



CDSS

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**DEPARTMENT OF SOCIAL SERVICES**

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EDMUND G. BROWN JR.  
GOVERNOR

May 30, 2012

ALL COUNTY LETTER (ACL) NO. 12-20

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

SUBJECT: CHILD FATALITY REPORTING AND  
DISCLOSURE – CHANGE TO REGULATIONS

REFERENCE: TITLE 42 UNITED STATES CODE (U.S.C.) SECTIONS  
[5106a\(b\)\(2\)\(B\)\(viii\)](#) AND [5106a\(b\)\(2\)\(B\)\(x\)](#); WELFARE AND  
INSTITUTIONS CODE (W&IC) SECTION [10850.4](#); CALIFORNIA  
CODE OF REGULATIONS, TITLE 1, [SECTION 100](#); MANUAL OF  
POLICIES AND PROCEDURES (MPP), DIVISION 31 REGULATIONS  
SECTION [31-502.42](#); CALIFORNIA DEPARTMENT OF SOCIAL  
SERVICES (CDSS) [MANUAL LETTER NO. CWS-11-03](#)

REASON FOR THIS TRANSMITTAL

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

The purpose of this All County Letter is to inform counties of a recent change to the California MPP, Division 31 Regulations, which removes law enforcement as an entity with which the county may consult when redacting records prior to public disclosure.

**Background**

Federal and state statutes govern the disclosure of information related to child fatalities that are the result of abuse and/or neglect. The Child Abuse Prevention and Treatment Act ([CAPTA](#)) (42 U.S.C. § 5106[b][2][B][x]) requires that states disclose to the public findings or information about cases of child abuse and neglect that result in fatalities. Additionally, California [Senate Bill \(SB\) 39](#) (Chapter 468, Statutes of 2007) mandated new requirements for the county’s disclosure of child fatality information when the child’s death has been determined to be the result of abuse and/or neglect. In late 2009, regulations were adopted to implement both federal and state law.

### **Removal of Law Enforcement (LE) from Redaction Procedures**

Prior to October 31, 2011, the California MPP, Division 31 Regulations section [31-502.42](#) required that each county consult with law enforcement or the District Attorney to ensure the redaction of information, prior to public release, that would jeopardize a criminal investigation.

During the last year, stakeholders, including county child welfare services agencies and child advocacy groups, raised the issue of whether the regulation was consistent with W&IC section [10850.4\(e\)\(1\)\(B\)](#), which provides only for consultation with the District Attorney. After careful consideration, the Department determined that the inclusion of law enforcement in regulation as part of the redaction procedures was inconsistent with W&IC section [10850.4\(e\)\(1\)\(B\)](#) and commenced the process to delete this reference from the regulation. After this process began, a Petition requesting that the Department make this and other changes to its SB 39 regulations was submitted under Government Code section 11340.6. The Department granted this particular request consistent with its prior decision.

Pursuant to California Code of Regulations, [Title 1, Section 100](#), the Department repealed the regulatory language ("law enforcement or ") that was inconsistent with W&IC section [10850.4\(e\)\(1\)\(B\)](#). This change was officially approved by the Office of Administrative Law on October 31, 2011, and announced in [CDSS Manual Letter No. CWS-11-03](#), released November 8, 2011.

Effective October 31, 2011, a county shall only consult with the District Attorney, prior to public disclosure, to ensure the redaction of information that would jeopardize a criminal investigation. This also applies to any request for records made prior to October 31, 2011, for which a county has not yet consulted with law enforcement or the District Attorney.

If you have any questions, please contact The Child Welfare Policy and Program Development Bureau, at (916) 651-6160.

Sincerely,

***Original Document Signed By:***

GREGORY E. ROSE  
Deputy Director  
Children and Family Services Division