children of a dependent child. Release of protected information is governed by additional statutory provisions and is not releasable without

court order. This information shall be removed/redacted from the case file prior to inspection/copying.

**Redaction** - Masking or crossing out, with a black marker, all Protected Information, recopying the page so that the masked/crossed out material cannot be read through the redaction.

## **Procedure**

### Requests for Confidential Case Information from Parties Authorized to Inspect/Receive Copies

Each DSS **CW** program/division has a designated CCP who will provide guidance on how to respond to information requests authorized by WIC §827 and PC §11167.5. Any request for inspection and/or copies should be referred to the program CCP. If the requesting party is authorized under WIC §827/PC §11167.5 to inspect a case file, DSS has the right to determine the time, place and manner of inspection of the case file. The CCP shall also complete a Release of Information Confidentiality Agreement (see page 12) for each person that inspects or receives copies of records pursuant to a WIC §827(a) (1) (A-P) or WIC § 827 (a) (5) exception.

If the request for case records is from **another CW agency or the California Department of Social Services (CDSS)** with regard to a **CW**-related issue, WIC 827(a) (5) allows DSS to release a hard copy and/or permit CMS/CWS access. Prior to disclosure, the **SW/CCP** shall take reasonable steps to verify the identity, employment, and authority of the requesting party (e.g., letterhead, fax or returned phone call).

If **law enforcement** requests case records as part of its own ongoing investigation of child abuse or neglect or because they are actively participating in a criminal or juvenile proceeding involving the *minor*, WIC 827(a)(5) and PC 11167.5 authorize DSS to provide a hard copy of confidential case file information. However, *protected information* is not releasable under these statutes, and law enforcement must obtain a court order for release.

If a **child**, who is or was a subject of the DSS proceeding or investigation, is the requesting party, case file information is releasable pursuant to WIC 827 (a)(5) and the child is entitled to a copy.

If the request for confidential information is from the **parent/guardian** of a child who is or was the subject of a DSS investigation or proceeding, case file information is releasable pursuant to WIC 827 (a)(5). *Note: the parent/guardian does not need to be subject to the proceedings, 'non-offending' parents are entitled to a copy of the information and caution must be taken in ensuring the redaction of information related to non-related siblings. Also, Stepparents are NOT entitled to access records pursuant to WIC § 827 and must file a JV-570 to request records.*

If the request for records is from **Risk Management**, the CCP shall contact [DSS CW CQI Support](#).

Pursuant to Fresno County Standing Order [#03-01 Family Court, Probate Investigation, and Probation](#) Department are entitled to the following information:

- Whether the child or his/her parents or caretaker are (or have been) the subject of a child abuse, neglect, dependency investigation, the recommendations made, the progress while under court supervision.
- Copies of any court orders in existence.
- Statements made by the child or the parents, guardians, caretakers which might bear upon the issue of the child's best interest in a pending matter with the other agency.
- The agencies listed above may include this information in court reports and keep such information in their court files.
- The contents of child abuse reports, the name of the reporting party, substance abuse evaluation and test results, medical records and court ordered psychological evaluations are not to be exchanged pursuant to this order.
  - Any party only entitled to inspection of records, wishing to obtain a copy, shall be instructed by the CCP to file a JV-570 with the Juvenile Court. The CCP shall provide a copy of the JV-570 form to the requesting party and obtain the party's signature on a DSS Confidentiality Release Form. (See [page 12.](#))
  - Any party entitled to receive a copy of the records, shall be informed by the CCP, that pursuant to WIC 827 (a)(4), they may not further disseminate the information. If the party wishes to obtain a copy for future dissemination, the CCP shall provide a JV 570 Form, and obtain the party's signature on the DSS Confidentiality Release Form. (See [page 12.](#))

### Request to Inspect

Upon receipt by the CCP of a verbal or written request to inspect confidential DSS case records, the CCP shall first determine the relationship of the requesting party to the minor whose records are being sought.

After the determination is made that the requesting party falls within section 827, subdivision (a)(1)(A-P), the CCP shall then determine if there are any documents or information contained in the record that the requesting party is NOT entitled to inspect.

- Any documents that the requesting party is NOT entitled to inspect shall be removed from the record by the CCP before the record is presented to the requesting party for inspection. Any information that the requesting party is NOT entitled to inspect, contained in otherwise disclosable documents shall be redacted.
- After all documents and information contained in documents that the requesting party is NOT entitled to inspect have been removed or redacted from the record, the requesting party may inspect the record. The CCP may determine time, place and manner of inspection of confidential juvenile records.

- During the Inspection, the CCP (or other staff) will remain with the requesting party to ensure that no records are removed or altered during inspection.
- The CCP shall not allow any party to photograph records.
- Unless the inspecting party is listed in W&I § 827 (a)(1)(A,B,C,D,E,F,H,I), the right to inspect does NOT include the right to make extensive notes of the contents of the record being inspected. Inspecting persons not entitled to make extensive notes are still permitted to take minimal notes to assist in later identification of specific documents (e.g., date, title and preparer of the document).
- Unless the inspecting party is listed in W&I § 827 (a)(1)(A,B,C,D,E,F,H,I), if the party who has been permitted inspection pursuant to this policy requests copies of any/all of the records inspected, he/she shall be directed to file a form JV-570 with Juvenile Court. Upon receipt of a completed form JV-570, the **SW** shall immediately advise the CCP of such receipt and forward a copy of the form JV-570 to County Counsel. The County Counsel fax number is **559-600-3480**.

#### Request for Copies

Those persons listed in WIC §827(a)(1)(A,B,C,D,E,F,H,I) may upon request receive copies of the records which they are authorized to inspect.

The CCP shall inform the requesting party that **pursuant to [Government Code §13954 \(d\)](#)** he/she cannot disseminate the information being disclosed **unless the information is disclosed in Family or Probate Court pursuant to [WIC §827.10](#)**.

The CCP shall obtain the signature of the requesting party on the Confidentiality Release Form. **If the person declines to sign the release, then the CCP shall** provide a JV 570 form, upon request of the party.

Copies shall be provided within sixty (60) calendar days of the original request, **if a JV-570 form is not needed**.

Copies will be provided at no cost, to parents/guardians, minors, and those persons listed on CACI.

Pursuant to **Government Code §70627(a)**, DSS reserves the right to charge \$.50 per page copying/handling fee to all other parties/agencies.

If the request for case records is from another **CW** agency or CDSS with regard to a **CW** related issue, the CCP may release copies of requested records, pursuant to WIC §827(a)(3)(A). Prior to such disclosure, the CCP shall take reasonable steps to verify the identity and employer of the person making the request, via email, letterhead, or return phone call.

The CCP may provide a copy of the DSS investigation records to law enforcement, pursuant to PC 11167.5, if the records are requested as part of an ongoing criminal investigation of child abuse or neglect.

If requesting party is not authorized to inspect confidential juvenile records by WIC §827, Penal Code §11167.5 or other applicable statute, the CCP shall instruct the party to file a **Request** for Disclosure of Juvenile Records (Form JV-570).

#### Requests Received Via the JV-570 Process

Persons or agencies that wish to access DSS case records but do not fall within one of the categories specified in WIC 827 (a)(1)(A-P) must file a [JV-570](#), *Request for Disclosure of Juvenile Court Records*.

- The requesting party (petitioner) must serve a [JV-570](#) and a [JV-571](#) (Notice of Request for Disclosure of Juvenile Case File) on the DSS. The notice will contain the specific records being requested, the reason for the request, and what the Petitioner intends to do with the records.
- The [JV-570](#) and [JV-571](#) shall be served to County Counsel **as well**. If DSS staff receives the notice, the staff member shall forward the notice to County Counsel and confirm, via email, that the [JV-570](#) and the notice have been received.
- County Counsel will confer with the appropriate CCP and/or DSS staff **to determine the specific records being requested and** if it is advisable to allow the petitioner access to and/or copies of the requested records.
- **The CCP shall copy and number the requested records (unredacted) and submit to County Counsel for review and presentation to the Juvenile Court.**
- If it is determined that it is not advisable to allow access, County Counsel will file an objection with the court.
- Once the Court has reviewed the requested records and authorized disclosure of the records, County Counsel will coordinate the release of the records with the CCP.

#### Redaction of “Protected Information”

When inspection and/or copies are authorized, all protected documents must be removed and/or redacted prior to inspection and/or copying. Examples of confidential **information** to be removed:

- **The reporting party’s name from** a referral and any identifying information regarding the reporting party shall always be redacted.
- **Criminal history of anyone other than the person inspecting the case record.**

- Probation/parole reports pertaining to other parents/guardians in the case.
- AIDS/HIV status.
- Results of Paternity Tests.
- Address of a Domestic Violence victim, Foster Family Home (unless ordered to be disclosed), Child's Confidential Address.
- Mental health/medical records of the other parent/guardian.
- Information regarding siblings of the child who are unrelated to the parent/guardian who is inspecting the case record.
- Any records or information regarding potential or rejected relative placements or the relative placement approval process, including but not limited to Department of Justice (DOJ) checks, Child Abuse Central Index (CACI) checks and Sheriff's record clearances.
- MediCal/AFDC records.
- Any records or information regarding attorney/client communications, that is, any narratives discussing conversations with or statements by County Counsel attorneys to DSS employees, and any e-mails passed between DSS employees and County Counsel attorneys.

**Redacted information shall be** crossed out with black marker and then the page recopied ensuring that the crossed out material cannot be read through the redaction before inspection. Prior to redaction, copy the documents and redact on the copy-not the original case document. The first, blacked out copy, shall be shredded.

## Subpoenas

A subpoena is an order directed to a person and requiring the person's attendance at a particular time and place to testify as a witness. A subpoena *duces tecum* requires the person's attendance, and it also requires the witness bring and produce any requested books, documents, or other things under the witness's control.

If DSS staff receives a subpoena to testify **and/or produce child welfare records, the staff member shall inform his or her supervisor immediately, and fax a copy of the subpoena to CW CQI Support (559-600-7699) or email a scanned copy to the [DSS Child Welfare CQI Support](#) mailbox. CW CQI Support will review the subpoena and email a copy to the designated Deputy County Counsel. County Counsel will provide direction to CW CQI Support regarding how to proceed, which will then be communicated to the affected DSS staff.**

**Note: Any person or agency attempting to serve a subpoena upon DSS CW staff shall be directed to DSS Personnel at Center Mall Court 2011 Fresno Street, Third Floor to serve the subpoena.**



## Public Request for Records Pertaining to a Deceased Child

Pursuant to WIC § 827(a)(2), certain records pertaining to a deceased child who was within the jurisdiction of the juvenile court (WIC 300) shall be released to the public, by order of the court, after a petition has been filed and interested parties have been afforded an opportunity to object.

- Pursuant to [WIC §10850.4](#), certain records pertaining to a child fatality resulting from suspected child abuse/neglect, shall be released upon request, without court order.
- All requests for information regarding deceased children shall be forwarded to [CW CQI Support \(559-600-9450\)](#) for assistance. For more information, please refer to [ACL 08-13](#) and [ACL 09-02](#).

## Requests for Release of Suspected Child Abuse Report (SCAR)

Pursuant to [Penal Code §11167.5](#), reports of child abuse/neglect are confidential and may only be released to certain individuals.

Persons that have been listed on the DOJ CACI are permitted to inspect/have copies of the Child Abuse Referral and associated information.

Information which is releasable includes, but is not limited to:

- Narratives
- The CMS/CWS referral
- Associated reports
- Case Plans
- Initial Petition

Any person that has been listed by DSS on the DOJ/CACI, *including a stepparent*, is entitled access under this section. Unlike WIC § 827, there is not a requirement that the person be a parent or legal guardian.

Requests made pursuant to this section shall be directed to the CCP, unless the party wishes to inspect the records in conjunction with a CACI Grievance Hearing Request.

If the requesting party wishes to file a CACI Grievance, the CCP shall direct them to contact [DSS CW CQI Support \(559-600-9450\)](#). **CQI Support** will coordinate the inspection of the referral and related documents.

Pursuant to Penal Code § 11167(d), the identity of the reporting party must be redacted on every document, prior to review.

## **Request for Discovery**

Requests for prehearing discovery in juvenile dependency cases are governed by California Rules of Court, [rule 5.546](#), and will be handled by the case manager.

## **Documents Generally NOT Releasable**

Unless otherwise authorized under PC section [11167.5](#), a requesting party is NOT entitled to inspect:

- Medical and mental health records pertaining to other parents/guardians in the case, or to children belonging solely to other parents/guardians in the case.
- Probation/parole reports pertaining to other parents/guardians in the case.
- Any records or information pertaining to children belonging solely to other parents/guardians in the case.
- Any records or information regarding potential or rejected relative placements or the relative placement approval process, including but not limited to **DOJ/CACI** records and Sheriff record clearances.
- AFDC/Medi-Cal records.
- Attorney-Client Communications.

## **Identity of the Reporting Party**

Only the following requesting parties are entitled access to the identity or identifying information regarding person(s) who have reported suspected child abuse to DSS:

- Agencies receiving or investigating mandated reports.
- The prosecutor in a criminal prosecution or in an action initiated under WIC section 602 arising from alleged child abuse.
- Counsel appointed pursuant to WIC section 317, subdivision (c).
- The county counsel or prosecutor in a proceeding under Family Code Division 12, Part 4, (commencing with section 7800), or WIC section 300.
- A licensing agency when abuse or neglect in out-of-home care is reasonably suspected.
- By court order.

## **Tracking**

Each CCP shall maintain a log of information requests. The log shall contain the following:

- Date of Request
- Name of Requesting Party
- Regulation which authorizes release
- Manner of release (written, verbal, inspection)
- Date of Release



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Department of Social Services

**RELEASE OF INFORMATION  
CONFIDENTIALITY AGREEMENT**

I, \_\_\_\_\_ have requested to review and/or receive copies of the confidential juvenile records contained in my DSS case file. I understand that pursuant to Welfare & Institutions §827, I am not entitled to information regarding the reporting party & information that is otherwise confidential pursuant to 45 CFR 160 (HIPAA).

I understand that I am prohibited from showing or giving copies of the released documents to any person that is not otherwise authorized by §827 to review the documents.

I understand that, with the exception of family court or probate guardianship proceedings where custody/visitation of a child is an issue, pursuant to §827 I am prohibited from attaching any of the released documents to any other document, without first obtaining permission from the presiding judge of the Juvenile Court.

I understand that judicial permission may be obtained by filing a form JV-570 (Request for Juvenile Case File) with the court.

I understand that further dissemination of the documents provided to me today is expressly prohibited by state and federal law.

- I agree with the terms listed above
- I do not agree with the terms listed above, I will not be receiving a copy of the documents and I understand that I have the option of filing a JV-570 form. A copy of the JV- 570 has been provided to me.

\_\_\_\_\_  
Client Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
DSS Representative

\_\_\_\_\_  
Date