Summary of Departmental Confidentiality Rules for DCFS and Probation Youth

County Counsel issues the attached Summary to clarify what information can be shared by DCFS and Probation as well as to DCFS and Probation about DCFS and Probation clients.

The clarification is called for because appropriate information sharing is essential to promote care coordination and to improve outcomes for children and youth.

The Summary includes information on sharing the following kinds of records:

- Juvenile case files (DCFS and Probation)
- Health records
- Mental health records
- Substance abuse records
- Public social services records
- Education records
- Adult probation records
- Criminal history records

Where the attached Summary does not answer your question about what is allowable information sharing, you are encouraged to consult Department Policy and/or County Counsel. Penalties may apply to wrongful disclosure.
## Summary of Departmental Confidentiality Rules for DCFS and Probation Youth

County Counsel has developed this document to promote care coordination and improve outcomes for children and youth in DCFS and Probation in Los Angeles County. It clarifies what information can be shared and what should be shared with County employees working with common clients, as well as what information can be requested from health and mental health providers. Too often, information is not shared across the care team because of confusion about what is allowed. This document is grounded in the understanding that appropriate information sharing is in the child’s/youth’s best interest and, in fact, is required to deliver effective, appropriate services for child welfare and probation clients.

These summaries are by no means exhaustive. Where you are uncertain, you are encouraged to consult Department Policy and/or County Counsel.

<table>
<thead>
<tr>
<th>Juvenile Case Files</th>
<th>A number of people are allowed to have access to confidential dependency or delinquency records and information, as needed to support a child or youth, including:</th>
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<tbody>
<tr>
<td></td>
<td>- DCFS and Probation staff assigned to the case</td>
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<td>- Medical professionals (including child welfare public health nurses) and mental health providers providing treatment or supervision to the child/youth</td>
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<td>- District Attorney</td>
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<td>- Members of multidisciplinary teams</td>
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<td>- Child/Youth</td>
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<td>- Child’s/Youth’s parents</td>
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<td>- Law enforcement</td>
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<td>- Attorneys for the parties involved in the DCFS case</td>
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<td>- School the child/youth attends</td>
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<td>- Resource families, through the health and education summary</td>
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</table>

There are legal definitions of what is a confidential dependency/delinquency record, so if you have questions, you should consult DCFS/Probation policy or contact County Counsel.

In addition, some types of DCFS records are administrative records, which can be shared for purposes directly connected with administering the programs. These are things like foster care payment records or the out-of-home care unit's records.

### Exceptions to sharing outside DCFS/Probation:
- 730 evaluations or mandated reporter information should not be shared without consulting County Counsel.
- Before sharing information about siblings, County Counsel should be consulted, as those rules are different.

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Health Records

**DHS & Health Providers**

Health providers are *authorized to share* a patient’s medical information with other health care professionals, *without prior authorization*, as necessary for diagnosis, treatment, and care coordination. This is one of a number of exceptions to the general rule that a health care provider may not share a patient’s medical information without his or her prior written authorization. Of note, where the information relates to a child/youth consent service, *authorization is in the hands of the child/youth*, not the parent or guardian. In addition, individuals are entitled to access their own personal health information.

For a child/youth, health information may be shared *without authorization* in a number of other circumstances, including when:

- shared by a medical provider with a county social worker and/or child welfare public health nurse for the purpose of coordinating care;
- shared with a multidisciplinary team for treatment purposes or for “public health purposes” (such as reporting child abuse or neglect);
- shared with the child welfare team and law enforcement in the course of a child abuse investigation;
- shared as required by a court order; and,
- shared with the resource family in the form of a health and education summary.

There are further exceptions that allow sharing a patient's medical information without authorization. Consult County Counsel if you believe your client may benefit from the sharing of such information and are uncertain about your ability to do so.

<table>
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<tr>
<th><strong>Mental Health Records</strong></th>
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<tr>
<td><strong>DMH &amp; Mental Health Providers</strong></td>
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</table>

Confidential mental health information/records of a child/youth *may be disclosed without prior authorization* for the purpose of coordinating health care services and medical treatment, mental health services, or developmental disabilities services to:

- another health care provider;
- a county social worker and/or public health nurse;
- a probation officer; or
- any other person who is legally authorized to have custody or care of a child/youth.

**Disclosure can include:**

- mental condition
- treatment information
- related prescriptions
- other information as minimally necessary to support care and treatment

This information cannot be further disclosed *except for purposes of treatment and care coordination*. Mental health information may also be disclosed by court order or written authorization from the patient/patient's representative. It cannot be used as evidence in a criminal or delinquency proceeding against a child/youth. Special rules apply to outpatient treatment information with a psychotherapist/psychotherapy notes. Consult with County Counsel with requests for this information.
**Public Social Services Records**

Federally funded public social service program applications and records are confidential – but, they *can be shared* beyond DPSS employees **without client authorization** under certain circumstances, including:

- For purposes directly related to the administration of the program. This includes information needed to establish or verify eligibility.
- When shared as part of a multidisciplinary team working to address child abuse or neglect.
- When shared with law enforcement – though, rules about what can be shared with law enforcement vary somewhat based on the public social services program to which the records relate.
- When shared with school superintendents as necessary to administer federal need-based programs.
- Where an investigation, audit, prosecution, or criminal or civil proceeding is underway in connection with the administration of that program.

Public social services programs include: CalWORKs/GAIN, CalFresh, In-Home Supportive Services, and General Relief. In addition, information from Medi-Cal that is kept in connection with the administration of the program is open to examination for purposes directly connected with administration of the Medi-Cal program.

Improper disclosure of confidential public social services information could result in civil liability and criminal penalties. Consult DPSS policy and/or County Counsel when you are unclear whether something is confidential or disclosable.

**Education Records**

Education records including grades, transcripts, names of educational providers, schools, transfer history, credits, name/contact for the educational liaison and the educational rights holder, and the Individualized Education Plan (as relevant) **can and should be shared** with:

- Those permitted by written authorization from a parent or a court order.
- DCFS when it has legal responsibility for the care and protection of the student (an open case).
- Education rights holder for the student.
- A foster family agency serving the student; a short-term residential treatment program staff responsible for the education or case management of a student; a caregiver with direct responsibility for the student’s care, including a certified or licensed foster parent, an approved relative or nonrelated extended family member, or a resource family.
- A student 16 years or older, or who has completed the 10th grade.
- A student 14 years or older and, as defined by the McKinney-Vento Homeless Assistance Act, is homeless and unaccompanied.
- District Attorney for truancy purposes or investigations regarding a parent's failure to provide education *(see Ed. Code section 49076 for details)*
- A probation officer, District Attorney, or counsel of record for a child/youth for purposes of conducting a criminal investigation, or an investigation regarding declaring a person a ward of the court or involving a probation violation.

If you have any questions about what can be shared, you should consult with County Counsel.
**Criminal History Records**

*Sheriff Department*

(Reference: Penal Code §§11075-11081, 13100-13203, 13300-13305)

State statutes limit disclosure of local summary criminal history information, also known as an individual’s “RAP sheet.” Local summary criminal history information is the master record of information a local law enforcement agency compiles “pertaining to the identification and criminal history of any person,” such as the person’s name, date of birth, physical description, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and other similar information. The Sheriff’s Department maintains this information in the Consolidated Criminal History Reporting System (CCHRS).

*Local summary criminal history information must be provided* to a number of individuals in the course of their duties, including:

- Probation and parole officers.
- Child welfare agency personnel who have been delegated the authority to access state summary criminal information for specified purposes, such as conducting an investigation involving a child/youth when the child/youth is alleged to be within the jurisdiction of the juvenile court.
- Others listed in Penal Code Section 13300.

It is a misdemeanor for a law enforcement agency or any individual authorized to receive local summary criminal history information to knowingly provide the information to an unauthorized individual. It is also a misdemeanor for a person who knows that he or she is unauthorized to receive local summary criminal history information to obtain such information.

**Adult Probation Records**

*Probation Department*

(Reference: Penal Code §§1203.05, 1203.10, 13305)

A defendant’s probation report, or at least any detailed personal information it contains, is conditionally confidential for 60 days after judgment is pronounced or probation granted, whichever is earlier – meaning: for that initial 60 day period, any person can access these records. After 60 days, the probation report may only be inspected and copied by the district attorney, the defendant, and persons authorized by law. All others must petition the court for access, and the defendant is entitled to notice and an opportunity to be heard at an in camera hearing concerning release of personal information in the report. The court's discretion does not extend to non-personal information contained in the report and, therefore, it must permit access to that information.

**Substance Abuse Records**

*DPH & Substance Abuse Providers*

(Reference: Health & Safety Code §11845.5; 42 CFR Part 2)

Substance abuse-related records cannot be shared absent signed consent by the party receiving the services.

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