
EXCHANGE OF INFORMATION BETWEEN THE STAFF OF THE
DEPARTMENT OF FAMILY AND CHILDREN'S SERVICES AND FAMILY COURTS

I. BACKGROUND AND POLICY

In the best interest of certain children, a limited exchange of information between the Department of Family and Children's Services (DFCS) and the services staff of the Family Court is warranted. Staffs are generally prohibited by law from exchanging this information. The Juvenile Court, in the public interest, has made an order in the form of a Rule of the Court permitting the limited exchange of relevant information by the investigative agencies serving the Juvenile and Family Courts. This exchange will prevent duplication of efforts. Certain information, as defined in Section II, below, may be shared about children and their parents.

This memorandum addresses the information that can be shared orally and in writing. Included are procedures for obtaining and releasing oral and written information.

Nothing in the court rule is intended to limit any disclosure of information by any agency to any other agency which is otherwise required or permitted by law or by other court orders.

II. DEFINITION OF INFORMATION WHICH MAY BE SHARED ORALLY

A. Information to Be Shared by Department of Family and Children's Services

DFCS staff may orally disclose the following information to Family Court Services (FCS) staff who are investigating a child custody dispute:

1. Whether the minor is or has been the subject of a child abuse or neglect investigation and the status of that investigation.
2. The recommendation made or anticipated to be made to the court or DFCS staff.
3. Any Juvenile Court orders or petitions in existence which might bear upon the child custody dispute being investigated.
4. Any statements made by the child, the child's parents, guardians or custodians which might bear upon the child custody dispute being investigated.
5. The details of any report of suspected abuse of the child except the identity of the original reporting party, if that party has expressed a desire to remain anonymous.

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B. Information to Be Shared by Family Court Services Staff

FCS staff may orally disclose the following information to DFCS staff who are investigating a suspected child abuse or neglect situation:

1. Whether the minor has been or is the subject of an FCS investigation.
2. The recommendations made or anticipated to be made by the FCS staff to the Court.
3. The Family Court orders in existence.
4. Any statements made by the child or parents which might bear upon the issue of the child abuse or neglect being investigated.

III. PROCEDURES FOR SHARING ORAL INFORMATION

Disclosure of information in Section II, above, may be made following the procedures outlined below.

- A. All Emergency Response social workers must inquire at the time of initial report whether or not the reporting party is willing to have his/her name disclosed. The response to this inquiry must be recorded on the Emergency Response Protocol, SOC 423, or an approved substitute. The question shall be asked as follows: "In the interest of the child(ren), will you allow your name to be disclosed to the parent(s) of the child(ren)?"
- B. If any social worker is uncertain as to the willingness of the reporting party to have his/her name disclosed, a telephone call must be made to the reporting party prior to providing that person's name to FCS staff.
- C. Social workers shall first establish to his/her satisfaction that the inquiring party seeking oral information is in fact from FCS before providing any information.
- D. All information shall be provided orally.
- E. If the Court or any party to the action requests written documentation, an individualized court order for obtaining written documents shall be requested. (A memo explaining these orders will be issued in the near future.)

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- F. The information gathered shall be used exclusively in the investigation being conducted and shall not be repeated by the requestor to anyone not a party to the proceeding being conducted in the requesting agency's court without an individualized court order.
- G. If any social worker has good cause for not disclosing oral information, the matter is to be discussed with the unit supervisor. The final decision will be made within the context of the underlying philosophy of the Rule of the Court to share this information as freely as possible.

IV. DEFINITIONS OF WRITTEN INFORMATION WHICH MAY BE SHARED

A. Information to Be Shared by Department of Family and Children's Services With Family Court Services

Information, as outlined below, may be provided by DFCS staff to FCS investigators upon presentation of a signed ex parte order executed by a Superior Court judge or commissioner.

1. General information regarding report(s) of abuse or neglect involving a particular minor(s).
2. All reports prepared by the investigative agency for the court in connection with proceedings involving said minor(s).
3. Documentation of statements made by parents, children and witnesses in connection with investigation of report(s) of abuse or neglect involving the minor(s), regardless of when such statements were made.
4. Any court documents relating to the case(s) involving said minor(s).
5. Specific information as designated by the court order.

B. Information to Be Shared by Family Court Services with Department of Family and Children's Services

FCS investigators may share information with social workers as outlined below. This information will be released upon presentation of an ex parte court order signed by a Superior Court judge (see VI, below, for procedures).

1. General information regarding the report(s) of abuse or neglect.
2. All reports prepared by the investigative agency for the court, including mediation and agreements.

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3. Documentation of statements made by parents, children and witnesses.
4. Any court documents relating to the case(s) involving said minor(s).
5. The following specific information as designed by the order.

V. INFORMATION NOT TO BE SHARED BY EX PARTE ORDERS

A. Information DFCS Cannot Release

The following information may not be shared by DFCS to the FCS investigators, either upon oral request or an ex parte order signed by a Superior Court judge. If this information is required by either agency, it can be released only by a Superior Court judge or commissioner with a notice of hearing.

1. Records relating to the wardship and/or dependency of the parent(s) of the minor(s) for whom the investigation is conducted, or of any other person(s) other than the minor(s) subject to this investigation.
2. Identifying information relating to the confidential placement of the minor(s), including but not limited to address of placement and name of family or facility of placement.
3. Information regarding the identity of child abuse reporters who have requested anonymity and which is protected from disclosure by Penal Code Section 11167 or Section 11167.5.

B. Information Family Court Investigators Cannot Release

1. Medical, psychiatric, psychological and mental health records or reports of any of the individual involved, including records relating to parent(s) and minor(s).
2. Records relating to information obtained in the course of provision of mediation services, except mediation agreements.

VI. PROCEDURES FOR DFCS WORKERS TO OBTAIN INFORMATION BY EX PARTE HEARINGS

A. Completion of Ex Parte Petition

1. If a social worker wishes to obtain any information in Section IV, B, above, a petition must be completed (see sample, page 6).

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2. Under status of the case, the social worker must indicate if the case is under investigation for a dependency petition, if a petition has been filed, or any other appropriate description.
3. Under number 4 of the petition, state clearly why this information is required; e.g., what is your purpose for requesting the information.
4. The request for the ex parte order may be made to the Family Court Superior judge by any of the following methods:
 - a. In Person - The social worker is to call the judge's chambers and make arrangements to deliver the petition to the bailiff or judge's secretary.
 - b. Fax Machine - The social worker may fax the petition to the Family Court judge at 298-0582. Call the judge's chambers when sending the petition to alert him/her of its arrival.
 - c. Via "Pony" - This method of sending orders is possible but not advisable due to the slow process.
5. Upon return of the executed order, the social worker must deliver the signed order for release of information to the Family Court investigator.

VII. USE OF INFORMATION OBTAINED FROM FAMILY COURT

- A. The social worker releasing or receiving information pursuant to an order shall document the exchange of information in the case files.
- B. The information shall be used for the sole purpose of conducting the child abuse or neglect investigations, case management supervision, and making related recommendations to Juvenile Court.
- C. The information shall not be copied, disclosed or disseminated without further order of the Court specifically authorizing such disclosures, except that information obtained through this order may be included in report(s) to the Juvenile Court and may be shared between DFCS and Probation.
- D. The information is to be clearly marked "CONFIDENTIAL."
- E. If any outside party reviews the file, the information must be removed before the record is made available. The exceptions are auditors and court-appointed advocates.

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SAMPLE - EX PARTE PETITION

SUPERIOR COURT OF CALIFORNIA. COUNTY OF SANTA CLARA FAMILY COURT

IN RE THE MATTER OF) FCS CASE NO.)
)
) EX PARTE PETITION FOR ORDER AND
) ORDER PERMITTING DISCLOSURE
) OF FAMILY COURT SERVICES
) RECORDS SUBJECT TO CIVIL CODE
) 4602 AND 4607 FOR PURPOSES
) OF INVESTIGATING ALLEGATIONS
) OF CHILD ABUSE AND/OR NEGLIGENCE
) AND/OR PROVIDING SERVICES FOR
) MINOR WHO IS OR MAY BECOME A
) PERSON DESCRIBED BY w&i 5300

PETITION

I. _____ hereby declare:

1. I am employed by _____ Santa Clara County in the capacity of _____ and have been assigned to investigate and/or supervise a case involving minor(s) _____

children of _____ (DOB / /) and _____ (DOB / /)

2. The status of the case is 'as follows: _____

3. Pursuant to discussions with Family Court Services of Santa Clara County (FCS). I am informed and believe that FCS has records pertaining to investigation(s) regarding custody/visitation issues relating to said minor(s) and/or investigation(s) into the impact on the minor(s) of _____ who is alleged to be living in the home of said parent(s) or providing care to said minor(s), which are relevant to our investigation. I am informed and believe that said records are subject to the confidentiality provisions of Civil Code 554602 and 4607 and to claims of official information privilege.

4. I am informed and believe that disclosure of said records to Social Services Agency (SSA) and Probation Department, Juvenile Division (Probation) of Santa Clara County is necessary for to thoroughly investigate report(s) of abuse and/or neglect of the minor(s) and/or to determine the parenting abilities of the parent(s). and that access to the information is necessary to protect and promote the best interests of the minor(s). The

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SAMPLE - EX PARTE PETITION (Cont'd)

1 specific facts necessitating disclosure in this case are:
2 _____
3 _____
4 _____

5 5 - Under Welfare & Institutions Code 510850, records of
6 Social Services pertaining to investigations of child abuse and
7 neglect are confidential. Records described in Welfare &
8 Institutions Code 5627 are also confidential, subject to certain
9 disclosure in juvenile proceedings or pursuant to court order.

10 WHEREFORE, I request an order authorizing to disclose and
11 give copies to, and discuss with SSA and Probation, the following
12 information: (1) general information regarding the report of abuse
13 or neglect; (2) all reports prepared by the investigative agency
14 for the court; (3) documentation of statements made by parents,
15 children and witnesses; and (4) court orders relating to this
16 case. Further, I request an authorization to include information
17 from these records in reports to Juvenile Court.

18 I declare under penalty of perjury under the laws of the State
19 of California that the foregoing is true and correct, except as to
20 those matters stated on information and belief, and as to those
21 matters, I believe them to be true. Executed at San Jose,
22 California on _____, 19____.

23 _____
24 Name

25 _____
26 Title and Agency

27 ORDER

28 The court, having reviewed the attached Petition, finds that
29 the requested disclosure to SSA and Probation of FCS records and
30 information protected by Civil Code Ss4602 and 4607 and subject to
31 claims of privilege is necessary to protect and promote the best
32 interest of said minor(s), that the need for disclosure in the
33 interest of justice outweighs the necessity for preserving the
34 confidentiality of the records, that good cause exists for
35 dispensing with notice to the parties about whom records are
36 sought, and good cause appearing. IT IS ORDERED THAT:

37 1. Subject to the exclusions and confidentiality restrictions
38 set forth in Paragraphs 2. and 3., below, FCS is authorized to
39 disclose and give copies to SSA and Probation of Santa Clara County
40 of any of the following information:

41 .//I/
42 .I///

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SAMPLE EX PARTE PETITION (Cont'd)

- 1 a. General information regarding the report(s) of abuse
or neglect:
- 2 b. All reports prepared by the investigative agency for
3 the court, including mediation agreements:
- 4 c. Documentation of statements made by parents,
5 children and witnesses:
- 6 d. Any court documents relating to the case(s)
involving said minor(s): and .
- 7 e. The following specific information: _____
- 8
- 9 2. PCS is prohibited from disclosing or discussing the
ic following:
- 11 a. Medical, psychiatric, 'psychological and mental
12 health records or reports of any of the individuals involved,
including records relating to parent(s) and minor(s): and
- 13 b. Records relating to information obtained in the
14 course of provision of mediation services, except mediation
agreements.
- 15 3. Information released pursuant to this Order shall be
subject to the following confidentiality protections:
- 16 a. The agencies releasing or receiving information
17 pursuant to this Order shall document the exchange of information
the relevant case files:
- 18 b. **Such records shall be used by the requesting agency**
19 **for the sole purpose of conducting the child abuse or neglect**
20 **investigations, case management supervision, and making -related**
21 **recommendations to Juvenile Court in this case:**
- 22 c. **Such** records shall not be copied, disclosed **or**
23 disseminated by SSA or Probation without further order of the court
specifically authorizing such disclosure, except that information
24 obtained through this Order may be included in report(h) Juvenile
25 Court and may be **shared** between SSA and Probation: and
- 26 d. This Petition-and Order shall be placed in the
27 Family Court Services confidential file and shall not be placed in .
the court file, as **the** court file is a public record and this
28 document includes **references** to a confidential investigation and to
records which are confidential under Welfare & Institutions Code
SS827 and/or 10850 and/or Penal Code SS11167 and/or 11167.5.

28 Date: _____

JUDGE OF THE SUPERIOR COURT