

**DEPARTMENT OF SOCIAL SERVICES**

744 P Street, Sacramento, California 95814



March 2, 2001

ALL-COUNTY LETTER NO: 01-18

TO: ALL COUNTY WELFARE DIRECTORS  
ADULT PROTECTIVE SERVICES (APS)  
PROGRAM MANAGERS

## REASON FOR THIS TRANSMITTAL

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

SUBJECT: CONFIDENTIALITY

REFERENCE: All-County Letter No. 99-53  
All-County Letter No. 99-95  
All-County Letter No. 00-16

This All-County Letter (ACL) provides information and procedures for county adult protective services agencies on confidentiality requirements, and implements various Welfare and Institutions Code (WIC) and Manual of Policies and Procedures (MPP) Sections that pertain to the disclosure of confidential information held by adult protective services agencies. WIC Section 10051 describes "public social services" as those activities and functions of state and local government involved in providing aid and or services to those people of the state who are in need of and will benefit from aid or services. Therefore, adult protective services are considered "public social services." County adult protective services agencies must operate in accordance with the requirements set forth in this ACL and with the provisions of MPP, Division 19, Confidentiality of Records, as applicable.

This ACL also instructs county adult protective services agencies on the circumstances that permit the disclosure of confidential information, and informs them of the persons and agencies to which that information may be disclosed. To the extent possible, the disclosure of confidential information must protect the rights of elders and dependent adults from the identification, exploitation or embarrassment that could result from the disclosure of information that identifies them as clients of adult protective services agencies. Instructions in this ACL pertain to all records, papers, files and communications concerning elders and dependent adults by county adult protective services agencies in the administration of the Adult Protective Services Program.

## CONFIDENTIAL INFORMATION

All information retained on behalf of elders and dependent adults by county adult protective services agencies in the administration of the Adult Protective Services Program is confidential. All information contained in the case record as defined in the MPP Division 33, Chapter 8, Section 33-805, is also confidential.

County adult protective services agencies need to be aware that information that is provided by other agencies may be subject to special confidentiality requirements. Such agencies may include, but are not limited to the following:

- Social Security Administration
- Veterans' Administration, and
- Department of Industrial Relations, Workers' Compensation Division.

The type of information provided that may be confidential includes, but is not limited to,

- Alcohol treatment reports
- Medical reports
- Mental health reports
- Human immunodeficiency virus (HIV) information, and
- State summary criminal history information.

Individuals seeking information from county adult protective services agencies that has been obtained from other agencies should be encouraged to contact the other agencies directly.

### Release of Confidential Information

The guidelines for releasing confidential information pertain to the disclosure of client information to various entities, including but not limited to, mandated reporters and multidisciplinary teams. Please note mandated reporters do not have equal access to confidential client information. The determination of what information to release to a mandated reporter is based on the identity of the mandated reporter and the purpose for the release of the information.

Example: The mandated reporter is the client's dentist. The dentist's services are not required by the client's service plan. Disclosure of confidential information, including acknowledging that the client is receiving adult protective services, is not directly connected to the administration of the Adult Protective Services Program. Therefore, the adult protective services agency may not release confidential information to the dentist. The adult protective services agency may, however, confirm receipt of the report of known or suspected abuse or neglect.

### Release of Confidential Information Without Consent of Client

Confidential information can be released without the consent of the client to certain investigative agencies, which include the following:

- Local law enforcement
- The Bureau of Medi-Cal Fraud and Elder Abuse
- The Department of Consumer Affairs, Division of Investigation
- The Long-Term Care Ombudsman
- Licensing agencies (California Department of Social Services' Community Care Licensing Division, Department of Health Services' Licensing and Certification Unit)
- California Department of Social Services.

The confidential information that can be released to these agencies is contained in the State of California (SOC) 341, *Report of Suspected Dependent Adult/Elder Abuse*, or county equivalent form. The information includes the following: the identity of the reporter; a description of the injuries and conditions suffered by the victim due to the alleged incident of abuse; and information relevant to the alleged incident of abuse. In addition, local law enforcement agencies can also receive a copy of the county adult protective services agency's investigative report, (SOC 343), or county equivalent form, along with any information or findings relevant to the incident of elder or dependent adult abuse (WIC Sections 15633.5; 15640; 15650). County adult protective services agencies are required to inform investigative agencies who receive confidential information relevant to the alleged incident of abuse that they are bound by the same confidentiality requirements as the county adult protective services agency.

### Release of Confidential Information to Multidisciplinary Personnel Teams

Confidential information can also be released to multidisciplinary personnel teams if the information is relevant to the prevention, identification, or treatment of abuse of elders or dependent adults. County adult protective services agencies must inform members of such multidisciplinary personnel teams that confidential information must not be disclosed to non-team members (WIC Sections 10850.1 and 15633 (b)(2)(A), (B)). In addition, county adult protective services agencies are required to inform all multidisciplinary personnel team members that confidential information that is disclosed to them cannot be used for any other purpose.

The provisions contained in the preceding paragraphs are separate from the obligation of an adult protective services agency's employee or ombudsman, set out in WIC Section 10850, to testify truthfully in a proceeding pertaining to a petition for appointment of a conservator or a criminal prosecution for elder or dependent adult abuse (WIC Section 10850 (b)(1), (2)).

## Release of Confidential Information With Client's Consent

County adult protective services agencies can release confidential information to service providers, with the client's consent, when arranging for services to implement the service plan. When the client has an authorized representative, the authorized representative may give consent on behalf of the client. The client's verbal or written consent to release confidential information must be documented in the service plan. When verbal consent is given, it must be as the result of a face-to-face contact with the client.

## Provisions Requiring Limited Disclosure of Confidential Information to Law Enforcement

WIC Sections 10850(e), and 10850.3 (a), (b) require counties to disclose confidential information to state and local law enforcement in a very narrow set of circumstances. For the purpose of these WIC sections, "public social service applicant or recipient" means an elder or dependent adult receiving adult protective services.

Welfare and Institutions Code Section 10850(e) states:

"This section shall not be construed to prohibit an employee of a county welfare department from disclosing confidential information concerning a public social services applicant or recipient to a state or local law enforcement agency investigating or gathering information regarding a criminal act committed in a welfare department office, a criminal act against any county or state welfare worker, or any criminal act witnessed by any county or state welfare worker while involved in the administration of public social services at any location. Further, this section shall not be construed to prohibit an employee of a county welfare department from disclosing confidential information concerning a public social services applicant or recipient to a state or local law enforcement agency investigating or gathering information regarding a criminal act intentionally committed by the applicant or recipient against any off-duty county or state welfare worker in retaliation for an act performed in the course of the welfare worker's duty when the person committing the offense knows or reasonably should know that the victim is a state or county welfare worker. Disclosure of confidential information pursuant to this subdivision shall be limited to the applicant's or recipient's name, physical description, and address."

Welfare and Institutions Code Section 10850.3 (a) states:

"Notwithstanding Section 10850, an authorized employee of a county welfare department may disclose confidential information concerning a public social services applicant or recipient to any law enforcement agency where a warrant has been issued for the arrest of the applicant or recipient for the commission of a felony or a misdemeanor. Information that may be released pursuant to this section shall be limited to the name, address, telephone number, birth date, social security number, and physical description, of the applicant for, or recipient of, public social services."

Welfare and Institutions Code Section 10850.3 (b) states in part:

“A county welfare department may release the information specified by this section to any law enforcement agency only upon a written request from the agency specifying that a warrant of arrest for the commission of a felony or misdemeanor has been issued as to the applicant or recipient. This request may be made only by the head of the law enforcement agency, or by an employee of the agency so authorized and identified by name and title by the head of the agency in writing to the county welfare department. A county welfare department shall notify all applicants of public social services that release of confidential information from their records will not be protected if a felony or misdemeanor arrest warrant is issued against the applicant.... “

County adult protective services agencies must notify their clients that information concerning them will be released to a law enforcement agency if a warrant for their arrest is issued. All other disclosure or release of confidential information, except for the emergency circumstances described below, can be made only when a court so orders.

#### Emergency Circumstances That Permit the Release of Confidential Information

The Director of the California Department of Social Services may authorize county adult protective services agencies to release certain confidential client information to emergency services personnel under specific circumstances described in WIC Section 10850.9. In the event of a public safety emergency that requires the possible evacuation of an area in which elderly or disabled clients reside, county adult protective services agencies may disclose the name and residential address of such clients to police, fire, paramedical personnel, or other designated emergency services personnel. Public safety emergencies include, but are not limited to, fires, earthquakes, gas leaks, bomb scares, and other natural or human-made occurrences that jeopardize the immediate physical safety of county residents.

In addition to public service emergencies, confidential information may also be released by county adult protective services agencies in an emergency situation in which the adult protective services agency acts to prevent harm to a client and the consent of that client cannot be secured. For example, the adult protective services agency may need to relocate the client in order to protect the individual from imminent danger in life threatening situations and to avoid physical harm or mental suffering. In some circumstances it may not be possible, because of the condition of the client, to obtain consent. Emergency situations may include, but are not limited to, arranging for necessary medical treatment, housing, and/or placement of an elder or dependent adult.

## Release of Information to Client or Authorized Representative

MPP Division 19 requires county adult protective services agencies to allow their client, or other persons authorized by the client to act for him/her, to access confidential client information.

Division 19, Section 19-005, Release to Applicant/Recipient or Authorized Representative states in part:

.1 “Information relating to eligibility that was provided solely by the applicant/recipient contained in application and other records made or kept by the county welfare department in connection with the administration of the public assistance program shall be open to inspection by the applicant/recipient or his/her authorized representative.”

.2 “For purposes of this section, an authorized representative is a person or group who has authorization from the applicant/recipient to act for him/her.”

.21 “Except, as otherwise provided, all authorizations are to be written.”

“Written authorizations shall be dated and shall expire one year from the date on which they are given unless they are expressly limited to a shorter period or revoked...”

Consistent with professional social work standards, county adult protective services agencies may restrict access to certain documents when release of the information will cause serious harm to the client. Social workers should disclose the least amount of confidential information necessary to achieve the desired result. Only information that is directly relevant to the purpose for which the disclosure is made should be revealed.

An adult protective services client or his/her authorized representative must be permitted access to written documents provided by the client, along with any documents the client was required to sign by the county (MPP 19-005). Since this provision indicates that the documents can be given to either the client or the authorized representative, county adult protective services agencies may choose not to give documents to the authorized representative when the contents of the documents suggest that the client would not want the information released to the authorized representative. For example, this may be true during an investigation of elder or dependent abuse in which the authorized representative is implicated in some way.

In such instances, county adult protective services agencies should provide the documents to the client only, either in person or by mail. If the client chooses to release the information to his/her authorized representative, the client is free to do so.

Should you have any questions concerning this letter, you may contact the Adult Protective Services Bureau at (916) 229-0323.

Sincerely,

***Original Document Signed By  
Donna L. Mandelstam on 3/2/01***

DONNA L. MANDELSTAM, Deputy Director  
Disability and Adult Programs Division