

# Reporting Fatalities-Near Fatalities to CDSS and Public Disclosure

(Revised 11/22/19)

## Forms

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### Forms

The following forms are referenced in this file:

- [SOC 826](#) Child Fatality/Near Fatality - County Statement of Findings and Information
- [SOC 826A](#) Child Near Fatality- County Report of Services Provided and Actions Taken

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### Policy on Reporting to California Department of Social Services (CDSS)

Welfare and Institutions Code (WIC) 10850.4 requires that Child Welfare Services (CWS) report specified child fatality information to CDSS when the death is determined to be the result of abuse and/or neglect.

#### Death

For all cases of child fatalities where there is reasonable suspicion\* that the death was the result of abuse or neglect, the Office of Ombudsman (OOO) will submit the SOC 826 to CDSS with Part A completed within five (5) business days of learning of the incident.

A follow-up SOC 826 must then be submitted to CDSS within 10 business days of learning of a determination or substantiation that abuse/neglect caused or contributed to a child fatality (i.e., after investigation is complete).

**NOTE:** \*Penal Code Section 11166(a)(1) defines “reasonable suspicion” as “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.”

#### Near Death

For cases of near fatalities, defined as “An act that, as certified by a physician, places the child in serious or critical condition,” once it is determined that the near fatality incident occurred as a result of abuse or neglect, the OOO will submit the SOC 826 within 10 business day of that determination.

The Office of the Ombudsman submits the SOC 826 to the State to comply with the CDSS reporting mandates. CDSS collects statements of findings and other information for fatalities and near fatalities. CDSS then issues an annual report with this information.

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**Disclosure of Child Fatalities/ Near Fatalities**

WIC 10850.4 requires that the custodian of records for CWS release specified child fatality information to the public, if requested. New regulations adopted and described in California DSS MPP section 31-502.13 clarify that it is not necessary for abuse and/or neglect to be the sole or direct cause of the child's death. In cases where there are multiple factors that resulted in a child fatality, it is only necessary to determine that abuse and/or neglect was a "material contributing factor" in the child's death. When public disclosure on a fatality is required, the documents shall be released by CWS within five business days of receiving the request for records or within five business days of an agency's determination that abuse and/or neglect caused or contributed to a child fatality, whichever is later.

WIC 10850.45 requires that the custodian of records for CWS release specified child near fatality information to the public, if requested. When public disclosure on a near fatality is required, the documents shall be released by CWS within 10 business days of receiving the request for records or within 10 business days of an agency's determination that abuse and/or neglect caused or contributed to a child near fatality, whichever is later.

Requests for information on fatalities/near fatalities may fall under both WIC 10850.4 and WIC 10850.45 requirements, as described above as well as under the Public Records Act, (see Public Records Act (PRA) - Fatalities of Minor Foster Children ) for deaths and/or near deaths of a foster child (per Government Code Section 6252.6).

The Public Records Act (PRA) authorizes the release of the name, date of birth and date of death for all foster children who die or have near deaths while in out-of-home placement, both by child abuse and neglect (CAN) and non-CAN, whereas WIC 10850.4 and 10850.45 releases information about the CAN fatality/near fatality but no name. County Counsel and the Office of the Ombudsman will handle appropriate disclosure in these cases. CDSS currently handles these as two separate requests with two separate responses.

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**What is released on CAN fatalities/near fatalities**

The required disclosure of information only applies to fatalities/near fatalities where there is reasonable suspicion that the death occurred due to abuse or neglect or that the abuse and/or neglect was a "material contributing factor" in the child's death. This "material contributing factor" is defined as a factor that is more than inconsequential or incidental, which contributed to the cause or causes of the child fatality.

Within five (5) business days of learning of a child fatality, and 10 days of learning of a child near fatality, where it is suspected that the fatality/near fatality was a result of abuse or neglect or that the abuse and/or neglect was a "material contributing factor" in the child's death/near fatality, the following will be released, upon request:

- Age and gender of the child
- Date of death
- Whether the child resided in foster care or in the home of a parent/guardian at the time of death
- Whether an investigation is being conducted by law enforcement or CWS.

(For more information, see chart below.)

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**What is released on  
CAN fatalities/near  
fatalities (cont.)**

The SOC 826 may be used for disclosure to the public as long as the box in part A is redacted. (The box contains the identifying 19-digit referral number and the name and phone number of a county contact person). CWS is required to disclose both the deceased child’s residence at the time of death and residence at the time the abuse and/or neglect occurred. The SOC 826 has been updated to include a field for this information.

Upon receiving a request for a near fatality disclosure under WIC 10850.45(c) counties shall produce a written report using the SOC 826A form. This written report will include additional items, not on the SOC826, including written comments from the involved social workers (see chart below). The SOC826A and any supporting documents will be uploaded to CWS/CMS and notify CDSS of the upload.

For all child fatalities, within 10 business days upon completion of the investigation into the child’s death and/or the learning of a determination or substantiation that abuse/neglect caused or contributed to a child fatality, or upon request, whichever is latest, additional items shall be disclosed (see chart below).

CWS is only required to disclose information already in the CWS case file, and is not required to seek additional information or obtain additional documents not in the file.

If an investigation by CWS, law enforcement, and the coroner or medical examiner concludes that the fatality **was not** a result of child abuse or neglect no further information is released.

In some cases law enforcement, CWS, and/or the coroner/medical examiner may reach different conclusions determining the cause of a child fatality. When any one of the three agencies determine or substantiate abuse and/or neglect as a cause of or a material contributing factor to a child’s death, information must be disclosed.

	<b>Child Fatalities</b>	<b>Child Near Fatalities</b>
<b>Within 5</b> business days WIC 10850.4(a)	If there is a <b>reasonable suspicion</b> that child abuse/neglect caused the fatality, release: <ul style="list-style-type: none"><li>• The age and gender of the child</li><li>• The date of death</li><li>• Whether child resided in foster care or in parent/guardian home</li><li>• CWS or LE investigation</li></ul>	

**What is released on  
CAN fatalities/near  
fatalities (cont.)**

	<b>Child Fatalities</b>	<b>Child Near Fatalities</b>
<p><b>Within 10</b> business days  <b>Fatalities:</b>  WIC 10850.4(c)-(d)  <b>Near Fatalities:</b>  WIC 10850.45(a)</p>	<p>Custodian of records releases redacted copies* of the following:</p> <ul style="list-style-type: none"> <li>• Previous referrals of abuse or neglect</li> <li>• ER referral information form and ER notice of referral disposition form (San Diego supplies referral information not including the investigative narrative and referral pages that list priors and outcomes)</li> <li>• Cross reports</li> <li>• Risk and safety assessments</li> <li>• Health care records, except mental health</li> <li>• Police reports about the perpetrator</li> </ul> <p>For cases while the child’s death occurred while the child was in foster care:</p> <ul style="list-style-type: none"> <li>• Foster placement’s or resource family’s initial licensing/approval and renewals and type of license</li> <li>• Reported licensing violations</li> <li>• Records of the foster parent’s training</li> </ul>	<p>If CWS or LE makes a <b>determination</b> that child abuse/neglect caused a near fatality, release:</p> <ul style="list-style-type: none"> <li>• The age and gender of the child</li> <li>• The date of the near fatality</li> <li>• Whether child resided in foster care or in parent/guardian home</li> <li>• CWS or LE investigation</li> </ul>

**What is released on  
CAN fatalities/near  
fatalities (cont.)**

	<b>Child Fatalities</b>	<b>Child Near Fatalities</b>
<p><b>Within 20</b> business days  <b>Fatalities:</b>  WIC 10850.4 (c)(2)(F)  <b>Near Fatalities:</b>  20 calendar days  WIC 10850.45(c)</p>	<p>Custodian of records releases a description of child protective or other services provided and actions taken by the child welfare agency and juvenile court, not otherwise disclosed within other documents required for release.</p>	<p>County submits to the CDSS for review a written report (SOC 826A) including the date, cause and circumstances surrounding the near fatality, written statements from the social worker(s) involved, previous reports and a description of services provided and actions taken by the county child welfare agency and juvenile court. In addition to the written report any supporting documents shall be submitted. The CDSS will notify the county of any of any discrepancies or other concerns.</p>
<p><b>Within 30</b> calendar days WIC 10850.45(c)-(d)</p>		<p>The custodian of records releases redacted copies* of the following:</p> <ul style="list-style-type: none"> <li>• Previous referrals of abuse or neglect</li> <li>• ER referral information form and ER notice of referral disposition form (San Diego supplies referral information not including the investigative narrative and referral pages that list priors and outcomes)</li> <li>• Cross reports</li> <li>• Risk and safety assessments</li> <li>• Police reports about the perpetrator</li> <li>• The CDSS-reviewed written report, including the description of services provided and actions taken</li> </ul>

**What is released on  
CAN fatalities/near  
fatalities (cont.)**

	<b>Child Fatalities</b>	<b>Child Near Fatalities</b>
<p><b>Within 30</b> calendar days WIC 10850.45(c)-(d) <b>(Cont.)</b></p>		<p>For cases while the child’s near fatality occurred while the child was in foster care:</p> <ul style="list-style-type: none"> <li>• Foster placement’s or resource family’s initial licensing/approval and renewals, and type of license</li> <li>• Reported licensing violations</li> <li>• Records of the foster parent’s training.</li> </ul>
<p><b>*REDACTIONS</b> <b>Fatalities:</b> WIC 10850.4(f) <b>Near Fatalities:</b> WIC 10850.45(e)</p>	<ul style="list-style-type: none"> <li>• Identifying information for any person or institution</li> <li>• Information that would jeopardize a criminal investigation, after consultation with the DA</li> <li>• Any information that is privileged, confidential or not subject to disclosure under other laws</li> </ul>	<ul style="list-style-type: none"> <li>• Identifying information for any person or institution</li> <li>• Information that would jeopardize a criminal investigation, after consultation with the DA</li> <li>• Any information that is privileged, confidential or not subject to disclosure under other laws</li> <li>• Health care records</li> <li>• Any information not relevant to the near fatality, consistent with CDSS regulations and instructions.</li> </ul>

**\* Custodian of records is not required to obtain any documents not already in the child’s case file.**

All disclosures are subject to redactions and confidentiality requirements set by the Welfare and Institutions code.

San Diego County releases subsequent pages to a referral that list the priors with outcomes in place of the state disposition form. San Diego County releases referral information per regulations and current legislation. San Diego will **not** be releasing the Investigative Narrative document.

**NOTE:** Police reports relating to minors (i.e., if a minor is the perpetrator) are protected under WIC 827.9 and are therefore not able to be disclosed as only information, not otherwise protected under other laws is allowed to be disclosed. Health records that may fall under HIPAA protection are allowed to be released, but only those health records that relate to the injury in question.

**NOTE:** Disclosures as to relative home approval documentation will be addressed between County Counsel and OOO as necessary.

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**What is released in a Public Records Act request for a foster child fatality** The Public Records Act (Government Code 6252.6) authorizes the release of the name, date of birth, and date of death for all foster children who die while in out-of-home placement, both by Child Abuse and Neglect (CAN) and Non-CAN death.

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**What is released in a Public Records Act request for a foster child fatality (cont.)** In some cases, law enforcement, CWS, and/or the coroner/medical examiner may reach different conclusions determining the cause of a child fatality. When any one of the three agencies determine or substantiate abuse and/or neglect as a cause of or a material contributing factor to a child's death, information must be disclosed.

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**What is not disclosed** Prior to the release of any documentation, the following must be redacted:

- Any personal identifying information for both individuals and institutions, such as names (Except in PRA requests for deaths of foster children), addresses, telephone numbers, ethnicity, and religion.
- Any information that would jeopardize a criminal investigation or proceeding (consult with the DA to identify this).
- Any information protected by other State or federal law.

For dependents, the minor's attorney must be notified of and receive a copy of a request for records. Notice must go to counsel for any child who is directly or indirectly connected to the case, including siblings. The minor's attorney may object the release of information as mandated by WIC 10850.4 by petitioning the court. A detriment to releasing must be established. The Office of the Ombudsman or SW receiving the request must notice the minor's attorney and counsel of any child related to the case.

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**Media/public comment/liability for disclosure** WIC 10850.4 provides that once documents have been released, regarding a child fatality/near fatality, CDSS (California Dept. of Social Services) or CWS may comment on the case within the scope of the release. If CDSS or CWS comments publicly about the case, the social worker on the case may also comment publicly about the case within the scope of the release. For additional media information, see Media Communications.

WIC 10850.4 provides that a person disclosing juvenile case information as required by law shall not be subject to suit in civil or criminal proceedings.

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**Alignment with SET** This policy supports SET [Value 5](#) and the guiding principle to ensure that all parties have a mutual understanding of and respect for one another's roles, the law, and the rights due to children, youth, and families. This policy aligns with the SET Values of recognizing that enhancing safety for children and youth in the home is the top priority for everyone involved.

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