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Regulation Package No. 1113-12

CDSS MANUAL LETTER NO. CWS-15-01

TO: HOLDERS OF THE CHILD WELFARE SERVICES PROGRAM MANUAL,  
DIVISION 31

**Regulation Package # 1113-12**

**Effective 7/1/15**

**Section 31-502**

This manual letter has been posted on the Office of Regulations Development website at <http://www.cdss.ca.gov/ord/PG603.htm>.

Senate Bill 39 (Chapter 468, Statutes of 2007) added Section 10850.4 to the Welfare and Institutions (W&I) Code, and specifically requires the custodian of records for a county child welfare agency to release specified child fatality information to the public. This statute is promulgated by the Manual of Policies and Procedures (MPP) sections 31-502.3 through .35, which have been repealed, rewritten and expanded in order to meet the conditions of the California Superior Court decision in *Butterfield v. Lightbourne*.

The W&I Code section 10850.4(c) indicates specific documents required for disclosure when a child fatality was the result of abuse and/or neglect and differentiates which types of documents are released when the child resided with a parent/guardian rather than a foster care provider. This statute was promulgated in MPP sections 31-502.33 and .34 and the court decision found that these regulations erroneously required that abuse and/or neglect be inflicted by a parent/guardian or a foster care provider in order to prompt disclosure. However, the court decision found that conditioning the release of information upon the identity of the perpetrator is arbitrary and leads to inconsistencies in reporting. Accordingly, existing language has been replaced and expanded to address a more broad range of frequent and/or complicated scenarios encountered by county Child Welfare Services (CWS) agencies, including abuse and/or neglect inflicted by a parent, guardian, foster care provider, other known individual, non-residential child care, an unidentified individual or by a combination thereof.

The adoption of the proposed amendments will provide improved disclosure to the public of findings and information regarding child fatalities that were the result of abuse and/or neglect.

## **FILING INSTRUCTIONS**

**Revisions to all manuals are indicated by a vertical line in the left margin.** The attached pages are to be entered in your copy of the MPP. The latest prior manual letter containing CWS changes was Manual Letter No. CWS-12-01.

Page(s)

Replace(s) Page(s)

110 through 111

110 through 111

Attachment

OC

**31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502**

- .1 When the county child welfare agency learns that a child fatality has occurred and has reasonable suspicion that the fatality was a result of abuse and/or neglect, the county child welfare agency shall generate a referral within the Child Welfare Services/Case Management system, and the county shall respond to the referral as described in Section 31-101.
- .11 The county child welfare agency may "learn" of the fatality in ways that may include, but not be limited to, a formal report, emergency response referral, a cross report from a law enforcement agency or a private party. Once this information is learned the standard condition of reasonable suspicion is applied.

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- .111 Penal Code Section 11166(a)(1) defines "reasonable suspicion" and states in pertinent part: "reasonable suspicion" for the purposes of this section means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect.

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**HANDBOOK ENDS HERE**

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- .12 Within five business days of the county child welfare agency receiving a public request for information concerning a child fatality, whether written, verbal, or via e-mail or facsimile, and the county child welfare agency has reasonable suspicion that the fatality was a result of abuse and/or neglect, the county child welfare agency shall release the information provided in Welfare and Institutions Code Section 10850.4(a)(1-4).
- .122 For cases in which a county's involvement with a child fatality is limited to the provision of medical services to the victim and/or the preparation and issuance of a coroner or medical examiner's report, and the abuse or neglect that resulted in the child's fatality occurred in a different county, the child welfare services agency in the county where the abuse and/or neglect occurred shall report on behalf of both counties.

**31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502**  
(Continued)**HANDBOOK BEGINS HERE**

Welfare and Institutions Code Section 10850.4(a)(1-4) provides:

- (1) The age and gender of the child.
- (2) The date of death.
- (3) Whether the child was in foster care or in the home of his or her parent or guardian at the time of death.
- (4) Whether an investigation is being conducted by a law enforcement agency or the county child welfare agency.

**HANDBOOK ENDS HERE**

.13 A child fatality shall be the result of abuse and/or neglect if any agency pursuant to Section 31-502.14 determines that abuse and/or neglect is either the sole cause of the child fatality, or is a material contributing factor in the child fatality. For purposes of this regulation, "abuse and/or neglect" has the same definition as set forth in section 11165.6 of the Penal Code.

.131 For the county child welfare agency to find that abuse and/or neglect was a material contributing factor in a child fatality, it is not necessary that an agency described in 31-502.14 determine that the abuse or neglect was the sole cause of the fatality or that the child would have lived if the abuse and/or neglect did not occur. On the other hand, the fact that an agency described in 31-502.14 has determined that evidence of abuse and/or neglect was present is by itself an insufficient basis for the county child welfare agency to find that abuse and/or neglect was a material contributing factor in a child fatality. To meet the material contributing factor test, the county child welfare agency must be able to conclude that an agency described in 31-502.14 has determined that abuse and/or neglect was a factor in the child fatality that was more than inconsequential or incidental, which contributed to the cause or causes of the child fatality.

**31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502**  
(Continued)**HANDBOOK BEGINS HERE**

Section 11165.6 of the Penal Code provides that abuse and/or neglect shall include, but not be limited to, inflicting physical injury or death by other than accidental means upon a child; failing to provide a child with adequate food, clothing, shelter, medical care, or supervision; willfully causing or permitting any child to suffer, or inflicting thereon, unjustifiable physical pain or mental suffering; and/or sexual abuse.

The Federal Child Abuse Prevention And Treatment Act at 42 U.S.C. 5106a(b)(2)(B)(X) provides the State plan under part B of title IV of the Social Security Act includes “an assurance in the form of a certification by the Governor of the State that the State has in effect and is enforcing a State law, or has in effect and is operating a statewide program, relating to child abuse and neglect that includes... 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 . . .”.

**HANDBOOK ENDS HERE**

- .14 Pursuant to Welfare and Institutions Code § 10850.4(b)(1)-(3), for reporting and disclosure purposes, the county child welfare agency shall rely on a determination by a law enforcement agency and/or a coroner or medical examiner that abuse and/or neglect resulted in a child fatality as described in section 31-502.13, and/or that a county child welfare or probation agency has substantiated that abuse and/or neglect resulted in a child fatality as described in section 31-502.13.
- .15 Where it is determined or substantiated by an agency identified in Section 31-502.14 that a child fatality occurred as a result of more than one cause, one of which was abuse and/or neglect, the county child welfare agency shall report and disclose child fatality information pursuant to Section 31-502.2 and Section 31-502.3.
- .16 The county child welfare agency shall report and disclose child fatality information pursuant to Section 31-502.2 and section 31-502.3 if any of the agencies identified in Section 31-502.14 have made the determination that abuse and/or neglect resulted in a child fatality as described in section 31-502.13, even if another agency identified in Section 31-502.14 has determined otherwise.
- .2 The county child welfare agency shall submit a report to the Department, using the SOC 826 form, for each child fatality when, upon completion of a child abuse and/or neglect investigation, it has been determined that child abuse and/or neglect resulted in the child fatality pursuant to Section 31-502.13 through 31-502.16. The county child welfare agency shall report this information to the Department using the SOC 826 form. The report shall include the following information:
  - .21 The age and gender of the child.
  - .22 The date of death.

**31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502**  
(Continued)

- .23 Residence of child at the time of death, and at the time that the abuse and/or neglect which resulted in the child's death as described in Section 31-502.13.
- .231 Foster care placement as defined by Section 31-002(f)(8).
- .232 Parent or Guardian as defined by Sections 31-002(g)(3) and (p)(1).
- (a) For purposes of Section 31-502, the term guardian shall also include an adult with whom the child resides and who functions as a putative parent or guardian for the child.
- .24 Whether an investigation is being conducted or has been conducted by a law enforcement agency and/or the county child welfare agency.
- .25 The agency that made the determination that the child fatality was the result of abuse and/or neglect pursuant to Sections 31-502.13 through 31-502.16.
- .26 For cases in which a county's involvement with a child fatality is limited to the provision of medical services to the victim and/or the preparation and issuance of a coroner or medical examiner's report, and the abuse or neglect that resulted in the child's fatality occurred in a different county, the child welfare services agency in the county where the abuse and/or neglect occurred shall report on behalf of both counties.
- .3 Sections 31-502.31 through 31-502.37 describe the circumstances in which the county child welfare agency has a duty to disclose child fatality information, as well as the information and records the county child welfare agency is required to disclose, when an agency, pursuant to Sections 31-502.13 through 31-502.16, makes the determination that abuse and/or neglect by a parent, guardian, foster parent(s) or other person resulted in the child fatality, when the child resided with his/her parent or guardian, or in foster care.
- .31 ABUSE AND/OR NEGLECT BY A PARENT OR GUARDIAN WHEN THE CHILD WAS LIVING WITH THE PARENT OR GUARDIAN.
- When an agency, pursuant to Sections 31-502.13 through 31-502.16, determines or substantiates that abuse and/or neglect inflicted by the parent or guardian, as defined in Section 31-502.232 resulted in the child fatality, the county child welfare agency shall release the following records.

**31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502**  
(Continued)

- .311 To the extent that such records are in the possession of the county child welfare agency, only the following records, subject to redactions specified in Section 31-502.4, shall be released by the county child welfare agency within ten (10) business days of receiving a public request for such records or receipt of a determination by an agency pursuant to Sections 31-502.13 through 31-502.16, whichever is later:
- (a) All previous referrals indicating abuse and/or neglect perpetrated by the parent or guardian. Any information in these referrals that identify a child victim other than the deceased child shall be redacted by the county child welfare agency.
  - (b) All the documents specified in Welfare and Institutions Code Section 10850.4(c)(2)(A-E). (See the following Handbook Section)
  - (c) All information listed in Welfare and Institutions Code Section 10850.4(a)(1-4). (See Handbook Section below MPP Section 31-502.12)

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Welfare and Institutions Code Section 10850.4(c)(2)(A-E) provides:

The emergency response referral information form and the emergency response notice of referral disposition form completed by the county child welfare agency relating to the abuse or neglect that caused the death of the child.

Any cross reports completed by the county child welfare agency to law enforcement relating to the deceased child.

All risk and safety assessments completed by the county child welfare services agency relating to the deceased child.

All health care records of the deceased child, excluding mental health records, related to the child's death and previous injuries reflective of a pattern of abuse or neglect.

Copies of police reports about the person against whom the child abuse or neglect was substantiated.

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**HANDBOOK ENDS HERE**

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**31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502**  
(Continued)

- .32 ABUSE AND/OR NEGLECT BY A PERSON OTHER THAN THE PARENT OR GUARDIAN WHEN THE CHILD WAS LIVING WITH THE PARENT OR GUARDIAN, AND CONTRIBUTORY NEGLECT BY THE PARENT OR GUARDIAN.

When an agency, pursuant to Sections 31-502.13 through 31-502.16, determines or substantiates that abuse and/or neglect inflicted by someone other than the parent or guardian resulted in the child fatality and the child resided with his/her parent or guardian, as defined in Section 31-502.232, at the time the abuse and/or neglect occurred, and an agency identified in Section 31-502.14 has determined that neglect by the parent or guardian contributed to the circumstances that resulted in the child's fatality, the county child welfare agency shall release the following records.

- .321 Section 31-502.311 applies here.

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**HANDBOOK BEGINS HERE**

Section 31-502.311 reads as follows:

To the extent that such records are in the possession of the county child welfare agency, only the following records, subject to redactions specified in Section 31-502.4, shall be released by the county child welfare agency within ten (10) business days of receiving a public request for such records or receipt of a determination by an agency pursuant to Sections 31-502.13 through 31-502.16, whichever is later:

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**HANDBOOK ENDS HERE**

- (a) All previous referrals indicating abuse and/or neglect perpetrated by the parent or guardian and the person whose abuse and/or neglect resulted in the child fatality. Any information in these referrals that identify a child victim other than the deceased child shall be redacted by the county child welfare agency.
- (b) Section 31-502.311(b) applies here.

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**HANDBOOK BEGINS HERE**

Section 31-502.311(b) reads as follows:

All the documents specified in Welfare and Institutions Code Section 10850.4(c)(2)(A-E) (See Handbook Section below MPP Section 31-502.311).

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**HANDBOOK ENDS HERE**

- (c) Section 31-502.311(c) applies here.

**31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502**  
(Continued)

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**HANDBOOK BEGINS HERE**

Section 31-502.311(c) reads as follows:

All information listed in Welfare and Institutions Code Section 10850.4(a)(1-4). (See Handbook Section below MPP Section 31-502.12)

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**HANDBOOK ENDS HERE****.33 ABUSE AND/OR NEGLECT BY A FOSTER PARENT(S).**

When an agency, pursuant to Sections 31-502.13 through 31-502.16, determines or substantiates that abuse and/or neglect inflicted by the child's foster parent(s) resulted in the child fatality, and the child resided in foster care as defined by Section 31-002(f)(8), the county child welfare agency shall release the following records.

.331 Section 31-502.311 applies here.

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**HANDBOOK BEGINS HERE**

Section 31-502.311 reads as follows:

To the extent that such records are in the possession of the county child welfare agency, only the following records, subject to redactions specified in Section 31-502.4, shall be released by the county child welfare agency within ten (10) business days of receiving a public request for such records or receipt of a determination by an agency pursuant to Sections 31-502.13 through 31-502.16, whichever is later:

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**HANDBOOK ENDS HERE**

- (a) All previous referrals indicating abuse and/or neglect perpetrated by the foster parent(s). Any information in these referrals that identify a child victim other than the deceased child shall be redacted by the county child welfare agency.
- (b) Section 31-502.311(b) applies here.

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**HANDBOOK BEGINS HERE**

Section 31-502.311(b) reads as follows:

All the documents specified in Welfare and Institutions Code Section 10850.4(c)(2)(A-E) (See Handbook Section below MPP Section 31-502.311).

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**HANDBOOK ENDS HERE**

31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502  
(Continued)

- (c) All the documents specified in Welfare and Institutions Code Section 10850.4(c)(3)(A-C).

**HANDBOOK BEGINS HERE**

Welfare and Institutions Code Section 10850.4(c)(3)(A-C) provides:

- (A) Records pertaining to the foster parents' initial licensing and renewals and type of license or licenses held, if in the case file.
- (B) All reported licensing violations, including notices of action, if in the case file.
- (C) Records of the training completed by the foster parents, if in the case file.

**HANDBOOK ENDS HERE**

- (d) Section 31-502.311(c) applies here.

**HANDBOOK BEGINS HERE**

Section 31-502.311(c) reads as follows:

All information listed in Welfare and Institutions Code Section 10850.4(a)(1-4).  
(See Handbook Section below MPP Section 31-502.12)

**HANDBOOK ENDS HERE**

- (e) Records pertaining to the approval of the foster family home of the relative or non-related extended family member, including a caregiver assessment, and health and safety inspection of the home, if in the case record.
- .332 If licensing/approval records pertaining to the foster parent(s) are not contained in the child's case record or maintained by the county child welfare agency, the county child welfare agency shall release the documents and information specified in Sections 31-502.331(a) through (e) that are available within the case record and shall refer the requesting party to the appropriate licensing/approval agency for additional information or documents. For licensing/approval files maintained by the county child welfare agency, the county child welfare agency shall forward that part of the request to the appropriate county custodian of records.
- .333 The county child welfare agency shall redact from any records released under Section 31-502.331, in addition to the redactions indicated in Section 31-502.4, any information that would identify the child's parent or guardian, unless it was determined by an agency, pursuant to Sections 31-502.13 through 31-502.16, that the parent or guardian inflicted abuse and/or neglect that resulted in the child's death.

**31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502**  
(Continued)

- .34 ABUSE AND/OR NEGLECT BY A PERSON OTHER THAN THE FOSTER PARENT(S) WHEN THE CHILD WAS LIVING WITH THE FOSTER PARENT(S), AND CONTRIBUTORY NEGLECT BY FOSTER PARENT(S).

When an agency, pursuant to Sections 31-502.13 through 31-502.16, determines or substantiates that abuse and/or neglect inflicted by someone other than the foster parent(s) resulted in the child fatality, and the child resided in foster care as defined by Section 31-002(f)(8) at the time the abuse and/or neglect occurred, and an agency identified in Section 31-502.14 has determined or substantiated that neglect by the foster parent(s) contributed to the circumstances that resulted in the child's fatality, the county child welfare agency shall release the following records.

- .341 Section 31-502.311 applies here.

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**HANDBOOK BEGINS HERE**

Section 31-502.311 reads as follows:

To the extent that such records are in the possession of the county child welfare agency, only the following records, subject to redactions specified in Section 31-502.4, shall be released by the county child welfare agency within ten (10) business days of receiving a public request for such records or receipt of a determination by an agency pursuant to Sections 31-502.13 through 31-502.16, whichever is later:

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**HANDBOOK ENDS HERE**

- (a) All previous referrals indicating abuse and/or neglect perpetrated by the foster parent(s) and the person whose abuse or neglect resulted in the child fatality. Any information in these referrals that identify a child victim other than the deceased child shall be redacted by the county child welfare agency.
- (b) Section 31-502.311(b) applies here.

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**HANDBOOK BEGINS HERE**

Section 31-502.311(b) reads as follows:

All the documents specified in Welfare and Institutions Code  
Section 10850.4(c)(2)(A-E) (See Handbook Section below MPP Section 31-502.311).

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**HANDBOOK ENDS HERE**

**31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502**  
(Continued)

(c) Section 31-502.331(c) applies here.

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**HANDBOOK BEGINS HERE**

Section 31-502.331(c) reads as follows:

All the documents specified in Welfare and Institutions Code  
Section 10850.4(c)(3)(A-C) (See Handbook Section below MPP 31-502.331(c)).

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**HANDBOOK ENDS HERE**

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(d) Section 31-502.311(c) applies here.

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**HANDBOOK BEGINS HERE**

Section 31-502.311(c) reads as follows:

All information listed in Welfare and Institutions Code Section 10850.4(a)(1-4).  
(See Handbook Section below MPP 31-502.12)

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**HANDBOOK ENDS HERE**

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(e) Records pertaining to the approval of the foster family home of the relative or non-related extended family member, including a caregiver assessment, and health and safety inspection of the home, if in the case record.

.342 If licensing/approval records pertaining to the foster parent(s) are not contained in the child's case record or maintained by the county child welfare agency, the county child welfare agency shall release the documents and information specified in Sections 31-502.341(a) through (e) that are available within the case record and shall refer the requesting party to the appropriate licensing/approval agency for additional information or documents. For licensing/approval files maintained by the county child welfare agency, the county child welfare agency shall forward that part of the request to the appropriate county custodian of records.

.343 The county child welfare agency shall redact from any records released under Section 31-502.342, in addition to the redactions indicated in Section 31-502.4, any information that would identify the child's parent or guardian, unless it was determined by an agency, pursuant to Sections 31-502.13 through 31-502.16, that the parent or guardian inflicted abuse and/or neglect that materially contributed to the child's death.

**31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502**  
(Continued)

- .35 ABUSE AND/OR NEGLECT BY A PERSON OTHER THAN THE PARENT, GUARDIAN, OR FOSTER PARENT(S), NO CONTRIBUTORY NEGLECT BY PARENT, GUARDIAN, OR FOSTER PARENT(S).

When an agency, pursuant to Sections 31-502.13 through 31-502.16 determines or substantiates that abuse and/or neglect inflicted by someone other than the parent, guardian or foster parent(s) resulted in the child fatality, and the child resided with a parent, guardian, or foster care provider, and there is no determination of neglect by the parent, guardian or foster care provider, the county child welfare agency shall release the following records.

.351 Section 31-502.311 applies here.

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**HANDBOOK BEGINS HERE**

Section 31-502.311 reads as follows:

To the extent that such records are in the possession of the county child welfare agency, only the following records, subject to redactions specified in Section 31-502.4, shall be released by the county child welfare agency within ten (10) business days of receiving a public request for such records or receipt of a determination by an agency pursuant to Sections 31-502.13 through 31-502.16, whichever is later:

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**HANDBOOK ENDS HERE**

- (a) All previous referrals indicating abuse and/or neglect perpetrated by the person who inflicted the abuse and/or neglect that resulted in the child fatality. Any information in these referrals that identify a child victim other than the deceased child shall be redacted by the county child welfare agency.
- (b) Section 31-502.311(b) applies here.

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**HANDBOOK BEGINS HERE**

Section 31-502.311(b) reads as follows:

All the documents specified in Welfare and Institutions Code  
Section 10850.4(c)(2) (A-E) (See Handbook Section below MPP Section 31-502.311).

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**HANDBOOK ENDS HERE**

**31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502**  
(Continued)

(c) Section 31-502.311(c) applies here.

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**HANDBOOK BEGINS HERE**

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Section 31-502.311(c) reads as follows:

All information listed in Welfare and Institutions Code Section 10850.4(a)(1-4).  
(See Handbook Section below MPP Section 31-502.12)

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**HANDBOOK ENDS HERE**

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.352 The county child welfare agency shall redact from any records released under Section 31-502.351, in addition to the redactions indicated in Section 31-502.4, any information that would identify the parent, guardian, or foster parent(s).

.36 **ABUSE AND/OR NEGLECT IN NON-RESIDENTIAL CHILD CARE.**

When an agency, pursuant to Sections 31-502.13 through 31-502.16, determines or substantiates that abuse and/or neglect occurring in a licensed family day care home as defined by Title 22 of the California Code of Regulations section 102352(f)(1), a licensed child care center as defined by Title 22 of the California Code of Regulations section 101152(c)(7), or a family day care home that is exempt from licensure pursuant to Health and Safety Code Section 1596.792, resulted in the child fatality, and the child resided with a parent, guardian, or foster care provider, the county child welfare agency shall release the following records.

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**HANDBOOK BEGINS HERE**

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Title 22 of the California Code of Regulations section 102352(f)(1) provides:

"Family Child Care" means regularly provided care, protection and supervision of children, in the care giver's own home, for periods of less than 24 hours per day, while the parents or authorized representatives are away.

Title 22 of the California Code of Regulations section 101152(c)(7) provides: "Child Care Center" means any child care facility of any capacity, other than a family child care home as defined in Section 102352f.(1), in which less than 24- hour per day nonmedical care and supervision are provided to children in a group setting.

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**HANDBOOK CONTINUES**

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**31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502**  
(Continued)**HANDBOOK CONTINUES**

Health and Safety Code Section 1596.792 provides in pertinent part:

- (a) Any family day care home providing care for the children of only one family in addition to the operator's own children.
- (b) Any cooperative arrangement between parents for the care of their children where no payment is involved and the arrangement meets all of the following conditions:
  - (1) In a cooperative arrangement, parents shall combine their efforts so that each parent, or set of parents, rotates as the responsible care giver with respect to all the children in the cooperative.
  - (2) Any person caring for children shall be a parent, legal guardian, stepparent, grandparent, aunt, uncle, or adult sibling of at least one of the children in the cooperative.
  - (3) There can be no payment of money or receipt of in-kind income in exchange for the provision of care. This does not prohibit in-kind contributions of snacks, games, toys, blankets for napping, pillows, and other materials parents deem appropriate for their children. It is not the intent of this paragraph to prohibit payment for outside activities, the amount of that may not exceed the actual cost of the activity.
  - (4) No more than 12 children are receiving care in the same place at the same time.
- (c) Any arrangement for the receiving and care of children by a relative.
- (d) Any child day care program that operates only one day per week for no more than four hours on that one day.

**HANDBOOK ENDS HERE**

.361 Section 31-502.311 applies here.

**31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502**  
(Continued)

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**HANDBOOK BEGINS HERE**

Section 31-502.311 reads as follows:

To the extent that such records are in the possession of the county child welfare agency, only the following records, subject to redactions specified in Section 31-502.4, shall be released by the county child welfare agency within ten (10) business days of receiving a public request for such records or receipt of a determination by an agency pursuant to Sections 31-502.13 through 31-502.16, whichever is later:

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**HANDBOOK ENDS HERE**

- (a) All previous referrals indicating abuse and/or neglect perpetrated by the person who inflicted the abuse and/or neglect that resulted in the child fatality. Any information in these referrals that identify a child victim other than the deceased child shall be redacted by the county child welfare agency.
- (b) Section 31-502.311(b) applies here.

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**HANDBOOK BEGINS HERE**

Section 31-502.311(b) reads as follows:

All the documents specified in Welfare and Institutions Code Section 10850.4(c)(2)(A-E) (See Handbook Section below MPP Section 31-502.311).

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**HANDBOOK ENDS HERE**

- (c) Section 31-502.311(c) applies here.

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**HANDBOOK BEGINS HERE**

Section 31-502.311(c) reads as follows:

All information listed in Welfare and Institutions Code Section 10850.4(a)(1-4). (See Handbook Section below MPP Section 31-502.12)

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**HANDBOOK ENDS HERE**

**31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502**  
(Continued)

(d) Licensing records.

.362 If licensing/approval records pertaining to the non-residential care provider are not contained in the child's case record or maintained by the county child welfare agency, the county child welfare agency shall release the documents and information specified in Sections 31-502.361(a) through (e) that are available within the case record and shall refer the requesting party to the appropriate licensing/approval agency for additional information or documents. For licensing/approval files maintained by the county child welfare agency, the county child welfare agency shall forward that part of the request to the appropriate county custodian of records.

.363 In addition to the redactions indicated in Section 31-502.4, the county child welfare agency shall redact from any records released under Section 31-502.361 any information that would identify the parent, guardian, or foster parent(s), unless it was determined by an agency, pursuant to Sections 31-502.13 through 31-502.16, that abuse and/or neglect by the parent, guardian, or foster parent contributed to the circumstances that resulted in the child's fatality as described in section 31-502.13.

.37 **ABUSE AND/OR NEGLECT BY AN UNIDENTIFIED INDIVIDUAL WHEN THE CHILD WAS LIVING WITH THE PARENT, GUARDIAN, OR FOSTER CARE PROVIDER**

When an agency, pursuant to Sections 31-502.13 through 31-502.16, determines or substantiates that abuse and/or neglect resulted in the child fatality, but has not determined who inflicted the abuse and/or neglect, the county child welfare agency shall release the following records.

.371 Section 31-502.311 applies here.

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**HANDBOOK BEGINS HERE**

Section 31-502.311 reads as follows:

To the extent that such records are in the possession of the county child welfare agency, only the following records, subject to redactions specified in Section 31-502.4, shall be released by the county child welfare agency within ten (10) business days of receiving a public request for such records or receipt of a determination by an agency pursuant to Sections 31-502.13 through 31-502.16, whichever is later:

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**HANDBOOK ENDS HERE**

(a) All previous referrals of abuse and/or neglect of the deceased child. Any information in these referrals that identify any child victim other than the deceased child shall be redacted by the county child welfare agency.

(b) Section 31-502.311(b) applies here.

**31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502**  
(Continued)

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**HANDBOOK BEGINS HERE**

Section 31-502.311(b) reads as follows:

All the documents specified in Welfare and Institutions Code  
Section 10850.4(c)(2)(A-E) (See Handbook Section below MPP Section 31-502.311).

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**HANDBOOK ENDS HERE**

(c) Section 31-502.311(c) applies here.

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**HANDBOOK BEGINS HERE**

Section 31-502.311(c) reads as follows:

All information listed in Welfare and Institutions Code Section 10850.4(a)(1-4). (See Handbook  
Section below MPP Section 31-502.12)

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**HANDBOOK ENDS HERE**

- .372 In addition to the redactions indicated in Section 31-502.4, the county child welfare agency shall redact from any records released under Section 31-502.371 any information that would identify the parent, guardian, or foster parent(s), unless it was determined by an agency, pursuant to Sections 31-502.13 through 31-502.16, that abuse or neglect by the parent, guardian, or foster parent contributed to the circumstances that resulted in the child's fatality.
- .38 Upon receiving a public request for information pursuant to Sections 31-502.31 through 31-502.37 the county child welfare agency shall notify counsel for any child directly or indirectly related to the deceased child's case record.

**31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502**  
(Continued)

.4 The county shall redact information that is privileged, confidential, or not subject to disclosure prior to public release.

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**HANDBOOK BEGINS HERE**

.41 This section does not apply to those entitled to unredacted records; for example, Welfare and Institutions Code Section 4903 states that counties are required, in some circumstances, to release information without redactions to the protection and advocacy agency in California.

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**HANDBOOK ENDS HERE**

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.42 After consultation with the District Attorney, if the release of specific information would jeopardize a criminal investigation or proceeding, that information shall be redacted prior to release.

.43 If disclosure of information about a child, including the deceased child or any sibling of the deceased child, as listed in Section 31-502.31 through 31-502.37, may be detrimental to the well-being of another child, counsel for that child may petition the juvenile court to prevent the release of any document or part of a document requested pursuant to Welfare and Institutions Code Section 827.

.431 To comply with federal law, 42 USC 5106, the county shall release the SOC 826 form, whether or not a petition has been filed in the juvenile court.

.432 Only information or documents that may pose potential detriment to a child who is directly or indirectly connected to the case, as found by the juvenile court, shall be redacted.

**31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502**  
(Continued)

- .44 Information that shall be redacted includes:
  - .441 Names, except that the name of a county or state department or agency shall not be redacted.
  - .442 Addresses, except that the address of a county or state department or agency shall not be redacted.
  - .443 Telephone numbers, except that the public telephone number of a county or state department or agency shall not be redacted.
  - .444 Ethnicity.
  - .445 Religion.
  - .446 Social Security numbers or referral/case identifiers.
  - .447 Any other identifying information of any person or institution, other than the county or state department or agency information indicated in Sections 31-502.441, .442 and .443.
- .45 The county shall adhere to all laws that govern confidentiality of the release of information.

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**HANDBOOK BEGINS HERE**

- .451 The following are examples of state laws and rules and are not intended to be an exhaustive list of such laws and rules.
  - (a) Family Code Sections 3041.5, 3111, and 7643
    - (1) Family Code Section 3041.5 provides for alcohol and drug testing in judicial proceedings concerning custody, visitation, and guardianship. The results of such tests are confidential and shall be redacted.
    - (2) Family Code Section 3111 provides for confidential child custody evaluation reports in cases of contested child custody and contested visitation rights. For example, one family member may object to visits from another family member. Documents from such cases are in the files of the Superior Court, or the Juvenile Court. If such evaluation reports are found in the case record, they shall be redacted.

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**HANDBOOK CONTINUES**

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**31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502**  
(Continued)

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**HANDBOOK CONTINUES**

- (3) Family Code Section 7643 provides for confidentiality of court proceedings to establish the identity of a child's father. Records of such proceedings shall be redacted.
- (b) Health and Safety Code Section 1255.7 and 1522
- (1) Health and Safety Code Section 1255.7 provides for "safe-surrender site" and for the confidentiality of any identifying information that pertains to a parent or individual who surrenders a child pursuant to this section. Any identifying information that pertains to a parent or an individual who surrenders a baby under this section is exempt from disclosure and, therefore, if this information is in the case record, this information shall be redacted.
- (2) Health and Safety Code Section 1522 provides for a process to obtain fingerprints, the criminal history, and a criminal records clearance or criminal records exemptions for persons working with or in contact with clients in a community care facility, foster family home or certified family home of a licensed foster family agency. This statute also provides for the confidentiality and privacy of this information. If any of this information is found in the case record it shall be redacted.
- (c) Penal Code Sections 851.8, 11081, 11105, 11167.5, and 13300
- (1) Penal Code Section 851.8 provides for the sealing and destruction of arrest records if a determination of factual innocence was made by the court. If the Child Welfare Agency still maintains such records in the case record those records shall be destroyed.
- (2) Penal Code Section 11081 provides the general rule that there is no access to any criminal offender record information obtained from the Department of Justice unless otherwise authorized by law. This information shall be redacted if it is part of the case record.
- (3) Penal Code Section 11105 provides that Child Welfare Agency may obtain summary criminal history information from the Department of Justice. This information shall be redacted if it is part of the case record.

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**HANDBOOK CONTINUES**

31-502 CHILD FATALITY REPORTING AND DISCLOSURE REQUIREMENTS 31-502  
(Continued)**HANDBOOK CONTINUES**

- (4) Penal Code Section 11167.5 provides that all reports of child abuse or neglect by mandated reporters shall be confidential and may be disclosed only to authorized persons or agencies. Reports of suspected child abuse or neglect may only be disclosed to authorized persons. Therefore, reports written pursuant to 11166, 11166.2, or authorized by 11166.05 may not be disclosed. Any information that may identify a mandated reporter that is maintained in the case record shall be redacted.
- (5) Penal Code Section 13300 allows several government agencies, including child welfare agencies, to obtain "local summary criminal history information," more commonly known as "rap sheets." Rap sheet information concerning the perpetrator(s) of neglect or abuse that has come from a local criminal justice agency shall be redacted. Rap sheet information concerning the criminal history of persons other than the perpetrator(s) of neglect or abuse shall be redacted. Information about the criminal history of the perpetrator(s) of neglect or abuse that has come from sources other than a "rap sheet," such as police reports, the individual concerned, family members, child welfare department personnel, or any other documents subject to disclosure pursuant to Welfare and Institutions Code Section 10850.4 shall not be redacted.
- (d) Welfare and Institutions Code Section 11478.1
- (1) Welfare and Institutions Code Section 11478.1 requires public agencies to maintain the confidentiality of information gathered for purposes of child and spousal support enforcement. (See 42 U.S.C., Chapter 7, Part D, Section 651.) Documents generated or acquired for purposes of child or spousal support enforcement, as well as information derived from such documents, shall be redacted. Information that could have been acquired for purposes of child or spousal support enforcement, but which actually was acquired through other channels (for example: mother tells Child Welfare Services caseworker how much father earns) shall not be redacted.

**HANDBOOK ENDS HERE**

- .46 When a public request is made for documents other than those listed in Section 31-502.31 through 31-502.37, the county shall only release this information upon an order from the juvenile court pursuant to Welfare and Institutions Code Section 827.

**31-502 CHILD FATALITY REPORTING AN DISCLOSURE REQUIREMENTS 31-502**  
(Continued)

- .47 All case records shall be retained as described in Sections 31-075.2 through .21. The county is not required to retain case record documents beyond any date otherwise required by law.
- .48 The county is not required to obtain documents that are not within the child's case record as defined in MPP Section 31-002(c)(5).

NOTE: Authority cited: Sections 10553, 10554, and 10850.4, Welfare and Institutions Code. Reference: Penal Code Sections 11165.12, 11166, and 11169; 42 USC 5106; 45 CFR 1340.15(b), and Sections 827, 4903, and 10850.4, Welfare and Institutions Code; 42 U.S.C. 5106a(b)(2)(B)(X); *Butterfield v. Lightbourne* (Cal.Sup. Dec. 28, 2012, No 37-2011-00097858-CU-MC-CTL).

**31-503 CHILD SUPPORT REFERRAL REQUIREMENTS 31-503**

- .1 For a child receiving AFDC-FC in accordance with Welfare and Institutions Code Section 11400, the social worker shall determine whether it is in the child's best interest to make a referral to the local child support agency.
  - .11 In making this determination, the social worker shall evaluate each case on an individual basis considering the best interests of the child and the circumstances of the family, which may include but are not necessarily limited to, the parent(s)' employment status, housing status, the impact on other children who may be at risk of removal, availability of community-based services, efforts to reunify, whether parental rights have been terminated, connection with CalWORKs or other public assistance programs.
    - .111 If the child's case plan goal is family reunification, the social worker shall consider whether the payment of support by the parent will pose a barrier to the proposed reunification in that the payment of support will compromise:
      - (a) The parent's ability to meet the requirements of the reunification plan if the child's case is referred to the local child support agency.
      - (b) The parent's ability to meet the current or future financial needs of the child if the child's case is referred to the local child support agency.
      - (c) The parent's ability to meet the needs of other children in the household who may be at risk of removal.

<b>31-503</b>	<b>CHILD SUPPORT REFERRAL REQUIREMENTS</b> (Continued)	<b>31-503</b>
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- .112 If the child’s case plan goal is other than reunification, the social worker shall consider whether the payment of support by the parent will pose a barrier to a successful outcome of the case plan in that the payment of support will compromise:
  - (a) The parent’s ability to meet the requirements of the case plan if the child’s case is referred to the local child support agency.
  - (b) The parent’s ability to meet the current or future financial needs of the child if the child’s case is referred to the local child support agency.
  - (c) The parent’s ability to meet the needs of other children in the household who may be at risk or removal.
  
- .2 If the social worker determines it is in the best interest of the child not to refer the parent(s) to the local child support agency, the social worker shall forward his or her determination to the appropriate county eligibility worker for appropriate action.
  - .21 The social worker shall review this decision following each court hearing held under Welfare and Institutions Code Section 361.5.
    - .211 If reunification services are terminated by the court, and the social worker determines that it is no longer contrary to the child’s best interest, the social worker shall inform the appropriate county eligibility worker to refer the child’s case to the local child support agency.
  
- .3 The social worker shall document in the child’s case file the determination of whether it is in the best interest of the child to refer the child’s case to the local child support agency and the basis for this determination.
  
- .4 When a determination has been made that it is not contrary to the best interest of the child to refer the child’s case to the local child support agency, the social worker shall notice the parent that the parent has access to the grievance procedures set forth in MPP Section 31-020, provided the parent appeals the agency’s decision in writing within 5 working days of their receipt of the notice.

NOTE: Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code; and Section 17552 Family Code. Reference: Section 17552, Family Code.

