



## INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY

**Chapter 2:** Administration of Child Welfare Services

**Section 06:** Sharing Confidential Information

**Effective Date:** July 1, 2024

**Version:** 13

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### POLICY OVERVIEW

The identity of the report source, children, and others protected by law must be held confidential unless disclosure is authorized by statute or court order to share the identity. Confidentiality of information and records the Indiana Department of Child Services (DCS) receives from other sources is also maintained, in accordance with the laws applicable to the owner and/or sender of the records.

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### PROCEDURE

DCS will hold confidential all information, documents, reports, pictures, videos, images, or recordings obtained, possessed, produced, or created by DCS concerning a child or family with whom DCS has been involved during any stage of DCS' assessment, including post-assessment or post-adoption activity. DCS abides by Indiana law and shares confidential information with only those persons entitled to receive the information.

**Note:** All audio recordings of Child Abuse and Neglect (CA/N) reports called into the DCS Child Abuse Hotline (Hotline) are confidential and may be released only upon court order except when requested in writing by a prosecuting attorney investigating a false report of CA/N. See policy 4.22 Making an Assessment Finding for more information.

The confidentiality of information and records from other sources must also be maintained, which may include medical records (e.g., physical or mental health records, substance abuse treatment records, and Human Immunodeficiency Virus [HIV] status). Child specific information, such as any diagnoses and/or behavioral needs, may be released to a Licensed Child Placing Agency (LCPA) or residential treatment facility to determine feasibility for placement of that child.

**Note:** In cases where the safety and well-being of the child is in question and the release of confidential information is necessary to maintain the child's safety or well-being, the Family Case Manager (FCM) should consult with the FCM Supervisor and DCS Staff Attorney.

DCS shall comply with any request to conduct CA/N history checks received from another state's child welfare agency if 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 for an alleged victim and/or perpetrator residing in the requesting state, and the agency is seeking previous CA/N history within Indiana; or
3. The requesting state agency has care, custody, and control of the child, and the request is to check Child Protective Services (CPS) history of an individual who has a prior relationship with the child.

DCS will advise parents, guardians, custodians, and perpetrators of any rights regarding access to confidential CA/N information by providing the Notice of Availability of Completed Reports and Information: Investigation of Allegations of Child Abuse or Neglect form. A copy of the Assessment of Alleged Child Abuse or Neglect (311) will be provided upon written request. See policies 4.10 Interviewing the Parent, Guardian, or Custodian and 4.11 Interviewing the Alleged Perpetrator for additional information.

DCS will make available for public review and inspection all statewide assessments, reports of findings, and Program Improvement Plans (PIP) developed as a result of a full or partial Child and Family Services Review (CFSR), redacted as legally required. Release of these documents will occur after approval of DCS General Counsel and the Data Governance Committee.

DCS may provide unidentifiable CA/N information of a general nature, and not subject to pending litigation, to persons engaged in research. The DCS Central Office may provide such information upon approval of a written request for specified data.

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

DCS will protect the confidentiality of all information gained from alleged victims of domestic violence (DV). Prior to releasing any information (i.e., information disclosed during court proceedings when disclosure of information is mandatory), DCS will notify the alleged victim so a plan may be developed for the alleged victim's and the child's safety. See policy 2.30 Domestic Violence for additional information.

### **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 criminal offense for a person to knowingly obtain or falsify CA/N information or records. In addition, it is a Class A infraction for a public employee to knowingly and intentionally disclose information classified as confidential by state statute.

Upon request, the FCM shall provide access to information, documents, reports, pictures, videos, images, or recordings obtained, possessed, produced, or created by DCS concerning a child or family with whom DCS has been involved during any stage of DCS' assessment to a police officer or other law enforcement agency (LEA), a prosecuting attorney, and in a case involving death, the coroner who is investigating a report of a child who may be a victim of CA/N. Upon receipt of a request, an assessment report will be made available to the United States Department of Defense Family Advocacy Program if a parent, guardian, or custodian of a child who is the subject of a substantiated assessment of CA/N is an active-duty member of the military.

Except as otherwise prohibited by federal law (including but not limited to Family Educational Rights and Privacy Act [FERPA] and Substance Use Disorder Patient Records [42 CFR Part 2]), upon receipt of a written request and approval from the DCS Staff Attorney, the FCM may

provide access to reports made, other information obtained, reports written, or photographs taken to the following (with redaction as required to protect the report source):

1. A legally mandated public or private child protective agency assessing a report of CA/N or treating a child or family that is the subject of a report or record;
2. Any of the following who are investigating a report of a child who may be a victim of CA/N:
  - a. A police officer or other LEA,
  - b. A prosecuting attorney, and
  - c. A coroner, in the case of the death of a child.

**Note:** A release of information under this section must be in relation to the law enforcement, prosecuting attorney, or coroner's current investigation of child abuse or neglect. Information should not be provided when there is an investigation into allegations that are unrelated to child abuse or neglect.

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;
6. The alleged victim (if requested as an adult) or the Guardian ad Litem (GAL) and/or Court Appointed Special Advocate (CASA) of the alleged victim if the alleged victim is a child or is otherwise incompetent;
7. The parent (including non-custodial parent), guardian, custodian or other person responsible for the welfare of a child named in a report and the parent, guardian, or custodian's attorney;

**Note:** Each parent, guardian, or custodian must be given verbal notice of the availability of the assessment report and must be provided with the Notice of Availability of Completed Reports and Information: Investigation of Allegations of Child Abuse or Neglect.

8. A court that requires the information to decide an issue before the court;
9. A grand jury;
10. An appropriate state or local official responsible for legislation in carrying out official functions;
11. A community Child Protection Team (CPT), upon request, in order to carry out its purpose;
12. A person about whom a report has been made with redaction as required to protect the life or safety of any other person;
13. An employee of DCS 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;
14. A local child fatality review team;
15. The statewide child fatality review committee;
16. DCS and any authorized employee of DCS for an appropriate purpose, as determined by the Director or Deputy Director of Field Operations;
17. The Division of Family Resources (DFR), in relation to a licensed applicant, licensee, employee or volunteer of a child care center, child care home, or child care ministry if the report of CA/N is substantiated;

18. A citizen's review panel, established under IC 31-25-2-20.4;
19. The DCS Ombudsman;
20. The State Superintendent of Public Instruction with redaction as required to protect the life or safety of any other person;
21. The state child fatality review coordinator employed by the state department of health;
22. **[For incidents that occur on or after 7-1-2014]** A person who operates a Child Caring Institution (CCI), group home, or Private Secure Facility (PSF) if **ALL** the following apply:
  - a. The CCI, group home, or PSF is licensed under IC 31-27
  - b. The report or other materials concern:
    - i. An employee of,
    - ii. A volunteer providing services at, or
    - iii. A child placed at the CCI, group home, or PSF.
  - c. The allegation in the report occurred at the CCI, group home, or PSF.
23. **[For incidents that occur on or after 7-1-2014]** A person who operates a child placing agency if **ALL** the following apply:
  - a. The child placing agency is licensed under IC 31-27,
  - b. The report or other materials concern:
    - i. A child placed in a foster home licensed by the child placing agency,
    - ii. A person licensed by the child placing agency to operate a foster family home,
    - iii. An employee of the child placing agency, or a foster family home licensed by the child placing agency, or
    - iv. A volunteer providing services at the child placing agency or a foster family home licensed by the child placing agency.
  - c. The allegations in the report occurred in the foster family home or in the course of employment or volunteering at the child placing agency or foster family home.
24. The National Center for Missing and Exploited Children (NCMEC) (see policy 5.22 Missing and Runaway Children);
25. A local DV review team established under IC 12-18-8, as determined by DCS to be relevant to the death or near fatality that the local DV fatality review team is reviewing;
26. The statewide DV review committee established under IC 12-18-9-3, as determined by DCS to be relevant to the death or near fatality that the statewide DV review committee is reviewing;
27. The statewide maternal mortality review committee established under IC 16-50-1-3, as determined by DCS to be relevant to the case of maternal morbidity or maternal mortality that the statewide maternal mortality review committee is reviewing;
28. The local fetal-infant mortality review team established under IC 16-49-6, as determined by DCS to be relevant to the case of fetal or infant fatality that the local fetal infant mortality team is reviewing;
29. The county or regional Suicide and Overdose Fatality Review (SOFR) Team established under IC 16-49.5-2, as determined by DCS to be related to the case of suicide or overdose that is being reviewed by the SOFR Team;
30. The Office of Administrative Law Proceedings (OALP) for a matter that is the subject of an administrative proceeding before the OALP;
31. A tribal representative, agency, or organization authorized by the Indian tribe to care for, diagnose, treat, review, evaluate, or monitor active efforts regarding an Indian child, and the Indian child's parent, guardian, or custodian;

32. The United States (U.S.) Department of State and foreign governments to comply with federal law and treaties; and
33. A Child Advocacy Center (CAC) (see Definitions) when the CAC has before it an investigation of CA/N in which it is facilitating a forensic interview (see Definitions) or facilitating a case discussion or case review.

### **Providing Information to Another CPS Agency**

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

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 or from the out-of-state's child welfare agency's business e-mail address with the requestor's name, name of the child welfare agency, job title, and contact information (e.g., Jane Doe, State of Texas, Family Case Manager, CPS Unit, Marion County DCS Local Office, e-mail jane.doe@tx.state.gov).

2. Determine the basis for the agency's request by asking the requesting agency to provide the purpose of their request in writing (i.e., whether the requesting agency is currently assessing a report of CA/N in the requesting state and is seeking information for an individual currently in their state, who previously resided in Indiana):

**Note:** Indiana DCS will not complete a CA/N search, for purposes of placement, on an individual currently residing in Indiana. Such requests should go through the Interstate Compact for the Placement of Children (ICPC). See Chapter 9 Policies related to ICPC for additional guidance.

- a. The written request shall contain a listing of the specific information needed (i.e., assessment when children are victims, only assessment with substantiation, assessment regardless of finding) and any information that would assist the FCM in identifying the appropriate CPS case file (e.g., adult's current name/maiden names, child's name, a date of birth or social security number, and/or any previous Indiana address, county of residence, and dates of residence). As much information as possible should be provided 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 FCM Supervisor and DCS Staff 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 Staff 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. Redact the name of the report source and the name and date of birth of any children that are not the subject of the request prior to sending to the requesting agency.

### **Providing Information to Parent, Guardian, or Custodian; Perpetrator; Child; or CASA/GAL**

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

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

**Note:** Carefully review to determine what information should be redacted to protect the safety of an adult victim 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. Consult with the DCS Staff Attorney prior to releasing a psychological evaluation or a mental health or substance abuse treatment record;

**Note:** If an individual other than the subject of the psychological evaluation requests a copy, the request must be submitted to the doctor or psychologist who provided the service. Care should be taken to review evaluations to determine if the doctor or psychologist has made any recommendations regarding the disclosure/non-disclosure of the evaluation to the subject of the report. The DCS Staff Attorney should be consulted regarding the existence of any court issued protective order.

3. Consult with the DCS Staff Attorney prior to releasing school records; and
4. Notify the DCS Staff Attorney of a request for release of audio/video recordings.

Upon notification of a request for release of audio/video recordings, the DCS Staff Attorney will consult with their Chief Counsel, or other designated supervising attorney, for guidance.

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.

### **Release of Child Fatality and Near Fatality Records Through a Public Records Request**

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

**Note:** If a police investigation or criminal prosecution is ongoing or information in a record is otherwise confidential under state or federal law, the fatality or near fatality records may not be subject to release, and DCS shall disclose the record and any known information regarding existence of a pending police investigation or criminal prosecution to the juvenile court exercising jurisdiction over the matter.

Upon receipt of a public records request (e.g., by phone, written request, e-mail, fax, or by walk-in) for fatality or near fatality records, the DCS local office will within one (1) business day of receiving the request, e-mail the same to DCS Public Records Request along with 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 and Indianapolis Channel 6 News).

Upon receipt of the public records request on a fatality or near fatality that meets the criteria for release, the DCS Public Records Coordinator will notify the DCS General Counsel or designee of the request. The DCS General Counsel or designee will:

1. Send a notice to the requestor regarding DCS' ability to process the request; and
2. Submit all records created or received by DCS Central Office or a DCS local office in connection with the fatality or near fatality assessment to the juvenile court in the county where the child died or the near fatality occurred for the court's redaction and the court's release of such records to the requestor.

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

### **Case Records for Children in Foster Care or Residential Treatment**

DCS will keep all records regarding children and information gathered about children and their parent, guardian, custodian, or other relatives confidential. Information about children involved in ongoing service cases and placed in a licensed foster home or residential treatment facility may be released to the following:

1. A state agency involved in the licensing of the out-of-home care home or facility where the child is placed;
2. A legally mandated CPS agency. Refer to procedure outlined above in the Providing Information to Another CPS Agency section;
3. An LEA;
4. An agency having legal responsibility to care for a child placed in an out-of-home care home or a facility;
5. The parent, guardian, or custodian of the child in an out-of-home care home or a facility;
6. A citizens review panel; and
7. The DCS Ombudsman.

As provided under Title IV-E of the Social Security Act, DCS will restrict the use or disclosure of information concerning a child or the child's family. The information may be released only for one (1) 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, prosecution, or civil or criminal proceeding conducted in connection with the administration of such plans;
3. Administration of any other Federal or federally assisted program, which provides assistance or services directly to individuals on the basis of need;
4. Any governmental agency audit regarding the administration of any referenced plan or program funded under the plan; or
5. Reporting to appropriate authorities any information concerning known or suspected C/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 out-of-home 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.

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## **RELEVANT INFORMATION**

### **Definitions**

#### **Child Advocacy Center (CAC)**

A CAC is a child focused, trauma-informed community-based organization that:

1. Is recognized by the Indiana Chapter of National Children's Alliance and designed to collaborate on reports of CA/N;
2. Coordinates a multidisciplinary team; and
3. Facilitates forensic interviews.

#### **Forensic Interview**

A forensic interview is an interview in response to a report of CA/N conducted by a professional specially trained in a nationally recognized model using a multidisciplinary team approach.

### **Forms and Tools**

- Assessment of Alleged Child Abuse or Neglect (SF 113) (311) – available in the case management system
- DCS Public Records Request email - [Dcspublic.Recordsrequest@dcs.IN.gov](mailto:Dcspublic.Recordsrequest@dcs.IN.gov)
- [Notice of Availability of Completed Reports and Information: Investigation of Allegations of Child Abuse or Neglect \(SF 48201\)](#)

### **Related Policies**

- [2.27 Community Child Protection Team](#)
- [2.30 Domestic Violence \(DV\)](#)
- [4.10 Interviewing the Parent, Guardian, or Custodian](#)
- [4.11 Interviewing the Alleged Perpetrator](#)
- [4.22 Making an Assessment Finding](#)
- [5.22 Missing and Runaway Children](#)
- [Chapter 9- Interstate Compact \(ICPC\)](#)

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## **LEGAL REFERENCES**

- [IC 4-1-6-8.5: Consistent handling of information among and between agencies; principles and procedures](#)
- [IC 5-14-3: Chapter 3. Access to Public Records](#)
- [IC 5-14-3-10: Classified confidential information; unauthorized disclosure or failure to protect; offense; discipline](#)
- [IC 12-18-8: Chapter 8. Domestic Violence Fatality Review Team](#)



- [IC 12-18-9-3: Statewide domestic violence fatality review committee purpose](#)
- [IC 16-49.5-2: Chapter 2. Suicide and Overdose Fatality Review Teams](#)
- [IC 16-49-6: Chapter 6. Fetal-Infant Mortality Review Teams](#)
- [IC 16-50-1-3: Statewide maternal mortality review committee established; duties; authority](#)
- [IC 31-9-2-14.2: "Child advocacy center"](#)
- [IC 31-9-2-47.1: "Forensic interview"](#)
- [IC 31-25-2-14.5: Child advocacy centers; duties; confidentiality; civil immunity](#)
- [IC 31-25-2-20.4: Citizen review panels; membership; appointment; duties; response to report; prohibited acts](#)
- [IC 31-27: ARTICLE 27. CHILD SERVICES: REGULATION OF RESIDENTIAL CHILD CARE](#)
- [IC 31-27-3-18: Records](#)
- [IC 31-27-4-21: Records regarding children](#)
- [IC 31-33-7-8: Reports after initiation of assessment or investigation; contents; confidentiality](#)
- [IC 31-33-8: Chapter 8. Investigation of Reports of Suspected Child Abuse or Neglect](#)
- [IC 31-33-8-9: Provision of copies of investigative report by department of child services](#)
- [IC 31-33-18-1: Confidentiality; exceptions](#)
- [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 reacting records](#)
- [IC 31-33-18-2: Disclosure of unredacted material to certain persons](#)
- [IC 31-33-18-3: Disclosure to qualified researchers](#)
- [IC 31-33-18-4: Notice to parent, guardian, or custodian of availability of reports, information, and juvenile court records; release form; copying costs](#)
- [IC 31-33-22-2: Obtaining child abuse information under false pretenses; knowingly falsifying records or interfering with an investigation](#)
- [IC 31-36-1-3.5: Information to the National Center for Missing and Exploited Children](#)
- [IC 31-36-2-2: Investigatory duties of law enforcement agency](#)
- [34 CFR Part 99: Family Educational Rights and Privacy](#)
- [42 CFR Part 2: Confidentiality of Substance Use Disorder Patient Records](#)
- [42 U.S.C. 671 \(a\)\(8\): State Plan for Foster Care and Adoption Assistance](#)
- [42 U.S.C. 671 \(a\)\(9\)\(C\)\(i\)\(I\) State Plan for Foster Care and Adoption Assistance](#)
- [42 U.S.C. 5106a\(b\)\(2\)\(B\)\(x\): The Child Abuse Prevention and Treatment Act; Grants to States for Child Abuse or Neglect Prevention and Treatment Programs](#)
- [465 IAC 2-5-1: Release of information to individuals engaged in research projects on child abuse; written request; good faith research project; qualifying individual](#)

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## PRACTICE GUIDANCE- DCS POLICY 2.06

*Practice Guidance is designed to assist DCS staff with thoughtful and practical direction on how to effectively integrate tools and social work practice into daily case management in an effort to achieve positive family and child outcomes. Practice Guidance is separate from Policy.*

### **Adoption Records Requests**

Any requests for adoption records should be sent to the DCS Public Records email.

### **Copying Cost**

No fee may be charged for inspection of public records. However, a reasonable copying fee may be charged.

### **Incarcerated Parents**

With authorization by either the incarcerated individual or a court, confidential information may be shared with the FCM or service provider at the Indiana Department of Corrections (DOC) when collaborating with DOC to facilitate services to the parent that are within DOC's service array. Authorization is not necessary for DCS to share information with DOC staff regarding the conduct of the incarcerated parent exhibited during visits with a child.

### **Maintaining Confidentiality for Children**

DCS employees should ensure information that has the potential to cause safety and well-being issues for children has been redacted when releasing confidential information. This includes, but is not limited to, the HIV status of either the child or the parents and sexual orientation (Lesbian, Gay, Bisexual, Transgender, and Questioning/Queer, Intersex, Asexual, and more [LGBTQIA+]). Except for cases where confidential information may be relevant to abuse, neglect, removal, placement, or reunification, confidentiality must be maintained.

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