

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE MANUAL</b>	
	<b>Chapter 2:</b> Administration of Child Welfare Services	<b>Effective Date:</b> October 1, 2012
	<b>Section 6:</b> Sharing Confidential Information	<b>Version:</b> 4

**POLICY [REVISED]**

**[REVISED]** The Indiana Department of Child Services (DCS) will hold confidential all information gained during reports of Child Abuse and/or Neglect (CA/N), CA/N assessments, and the provision of ongoing case management services. The identity of the reporting source, children, and others protected by law must be held confidential.

**[NEW] Note:** This includes any and all audio recordings of CA/N reports called into the DCS Hotline.

DCS will abide by Indiana law and share confidential information with only those persons entitled to receive it.

**[NEW]** DCS will maintain the confidentiality of information and records that it receives from other sources, such as a medical or health records, law enforcement agency records, or court records, in accordance with the laws applicable to the creator of the records.

DCS shall comply with any request to conduct CA/N history checks received from another state's child welfare agency, as long as the records have not been expunged, when:

1. The check is being conducted for the purpose of placing a child in a foster or adoptive home;
2. The check is being conducted in conjunction with a C/AN assessment; or
3. The requesting state agency has care, custody and control of the child and the request is to check Child Protection Services (CPS) history of an individual who has a prior relationship with the child.

DCS will advise parents, guardians, custodians and perpetrators of their rights regarding access to confidential CA/N information.

**[REVISED]** DCS will make available for public review and inspection all statewide assessments, reports of findings, and program improvement plans developed as a result of a full or partial Child and Family Services Review (CFSR). Release of these documents will occur after approval of DCS General Counsel.

**[REVISED]** DCS can provide unidentifiable CA/N information of a general nature to persons engaged in research. The DCS Central Office may provide such information upon written request and approval of the specified application form submitted with the request.

**[REVISED]** Upon a records request received by DCS, Central Office will submit all records created or received by DCS Central Office or a DCS local office in connection with fatality or near fatality assessments, including any prior history records concerning the child to the juvenile

court in the county where the child died or the near fatality occurred for the court's redaction and release of such records to the requestor.

All records that are confidential under this policy, sent from DCS shall be labeled or stamped "CONFIDENTIAL" at the top of each record. Any envelope containing records shall also be labeled "CONFIDENTIAL".

**[REVISED]** DCS will protect the confidentiality of all information gained from victims of domestic violence. Prior to releasing any information (i.e. during court proceedings where disclosure of certain information is mandatory), DCS will notify the victim so he/she may plan for his or her safety and the safety of the child.

**[REVISED]** Code References

1. [IC 5-14-3 Access to Public Records Act \(APRA\); confidentiality requirements and Authorization](#)
2. [IC 31-25-2-20.4 Citizen review panels; membership; appointment; duties; response to report; prohibited acts](#)
3. [IC 31-27-3-18 Disclosure of Reports: Confidentiality Requirements](#)
4. [IC 31-27-4-21 Records regarding children \(in foster family homes\)](#)
5. [IC 31-27-5-18 Records \(regarding children in group homes\)](#)
6. [IC 31-27-6-15 Records regarding children \(placed through licensed child placing agencies\)](#)
7. [IC 31-33-7-8 Reports to health care providers and schools; contents; confidentiality](#)
8. [IC 31-33-18-1 Confidentiality; exceptions](#)
9. [IC 31-33-18-1.5 Written findings; copies to the department of child services; certain records held by governmental entities not confidential if redacted; procedure for redacting records](#)
10. [IC 31-33-18-2 Disclosure of unredacted material to certain persons](#)
11. [IC 31-33-18-3 Disclosure to qualified researchers](#)
12. [IC 31-33-18-4 Notice to parent, guardian, or custodian of availability of reports, information, and juvenile court records; release form; copying costs](#)
13. [IC 31-33-22-2 Obtaining child abuse or neglect information under false pretenses; falsifying records or interfering with an investigation](#)
14. [IC 31-33-24-6 Establishment of child fatality review teams; record review; purpose](#)
15. [42 U.S.C. 671\(a\)\(8\) Restriction on disclosure of information concerning individuals assisted under Title IV-E](#)
16. [465 IAC 2-5-1 Procedure for disclosure of information to qualified researchers](#)

<b>PROCEDURE [REVISED]</b>
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**[REVISED] DCS (Intake and Assessment) Records**

All CA/N reports and assessment information, including written reports, audio/video recordings and photographs are confidential. It is a Class B misdemeanor for a person to knowingly obtain or to falsify CA/N information or records. In addition, it is a Class A misdemeanor for a public employee knowingly and intentionally to disclose information classified as confidential by state statute.

Upon receipt of a written request and approval from the DCS Local Office Attorney, the Family Case Manager (FCM) may disclose intake or assessment information to the following:

1. A legally mandated child protection agency investigating a report of CA/N or a child or family who are subjects of a report;
2. A law enforcement agency, prosecutor or coroner investigating a report of CA/N;
3. A physician treating a child whom the physician suspects may be abused or neglected;
4. Anyone legally authorized to take protective custody of an abused or neglected child when the information is needed to determine whether to remove the child and make an out-of-home placement;
5. An agency with legal responsibility or authorization to provide care, treatment, or supervision for the subject child, or the child's parent, guardian, custodian, or other person responsible for the child's welfare;
6. The alleged victim (if requested as an adult);
7. The Guardian ad Litem (GAL) or Court Appointed Special Advocate (CASA) of the alleged victim;
8. **[REVISED]** The parent (including non-custodial parent), guardian, custodian or other person responsible for the child named in a report and his or her attorney with the identity of the report source, child and others protected by law redacted;

**[REVISED] Note:** Each parent, guardian, or custodian must be given verbal and written notice of the availability of the assessment report and must be provided with a copy of the 311 or Notice of Availability (NOA) upon written request. See separate policy, [4.10 Interviewing the Parent/Guardian/Custodian](#).

9. A court that requires the information to decide an issue before it;
10. A grand jury;
11. **[REVISED]** An appropriate state or local official responsible for legislation in carrying out official functions<sup>1</sup>;
12. **[REVISED]** A foster care review board established under [IC 31-34-2-9](#);
13. A community Child Protection Team (CPT), upon request, in order to carry out its purpose;
14. A person about whom a report has been made, provided that the identity of the reporting source and other appropriate persons protected by law.
15. An employee of DCS, a FCM, or a Juvenile Probation Officer conducting a criminal history check to assess the appropriateness of a family for placement and to make a placement recommendation to the court for a child in out-of-home care;
16. A local child fatality review team established under [IC 31-33-24-6](#);
17. The statewide child fatality review committee established by [IC 31-33-24-6](#);
18. The Division of Family Resources (DFR), in relation to a license applicant, licensee, employee or volunteer of a child care center, child care home, or child care ministry;
19. Any authorized employee of DCS for an appropriate purpose, as determined by the Director or Deputy Director of Field Operations;
20. A citizen's review panel, established under [IC 31-25-2-20.4](#);
21. **[NEW]** The DCS Ombudsman; and
22. **[NEW]** The state superintendent of public instruction with protection for the identity of:
  - a. Any person reporting known or suspected child abuse or neglect; and
  - b. Any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

**[REVISED] Providing Information to Another CPS Agency**

Within one (1) business day of receiving the request DCS will:

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<sup>1</sup> Release of unredacted material under this provision must be approved by the DCS General Counsel

1. Determine whether the requesting agency is a legally mandated public or private CPS agency;

**Note:** The requesting agency must send a written request for information on agency letterhead with complete job and unit titles of the requesting person (e.g., Jane Doe, Family Case Manager, CPS Unit, Marion County DCS Local Office).

2. Determine the basis for the agency's request (i.e., whether the requesting agency is assessing a report of child abuse or neglect or assessing a family for the purpose of placement of a child for whom the agency has care or placement responsibility);
  - a. The written request shall contain a listing of the specific information needed and any information that would assist the FCM in identifying the appropriate CPS case file. For example, if a child's name is Charles Smith, a date of birth or social security number may be requested to ensure the release of accurate information,

**Note:** If the CPS agency requests the immediate release of records due to an emergency, the FCM shall acquire the approval of the Unit Supervisor or DCS Local Office Attorney prior to the release of records.

- b. The FCM will collect the information needed to make the determinations outlined above from the requesting CPS agency and document this information within the case file, and
  - c. The DCS Local Office Attorney will determine if the records are accessible to the CPS agency based upon the information provided and shall orally advise the FCM of the appropriate response to the requesting CPS agency.
3. **[NEW]** Redact the name of the report source and any information concerning any children or adults that are not the subject of the request prior to sending to the requesting agency.

#### **[REVISED] Providing Information to Parent, Guardian, Custodian or Perpetrator**

Upon request from the parent, guardian, custodian, subject child (if an adult at the time of request), appointed CASA/GAL, representative, or perpetrator, the FCM will:

1. Provide information regarding the assessment, after deleting the identities of the person making the report and other appropriate individuals;

**[REVISED] Note:** Carefully review to determine what information should be redacted to protect the safety of an adult victim of and children of families with identified domestic violence and any other person named in a report whose health or safety could be at risk, as determined by the DCS local office.

2. Provide a copy of the psychological evaluation to the person who is the subject of the evaluation **only** (unless the subject is a child);

**Note:** If anyone other than the subject of the psychological evaluation requests a copy, that request must be submitted to the doctor or psychologist who provided the service.

3. Consult with the DCS Local Office Attorney prior to releasing school records;

4. Consult with the DCS Local Office Attorney prior to releasing audio and video recordings.

No prerequisites for obtaining information beyond a written request may be imposed upon any person or agency entitled to obtain a copy of the information, other than reasonable copying costs. See Related Information for copying cost.

#### **[REVISED] Release of Child Fatality and Near Fatality Records**

All fatality and near fatality records and other records relating to a child victim for whom DCS has substantiated CA/N are subject to court approved release. The records may be subject to court approved release released upon the completion of the fatality assessment or earlier if a prosecutor has filed criminal charges against an alleged perpetrator of CA/N that resulted in a fatality or near fatality.

Upon receipt of a public records request (phone, written, e-mail, fax or by walk-in), the DCS local office will within one (1) business day of receiving the request, e-mail the Central Office Fatality Consultant the following information:

1. Name, address and phone number of the requestor;
2. Relationship, if any, of the requestor to the identified child; and
3. Organizational affiliation of the requestor (e.g. Indianapolis Star, Indianapolis Channel 6 News).

Upon receipt of the public records request, the DCS Central Office Fatality Consultant will notify the DCS General Counsel, or his/her designee of the request:

1. Send a notice to the requestor regarding DCS' ability to process the request; and
2. Submit the file retrieved by the DCS Central Office Fatality Consultant to the juvenile court of the county in which the child died or the near fatality occurred, if the record(s) requested are a substantiated fatality or near fatality locate the records.

**Note:** Only the juvenile court has the authority to release fatality or near fatality records.

#### **[REVISED] Case Records for Children in Foster Care or Residential Placement**

DCS will keep all records regarding children and information gathered about the child, the parent, guardian, custodian, or their relatives confidential [IC 31-27-4-21](#). Information about children involved in ongoing services cases and placed in a licensed home or facility may be released to the following:

1. A state agency involved in the licensing of the substitute care home or facility where the child is placed;
2. A legally mandated child protection agency. Refer to procedure outlined above in CPS Intake and Assessment Records; Providing information to another state agency;
3. A Law Enforcement Agency (LEA);
4. An agency having legal responsibility to care for a child placed in a substitute care home or facility;
5. The parent, guardian, or custodian of the child in a substitute care home or facility;
6. A citizens review panel; and
7. **[NEW]** The DCS Ombudsman.

DCS will also restrict the use or disclosure of information concerning a child or their family who is receiving services through a placement for which assistance is provided under Title IV-E of

the Social Security Act. The information may be released only for one of the following purposes:

1. Administration of the state plan under Title IV-B, Title IV-D, or Title IV-E of the Social Security Act;
2. Any related investigation, civil or criminal proceeding;
3. Administration of any other federally assisted program based on need of the persons Assisted;
4. Any governmental agency audit of administration of any referenced plan or program funded under the plan; or
5. Reporting to appropriate authorities any information concerning known or suspected CA/N.

### **Licensing Records**

Information contained in licensing files is considered public information with the **exception** of the following:

1. CA/N information;
2. Information concerning children in substitute care, day care children or the parent, guardian, or custodian of these children;
3. Medical or psychological information;
4. Federal Bureau of Investigation (FBI) transcript reports;
5. Financial information; and
6. Inter-agency and intra-agency decision making communications.

<b>PRACTICE GUIDANCE</b>
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N/A

<b>FORMS AND TOOLS</b>
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N/A

<b>RELATED INFORMATION</b>
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### **Copying Cost**

No fee may be charged for inspection of public records. However, a copying fee may be charged which is not to exceed the average cost of copying or 10 cents per page, whichever is greater.