



CDSS

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October 29, 2010

ALL COUNTY INFORMATION NOTICE NO. I-85-10

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

TO: ALL COUNTY WELFARE DIRECTORS
ALL CHILD WELFARE SERVICES
PROGRAM MANAGERS

SUBJECT: CHILD FATALITY AND NEAR FATALITY REPORTING AND
DISCLOSURE

REFERENCE: ALL COUNTY LETTER (ACL) NO. 08-13; ACL NO. 09-02; ACL
NO. 10-06; MANUAL OF POLICIES AND PROCEDURES,
DIVISION 31 REGULATIONS, SECTIONS 31-002 AND 31-502.

The purpose of this All County Information Notice (ACIN) is to provide clarification on reporting and disclosure responsibilities specific to child fatalities and near fatalities that are determined to be the result of abuse and/or neglect. This letter is written to 1) stress the importance that dependency petition language may change the status of an ongoing or concluded child fatality investigation, and 2) provide instruction regarding requests for law enforcement redactions prior to the release of records pertaining to a child fatality when a public request is received.

Background

Senate Bill (SB) 39 (Chapter 468, Statutes of 2007), effective January 1, 2008, clarifies the requirements for the reporting and disclosure of child fatality information in California. SB 39 requires that local agencies respond directly to public requests for information related to a child fatality that is determined to be the result of abuse and/or neglect. Regulations were adopted amending the Manual of Policies and Procedures, Division 31, which provide specific instruction to counties regarding the reporting and release of child fatality information. In addition, All County Letters 08-13, 09-02 and 10-06 provide further clarification regarding SB 39 reporting and disclosure requirements. Recent questions have been raised by counties concerning the effects of dependency petition filings on a county's reporting responsibilities, as well as the appropriate process for notifying law enforcement or the District Attorney of public requests for child

fatality records when there is a concurrent LE investigation in progress. The following questions and answers address these issues.

Dependency Petitions

Question:

If the county child welfare services (CWS) agency **suspects**, but does not determine, that a fatality or near fatality was the result of abuse and/or neglect, what effect does the dependency petition filed for removal of other children in the home have on the county's requirement to submit the *Child Fatality/Near Fatality County Statements of Findings and Information* (SOC 826) to CDSS and the subsequent disclosure of case records?

Answer:

If a county suspects, but does not determine that a fatality or near fatality was the result of abuse and/or neglect, the county would NOT submit a SOC 826 form. If other children are removed from the home, and the language in the dependency petition only alleges "suspicion" that the child fatality was the result of abuse and/or neglect, and there are other substantiated allegations that led to the childrens' removal, then a SOC 826 would not be submitted since there has not yet been a determination regarding the fatality. Please refer to Division 31 Section 31-502.3 through .31 for information regarding the release of records when the CWS agency receives a public request for information related to a child fatality that is suspected to be the result of abuse and/or neglect

If a dependency petition is filed for removal of children in the home and the language used in that petition indicates or substantiates that the fatality/near fatality was the result of abuse and/or neglect, then a SOC 826 form MUST be submitted to CDSS. Please refer to Division 31 Section 31-502.33 through .35 for information regarding the release of records when the CWS agency receives a public request for information related to a child fatality that has been determined to be the result of abuse and/or neglect.

Law Enforcement/District Attorney Redactions

Question:

When a county notifies law enforcement (LE) or the District Attorney (DA) that there has been a public request for records related to a child fatality, what information should the CWS agency provide to law enforcement to ensure a well-informed response?

Answer:

According to the Manual of Policies and Procedures, Division 31 Section 31-502.4 through .447, information that must be redacted is that which is "privileged, confidential or not subject to disclosure prior to public release." In addition, LE or the DA may

require the redaction of specific information that would jeopardize a criminal investigation or proceedings after review of the deceased child's records available for public release.

When requesting LE or DA input related to release of information that would "jeopardize a law enforcement investigation or proceedings," the request must provide the reviewing agency with adequate information regarding the case records to be released. A blanket request by LE or the DA, with no accompanying information for release would be insufficient. Counties should consult with their county counsel and LE/DA to determine what constitutes sufficient information for law enforcement to make a well-informed response. This could include full or redacted case record information accompanying the request to LE or DA. However, LE/DA is only able to object to the specific case record information that would jeopardize their investigation regarding the child fatality. (Please refer to Division 31 Section 31-502.42.) Because of the criteria outlined in the regulations, the CWS agency must provide them with the records they intend to release.

CDSS will continue to provide technical assistance to counties regarding child fatality and near fatality reporting and disclosure requirements. Additional information, including the [SOC 826 form](#), can be found on the CDSS Child Fatality and Near Fatality Information website, located at: <http://www.childsworld.ca.gov/PG2370.htm>.

Please direct all questions to the Child Welfare Policy and Program Development Bureau (916) 651-6160.

Sincerely,

Original Document Signed By:

LINNÉ STOUT
Branch Chief
Child Protection and Family Support Branch