

	<b>INDIANA DEPARTMENT OF CHILD SERVICES CHILD WELFARE POLICY</b>	
	<b>Chapter 2:</b> Administration of Child Welfare Services	<b>Effective Date:</b> July 1, 2020
	<b>Section 6:</b> Sharing Confidential Information	<b>Version:</b> 10

<b>STATEMENTS OF PURPOSE</b>
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The Indiana Department of Child Services (DCS) will hold confidential all information obtained, reports written, photographs taken, and audio/video recordings concerning reports of Child Abuse and/or Neglect (CA/N), CA/N assessments, and the provision of continuing case management services. The identity of the report source, children, and others protected by law must be held confidential unless authorized by statute or court order. DCS will abide by Indiana law and share confidential information with only those persons entitled to receive the information.

**Note:** All audio recordings of 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 [2.14 Intentional False Reports](#) for more information.

DCS will maintain the confidentiality of information and records it receives from other sources, in accordance with the laws applicable to the owner and/or sender of the records. This confidential information may include medical records; such as physical or mental health records and Human Immunodeficiency Virus (HIV) status, Law Enforcement Agency (LEA) records, or court records.

**Note:** Child specific information, such as any diagnoses and/or behavioral needs, may be released to a Licensed Child Placing Agency (LCPA) or residential facility to determine feasibility for placement of that child.

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 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.

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.

Fatality or near fatality records may be released by court order exercising juvenile jurisdiction, after properly redacted, if:

1. The fatality or near fatality allegations are substantiated and the result of abuse, abandonment, or neglect; or
2. A prosecuting attorney has filed charges as a result of a child's death or near fatality reasonably believed to be the result of abuse, abandonment, or neglect.

**Exception:** If a police investigation or criminal prosecution is ongoing or information in a record is otherwise confidential under state or federal law, DCS must provide a copy of the record to the juvenile court exercising jurisdiction.

Upon receiving a request for records on a fatality or near fatality that meets the criteria for release, the DCS Office of the General Counsel will 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. This information should include any prior history records concerning the child.

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 victims of domestic violence. Prior to releasing any information (i.e., information disclosed during court proceedings when disclosure of information is mandatory), DCS will notify the victim so he or she may plan for his or her safety and the safety of the child.

#### Code References

1. [IC 4-1-6-8.5 Consistent handling of information among and between agencies; principles and procedures](#)
2. [IC 5-14-3 Access to Public Records](#)
3. [IC 12-18-8 Domestic Violence Fatality Review Team](#)
4. [IC 12-18-9-3 Statewide domestic violence fatality review committee purpose](#)
5. [IC 16-49.5-2 Suicide and Overdose Fatality Review Teams](#)
6. [IC 16-49-6 Fetal-Infant Mortality Review Teams](#)
7. [IC 16-50-1-3 Statewide maternal mortality review committee established; duties; authority](#)
8. [IC 31-25-2-20.4 Citizen review panels; membership appointment; duties; response report; prohibited acts](#)
9. [IC 31-27 Child Services; Regulation of Residential Child Care](#)
10. [IC 31-27-3-18 Records](#)
11. [IC 31-27-4-21 Records regarding children](#)
12. [IC 31-33-7-8 Reports after initiation of assessment or investigation; contents; confidentiality](#)
13. [IC 31-33-8-9 Provisions of copies of investigative report by department of child services](#)
14. [IC 31-33-18-1 Confidentiality; exceptions](#)

15. [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](#)
16. [IC 31-33-18-2 Disclosure of un-redacted material to certain persons](#)
17. [IC 31-33-18-3 Disclosure to qualified researchers](#)
18. [IC 31-33-18-4 Notice to parent, guardian, or custodian of availability of reports, information, and juvenile court records; release form; copying costs](#)
19. [IC 31-33-22-2 Obtaining child abuse or neglect information under false pretenses; knowingly falsifying records or interfering with an investigation](#)
20. [IC 31-36-1-3.5 Information to the National Center for Missing and Exploited Children \(NCMEC\)](#)
21. [42 U.S.C. 671 \(a\)\(8\) State Plan for Foster Care and Adoption Assistance](#)
22. [42 U.S.C 671 \(a\)\(9\)\(C\)\(i\)\(I\) State Plan for Foster Care and Adoption Assistance](#)
23. [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](#)
24. [42 USC 5101 106\(b\)\(2\)\(B\)\(x\) The Child Abuse Prevention and Treatment Act](#)

## PROCEDURE

### **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 Family Case Manager (FCM) shall provide access to reports made, other information obtained, reports written, and photographs taken 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.

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 and the life or safety of any other person**):

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. A physician treating a child whom the physician suspects may be abused or neglected;
3. 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;
4. An agency with legal responsibility or authorization to provide care, treatment, or supervision for the subject child; the child's parent, guardian, custodian; or other person responsible for the child's welfare;
5. The alleged victim (if requested as an adult);
6. The Guardian ad Litem (GAL) or Court Appointed Special Advocate (CASA) of the alleged victim;
7. The parent (including non-custodial parent), guardian, custodian or other person responsible for the child named in a report and his or her 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 \(SF 48201\)](#). A copy of the [Assessment of Alleged Child Abuse or Neglect \(SF 113\) \(311\)](#) will be provided upon written request. See policy [4.10 Interviewing the Parent/Guardian/Custodian](#) for additional information.

8. A court that requires the information to decide an issue before it;
9. A grand jury;
10. An appropriate state or local official responsible for legislation in carrying out official functions<sup>1</sup>;
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;
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. 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,;
17. Any authorized employee of DCS for an appropriate purpose, as determined by the Director or Deputy Director of Field Operations;
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;
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** of 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** of 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.

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

- 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 [Practice Guidance](#) for more information;
25. A local domestic violence review team established under [IC 12-18-8](#), as determined by DCS to be relevant to the death or near fatality that the local domestic violence fatality review team is reviewing;
26. The statewide domestic violence 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 domestic violence 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; and
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.

### **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 on an individual currently residing in Indiana. Such requests should go through Interstate Compact for the Placement of Children (ICPC).

- 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 names/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 his or her 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 any information concerning any children or adults that are not the subject of the request prior to sending to the requesting agency.

### **Providing Information to Parent, Guardian, Custodian, Perpetrator or Child**

Upon request from the parent, guardian, custodian; subject child (if he or she is 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 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. 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, 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 the DCS 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 Central Office Fatality Unit 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 Central Office Fatality Unit will notify the DCS General Counsel or his or her designee of the request. The DCS General Counsel will:

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 Unit or DCS Local Office to the juvenile court of the county in which the child died or the near fatality occurred.

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

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

DCS will keep all records regarding children and information gathered about the child; parent, guardian, custodian; or their relatives confidential. Information about children involved in ongoing service 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 out-of-home care home or facility where the child is placed;
2. A legally mandated CPS agency. Refer to procedure outlined above in CPS Intake and Assessment Records; Providing information to another state agency;
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 his or her 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 or civil or criminal proceeding;
3. Administration of any other federally assisted program based on the 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 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.

## **PRACTICE GUIDANCE**

### **Maintaining Confidentiality for Youth**

DCS employees should ensure information that has the potential to cause safety and well-being issues for youth has been redacted when releasing confidential information. This includes, but is not limited to, HIV status of either the youth or the parents and sexual orientation (Lesbian, Gay, Bisexual, Transgendered, and Questioning [LGBTQ]). Except for cases where confidential information may be relevant to abuse, neglect, removal, placement, or reunification, confidentiality must be maintained. In cases where the safety and well-being of the youth is in question, the FCM should consult with the FCM supervisor and/or DCS Staff Attorney.

### **Adoption Records Requests**

Any requests for adoption records should be referred to [Dcspublic.recordsrequest@dcs.in.gov](mailto:Dcspublic.recordsrequest@dcs.in.gov).

### **Incarcerated Parents**

Confidential information may be shared with Indiana Department Of Corrections (DOC) when collaborating with DOC to facilitate services to the parent that are within DOC's service array. DCS shall share information with DOC regarding the progress of a parent-child relationship as exhibited during visits with an incarcerated parent.

### **Sharing Information with NCMEC**

In accordance with [IC 31-36-1-3.5](#) if DCS received a report concerning a missing child who is described in [42 U.S.C. 671 \(a\)\(9\)\(C\)\(i\)\(I\)](#), DCS will share the following information regarding the missing child to NCMEC:

1. A copy of the missing child report, within 24 hours of receipt.
2. Other documentation in DCS possession concerning the missing child that DCS determines may be relevant to the location and return of the missing child; and
3. Copies of any updated reports ([IC 31-36-2-2](#)), assessments ([IC 31-33-8](#)), and any notifications received by DCS that the missing child has been located.

**Note:** If DCS receives a report concerning a missing child who is not described in [42 U.S.C. 671 \(a\)\(9\)\(C\)\(i\)\(I\)](#), the same protocol will be utilized as described above.



## FORMS AND TOOLS

1. [Notice of Availability of Completed Reports and Information: Investigation of Allegations of Child Abuse or Neglect \(SF 48201\)](#)
2. [Assessment of Alleged Child Abuse or Neglect \(SF 113\) \(311\)](#)

## RELATED INFORMATION

### **Copying Cost**

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

ARCHIVED - Effective 7/1/20-6/30/21 - Legislative Changes