

SECTION 9 ACCESS AND INFORMATION SHARING

9.1 Introduction

Information may be provided to children in care or adults formerly in care upon request to the agency without applying under the *Freedom and Protection of Privacy Act*. This does not preclude an application under the Act. Members of the public who want information from their files held by departments of government may make a request for access to information under the Act. This Act came into force on July 1, 1994, and governs access to all government records. The Act authorizes individuals to obtain personal information about themselves, but includes restrictions on personal information about other individuals.

If the provisions of the Act are strictly applied, much relevant personal information about children in care and their family members can not be released to them. Fortunately, this Act contains a provision that states, “Nothing in this Act restricts access to information provided by custom or practice prior to this Act coming into force.” The Department of Community Services has determined that prior to the *Freedom of Information and Protection of Privacy Act* coming into force, there was an existing custom or practice that allowed children who are in care or formerly in care to obtain personal information about their family members. The policy and procedures that follow set out the information that can be released to children in care or formerly in care, and it is believed to be consistent with prior custom and practice with respect to release of information.

The standards and procedures that follow with respect to release of information are intended to be carried out in a manner that confirms the individual’s right to obtain information about themselves and their families, and that will help them understand why they came into care, and to have knowledge and information about their experiences while they were in care. This principle needs to be balanced with other individuals’ rights to privacy and protection. For example, a child who was formerly in care may have the right to know about a background history of sexual abuse. Such information may be very upsetting to the client, and hence, release of such information to them would have to be done in a manner that would minimize upset or trauma to them. Also, such information may result in the individual feeling angry. Care must be taken to make sure that a situation is not created where another person another person was put at risk because of information released. Therefore, the release of information to children in care or formerly in care needs to be done in a manner that is sensitive to a variety of needs and issues.

Upon request from a child currently in care and custody or an adult formerly in care and custody, it may be helpful to know what information is being sought and why the individual is looking for the file. The preparation of the material should be based on the belief that:

- A request for background information is part of normal adult development.
- The more comprehensive the information, the more satisfied the individual will be.
- Such a service is part of the ongoing child welfare responsibility.

The first step is to make sure that there was no adoption. If there was an adoption, the request must be referred to the Adoption Disclosure Services program. Disclosure of the file information will be made only after the removal of identifying information of any third parties (such as foster parents). Agency personnel are not considered “third parties.”

Where the child is currently in care and custody, the information should be gathered and shared in person with the child. Where the request is from a former youth in care, a supervisor or social worker familiar with the children in care program should prepare the material for release.

Where the information to be released involves a youth currently in care and custody, the belief is the information is necessary as part of the ongoing process of development for every child in care. Information to be shared should take into consideration the conflict between the parents’ rights to confidentiality and that of the child to acknowledge their family background. Preparation of a life book with a child is an effective method of sharing family background information. Consideration of the child’s developmental stages should be of paramount concern when providing background information.

Children who have been placed in permanent care and custody as a result of adoption disruption are entitled to receive information about their adoptive parents and subsequent placements outside the adoption home. Information on birth parents and history prior to the adoption placement requires a referral to the Adoption Disclosure Services program.

The practice and procedures for gathering information has changed considerably over the years. Disclosure of information from the past must be sensitive to these differences.

Where the information may be sensitive, e.g. sexual abuse, it is preferable that the information be shared in person as well as in writing if possible, or with the person’s consent, the information can be sent to their therapist to share with them. A copy of all information shared should be maintained on the case file.

9.1.1 Request for Information concerning a Child in Care or Formerly in Care who was Adopted

Standard 9.1(a)

The *Adoption Information Act* governs the release of **any** information prior to an adoption. Where there is a request for this information, a referral must be made to the Adoption Disclosure Services program.

Procedure

Where there was an adoption, the *Adoption Information Act* governs the release of **any information prior to the adoption**. For example, information in the child's care and custody file prior to the adoption cannot be released by the agency or district office. All such inquiries should be referred to the Adoption Disclosure Services program.

9.1.2 Children Currently in Care

Standard 9.1.2(a)

Where there is a request from a child currently in care and custody, the information must be gathered and shared in person by the child's caseworker. A summary of the information shared with the child must be maintained in the child's file.

The assigned social worker will respond to information requests made by a child in the care and custody of an agency.

The young person's developmental capabilities and the right to confidentiality of third parties must be considered. Both positive and negative information is to be shared with the child; the level of detail is a matter of casework decision. The child will be provided with the date of admission to care and the reason for same, the number of placements and the reason for the changes, if contained in the record. The following information regarding the child's parents, siblings (***unless legally adopted***), and extended family will be shared if contained in the record.

- full names
- ages, birth place, and religion
- cultural and racial background
- appearance, personality, interests
- medical history
- education and occupation
- childhood history (if available)
- attitude and feelings expressed upon placement of child into care
- present situation (if known)

Other information contained in the file should be released as appropriate. Important events in a child's life are shared with details for the purpose of providing insight into their personality development. Appropriate photographs will be given to the child if available. Insight into the long range comprehensive plan of care as well as full disclosure of rights, given developmental considerations, will be provided to the child for their consideration when the child is over 12 (*see Section 2: Planning for Children in Care*).

If the child requests, a written summary of the material shared will be given to them upon discharge from care. A copy should be maintained on the file.

9.1.3 Adults Formerly in Care

Standard 9.1.3(a)

Where there is a request from an adult who was formerly a child in care and custody, a supervisor or a child care worker familiar with the children in care program must prepare the material for release with a copy placed in the closed child in care and custody file.

Information will be provided to adults formerly in care and custody upon receipt of a written request. The assigned social worker will prepare a summary of the case time frames, case plan, general trends and intervention services, being mindful of third party confidentiality. Where possible, a meeting will be arranged with the applicant. The applicant may be provided with a copy of but not limited to the:

- order for care and custody
- order of termination
- medicals
- pictures
- short-form birth certificate
- school reports
- baptismal certificate (if available)
- list of placements
- social history
- annual review
- case recording

Due to the sensitive nature of the information in the following reports, it may be more appropriate to share these reports via their therapist/psychiatrist or for the applicant to get the author's consent to release the report.

- psychiatric reports
- psychological reports
- therapists reports

The above material is restricted by the right of third party confidentiality. Identifying information concerning third parties should be removed prior to disclosure.

This is a process and the individual should have an understanding of the nature of the information that will be released. They should also know if they are comfortable with the release to a third party.

Documents that may be of a sensitive nature should be shared in person or with the assistance of the former youth in care's therapist, a psychiatrist, or social worker, as appropriate.

If the applicant wishes the information to be released to another party, a release of confidential information form should accompany this request.

9.1.4 Young Offender Records

Standard 9.1.4(a)

Where a child in care's record contains young offender records, Justice must be consulted with respect to access and disclosure under the Youth Criminal Justice Act

Where a child in care's record contains young offender records such as pre-disposition reports that may be provided under the Youth Criminal Justice Act advise should be obtained by contacting the Department of Justice with respect to access and disclosure of these reports

SECTION 9
REFERENCE MATERIAL

1. *Freedom of Information & Protection of Privacy Act*
2. *Adoption Information Act*

SECTION 9 ACCESS AND INFORMATION SHARING

Summary of Standards For Access and Information Sharing

- 9.1(a) **The *Adoption Information Act* governs the release of *any* information prior to an adoption. Where there is a request for this information, a referral must be made to the Adoption Disclosure Services program.**
- 9.1.1(a) **Where there is a request from a child currently in care and custody, the information must be gathered and shared in person by the child's caseworker. A summary of the information shared with the child must be maintained in the child's file.**
- 9.1.2(a) **Where there is a request from an adult who was formerly a child in care and custody, a supervisor or a child care worker familiar with the children in care program must prepare the material for release with a copy placed in the closed child in care and custody file.**
- 9.1.4(a) **Where a child in care's record contains young offender records, Justice must be consulted with respect to access and disclosure under the *Youth Criminal Justice Act*.**