

	GEORGIA DIVISION OF FAMILY AND CHILDREN SERVICES CHILD WELFARE POLICY MANUAL			
	Chapter:	(2) Information Management	Effective Date:	June 2021
	Policy Title:	Public Access to Records in Child Fatality and Near Fatality Cases		
Policy Number:	2.11	Previous Policy #:	1013.26 2109.12	

CODES/REFERENCES

O.C.G.A. § 19-15-3 (l) County multiagency child fatality review committee
O.C.G.A. § 49-5-41(a)(6) Persons and agencies permitted access to records
Child Abuse Prevention and Treatment Act (CAPTA) Section 106(b)(2)(B)(x)
Health Insurance Portability and Accountability Act (HIPAA) of 1996

REQUIREMENTS

The Division of Family and Children Services (DFCS) shall:

1. In accordance with state and federal law, provide a summary to any adult requesting information regarding DFCS investigations, findings, or information about a case of child abuse or neglect that results in a fatality or near fatality. This includes:
 - a. The age and gender of the child at the time of the fatality or near fatality.
NOTE: No identifying information shall be provided.
 - b. The cause and circumstances regarding the fatality or near fatality.
 - c. Information describing any previous reports and investigations of child abuse or neglect that are pertinent to the abuse or neglect that led to the fatality or near fatality. This includes the results of such investigations, including dates and disposition of each prior investigation referral received about the family, case closure dates, etc.
EXCEPTION: Do not disclose any information provided by law enforcement or prosecution agencies or any part of the DFCS record that includes information provided by law enforcement or prosecution agencies relating to any pending investigation or prosecution of criminal activity.
 - d. The services provided and actions taken by DFCS on behalf of the child that are pertinent to the child abuse or neglect that led to the fatality or near fatality.
EXCEPTION: Do not disclose any services that would result in the disclosure of Protected Health Information (PHI), such as medical appointments, diagnosis or care, drug treatment, diagnosis or assessment and psychological, emotional or psychiatric assessments, appointments and treatment. (see policy [2.5 Information Management: Health Insurance Portability and Accountability Act \(HIPAA\)](#))
 - e. The last date of contact DFCS had with the victim child's family prior to the fatality or near fatality (if applicable).
2. Prohibit disclosure of privileged and confidential information to preserve the confidentiality of the child, the child's parents, guardians and caretakers, and other members of the household (see policy [2.6 Information Management: Confidentiality/Safeguarding Information](#)). This includes:
 - a. Any record of law enforcement or prosecution agencies and any part of DFCS' record that includes information provided by law enforcement or prosecution

- agencies in any pending investigation or prosecution of criminal activity contained within the child abuse, neglect, or dependency records;
- b. Medical and mental health records made confidential by other provisions of law (see policy [2.5 Information Management: Health Insurance Portability and Accountability Act \(HIPAA\)](#));
 - c. Privileged communications of an attorney;
 - d. Identifying information of the person who reported suspected child abuse;
 - e. Information that may cause mental or physical harm to the sibling(s) or other child(ren) living in the household of the child being investigated;
 - f. Name of the child who is the subject of reported child abuse or neglect; and
 - g. Name of any parent or other person legally responsible for the child, or any member of the household of the child who is the subject of reported child abuse or neglect, provided that such person is not under investigation for the reported child abuse or neglect.
3. Refrain from releasing information that would jeopardize a criminal investigation or proceeding or jeopardize the safety and well-being of the child/family.
- NOTE:** The County or Regional Director shall make this determination based on the specific case circumstances. Consultation with the DFCS Office of General Counsel (OGC) is recommended.

PROCEDURES

Upon receipt of the request for findings and information regarding a child fatality or near fatality resulting from child abuse the County or Regional Director or their designee will:

1. Review the request to determine whether the request meets the requirements for disclosure. All requests must be in writing.

NOTE: If the request is pursuant to the Open Records Act (ORA) immediately notify the Office of the General Counsel in accordance with policy [2.9 Information Management: Open Records Act of Georgia](#). If the request is received from the media, legislators, or county officials adhere to policy [2.7 Information Management: Contacts with Media, Legislators, County Officials](#).
2. Immediately consult the DFCS Office of General Counsel regarding the request.
3. Provide the summary within three business days of the request at no cost to the requestor if the request meets the requirements for disclosure.
 - a. Only the information applicable to the subject child who died or suffered a near fatality should be disclosed; and
 - b. Privileged and confidential information should not be disclosed (see policy [2.5 Information Management: Health Insurance Portability and Accountability Act \(HIPAA\)](#) and [2.6 Information Management: Confidentiality/Safeguarding Information](#)).

PRACTICE GUIDANCE

CAPTA Requests vs Open Records Request

For CAPTA eligibility, states shall have provisions which allow for public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality. A response for records pursuant to a CAPTA request shall include only the summary of information contained in the case record. No identifying information about the child is provided. When a CAPTA request is received by the county department, the County

Director or Regional Director is responsible verifying the request and providing the summary free of charge, and within three days of receiving the request.

In contrast, a response for records pursuant to the Open Records Act includes the child's case record with protected information redacted from the record. The County Director must immediately notify the DFCS Office of General Counsel (OGC) upon receiving an Open Records request in accordance with policy [2.9 Information Management: Open Records Act of Georgia](#), and submit the case record to the DFCS OGC by the following business day after receiving the request, via overnight mail or hand-delivery. The OGC will respond to the request.

Near Fatality Definition

The Child Abuse Prevention and Treatment Act (CAPTA) defines "near fatality" as "an act that places a child in serious or critical condition as certified by a physician."

FORMS AND TOOLS

[Child Fatality or Near Fatality Records Request Form](#)