

FOR YOUR INFORMATION

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Issue 19-10

Date: 03/15/19

Confidential Information Must Be Excluded From Court Reports

The Court no longer maintains paper files. Court reports are uploaded directly into the Court's case management system. All Court staff, including bench officers, now access Court reports online. Juvenile Court Services staff, including Court Officers, no longer have the opportunity to redact confidential information that is inadvertently included in court reports.

Once a report is uploaded into the Court's case management system, it cannot be amended, revised, or replaced by anyone without a Court order. In most cases, attorneys and judges will access the court report before such a court order can be obtained. It is important to ensure that confidential information is not included in court reports.

Confidential information that should **NOT** be included in court reports include, but are not limited to:

ADOPTION HOME STUDY:

Formal adoption home studies are confidential by state regulation and shall not be submitted to court. Family Code §9200. (DCFS may include status updates on the progress of the adoption to the court.)

ATTORNEY/CLIENT PRIVILEGED INFORMATION:

Reference to discussions with County Counsel should not be included (including information related to warrant consults). Evidence Code §954; Government Code §6254(k).

BIRTH CONTROL/ABORTION:

Do not include a person's use of birth control and/or decision to terminate a pregnancy unless the person has given permission for that information to be shared. This applies to adult women, NMD's, and foster youth. Health and Safety Code §123462 (Fundamental privacy right of personal reproductive decisions.)

CHILD ABUSE REPORTING PARTY/SCAR:

The identity of all persons reporting child abuse is confidential, whether the reporter is mandated or not. Penal Code §11167(d)(1).

CONFIDENTIAL ADDRESS/DV SHELTER LOCATIONS:

Any address that is submitted as "CONFIDENTIAL" on the JV-140. The address of a foster home prior to disposition. WIC §308. The address of a victim of domestic violence or other address ordered confidential by the court. Health and Safety Code §1536, Family Code §§4926, 4977, 6322.5 and 6322.7.

CSEC/EXPLOITED MINORS: Do not refer to youth as prostitutes.

HIV/AIDS:

Reference to HIV/AIDS status or testing, medication, treatment shall not be included in the court report. Health and Safety Code §§121025, 120975, 120980; Civil Code §56.31.



If you have any questions regarding this release, please e-mail your question to:

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RFA Written Report:

The RFA Written report should not be sent to Court or included as an attachment to a court report. (DCFS may include status updates on the progress of RFA to the court.) RFA Written Directives Version 5, Section 4-04: Confidentiality.

SEXUAL ORIENTATION:

Do not include a minor's LGBTQ status unless the minor has given permission for that information to be shared.

SOCIAL SECURITY NUMBERS: Do not include any social security numbers in court reports or a copy of the social security card as an attachment. California Vehicle Code §1653.5.

UNRELATED CHILDREN/NON DEPENDENT SIBLING INFORMATION:

Information regarding siblings of a dependent child or other unrelated children referred to in any document. Welfare and Institutions Code § 827(a)(2)(A).

YOUTH PREGNANCY:

Revealing pregnancy information in the absence of a youth/NMD's consent is a violation of her right to privacy. Health and Safety Code §123380 (Confidentiality of pregnancy test results.)

POLICE REPORT:

Generally, police reports are considered public records; however, if the police report is marked "confidential", please consult with law enforcement and County Counsel to see if all or some of the report can be released. Social workers should be mindful that police reports can contain confidential addresses and witness identification. Some or all of this information may need to be removed from the report before distribution. Penal Code §841.5 provides that the address and the telephone number of the victim should not be disclosed by law enforcement. Penal Code §293 states that the name and address of a sex offense or human trafficking victim should not be disclosed, except to certain authorized public agencies and persons.

STATE CRIMINAL HISTORY:

A person's State summary criminal history information form (CLETS) is confidential. Social workers should summarize criminal history in the reports. The actual CLETS and/or Live Scan should not be cut and pasted into the report or attached. Penal Code §§11105 and 13300, WIC §16504.5.

Additional Information as it relates to confidential information in court reports:

- Do not discuss a youth's sex life or STD information.
- Do not include direct statements made to a treating physician or therapist.
- All 730 evaluations, psychiatric diagnosis, and medication prescribed for a mental health issue are confidential. If this information is needed to prove a count alleging a child is in substantial danger as a result of a parent's mental health condition or that information is necessary in order for the court to make a treatment and/or protective order, please consult with County Counsel. HIPAA Privacy Rule, 42 C.F.R.



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- Redact or remove educational records if parent no longer has education rights. Family Educational Rights and Privacy Act of 1974 (FERPA) as amended (20 U.S.C. § 1232g; 34 CFR Part 99), the California Information Practices Act (California Civil Code Section 1798 et seq.), California Education Code § 49062 et seq.
- Do not include personal identification numbers such as social security, driver's license, or Government issued ID. Confidential information includes, an individual's home address, other than the parties to the case (California Vehicle Code §1808.21), home telephone number, of people who are not parties to the case (Government Code §6254.3), physical/mental information (California Vehicle Code §1808.5), social security number (California Vehicle Code §1653.5), and photograph, unless ordered by the court or obtained as part of the investigation in the case (California Vehicle Code §§ 12800.5 and 13005.5).
- Confidential information must be redacted from attachments to the court report. Be careful with documents such as police reports, case plans, report cards, and the Health and Education Passport (HEP). Confidential information often appears in these sensitive documents.
- Be consistent throughout the report. For example, if the placement is confidential pursuant to WIC 308(a), make sure it's not disclosed in the placement section, in the body of the report, or in any attachments.
- Refer to the reporting party as "Reporting Party" throughout the report. Be careful about using pronouns or other descriptors (i.e., teacher, neighbor, aunt, etc.) that may reveal the reporting party's identity.
- Whenever the CSW is ordered to submit Title XX's to the Court, the Title XX's must go through County Counsel. The assigned trial attorney is responsible for redacting Title XX's before they are filed with the Court and provided to all counsel. However, the CSW is responsible for making sure confidential information from the Title XX's does not end up in court reports.
- Do not discuss intra-departmental discussion or discord.
- Do not include any information on an open investigation (other than stating that there is an open investigation).
- CSW's should consult with their SCSW and Outstation County Counsel with any questions about confidentiality.



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