

New SOG Bulletin: “When and How Criminal-Defense Attorneys Can Obtain Access to Confidential Child Welfare and Juvenile Abuse, Neglect, and Dependency Records”

I am happy to announce the publication of my new bulletin, [“When and How Criminal-Defense Attorneys Can Obtain Access to Confidential Child Welfare and Juvenile Abuse, Neglect, and Dependency Records.”](#) I hope it is of help to anyone needing to determine criminal attorney access to these protected records.

Consider these common scenarios. A criminal attorney learns that a county department of social services (DSS) or equivalent agency has been involved with that attorney’s client and family. Or maybe the attorney believes that the DSS has investigated a report of suspected abuse, neglect, or dependency that involves a witness or alleged victim in the criminal case. How can the criminal attorney access existing child-welfare and juvenile abuse, neglect, and dependency records that may be relevant to the criminal case?

Alternatively, a respondent parent, guardian, custodian, or caretaker in a juvenile abuse, neglect, and dependency (A/N/D) action has been charged criminally. The criminal attorney asks the attorney representing the same individual in the A/N/D matter to share records and information relating to the A/N/D proceeding. What can the A/N/D attorney share with the criminal attorney?

There are numerous laws regulating access, confidentiality, disclosure, and redisclosure of information from records of child-welfare and A/N/D proceedings. Some laws apply solely to A/N/D records, while other laws apply to social-services records more generally. Protective services in an abuse, neglect, or dependency matter are social services and are governed by both the general and specific laws regulating disclosure. Applying the various laws can be confusing, and the answers to the questions that are raised can be unclear. The purpose of this new bulletin is to answer frequently raised questions regarding criminal attorneys’ access to child-welfare and juvenile A/N/D records, including whether two attorneys who represent the same individual are permitted to share otherwise-protected information with each other.

I welcome your feedback, and I am happy to chat with anyone facing the issues raised in this bulletin. Feel free to reach me anytime at Heinle@sog.unc.edu or (919) 962-9594.

Finally, I want to give my genuine thanks to Aimee Wall, John Rubin, Sara DePasquale, and Phil Dixon, Jr., for their significant contributions to this bulletin.