



TIPS FOR LAWYERS

ACCESSING RECORDS FOR YOUR DCF CLIENT

1. DCF Records
2. Court Records
3. Medical and Mental Health Treatment Provider Records

DCF RECORDS

What records will I automatically receive when I represent a parent or child in juvenile court?

You will receive a copy of all papers filed with the Juvenile Court.
For example, you will receive a copy of:

- Applications for Order of Temporary Custody
- Social Worker Affidavits
- Neglect Petitions
- Summaries of Facts
- Social Studies
- Status Reports
- Psychological/Psychiatric Evaluation Reports conducted pursuant to a court order
- Any motions filed with the court

You will not receive any DCF internal records that are not filed with the court.

What other records does DCF have?

DCF creates many documents that you will want to be aware of:

- Child Protection Service (CPS) Referral
- Investigation Documents:
DCF creates an "Investigation Protocol," typically a 10 page document that tracks an investigation from the initial report to the agency's decision regarding substantiation. If you want a copy of this document, you will have to specifically request this document by name.
- Running Narrative (or LINK record):
The Running Narrative is a daily record of case activities created by the social worker and anyone else at DCF who worked on a particular case. The Narrative should detail all phone calls made or received, all meetings held, all court appearances, and all DCF-supervised or DCF-facilitated visits. The Narrative entries should be made within 5 days of the described activity.

- Structured Decision-Making Tools:
DCF also uses specific risk, safety and reunification assessment tools pursuant to the agency's new Structured Decision-Making social work model. These tools help the agency determine, at every stage of a child protection case, how best to proceed. These tools encourage the Department to identify specific safety or risk factors so that the social work team can make a disciplined decision. If your parent client or child client has been subject to an Order of Temporary Custody, for example, DCF likely used a Safety Assessment Tool in making the decision to remove the child from his home. Be sure to ask for this document by name.
- Case Plan:
DCF also creates a case plan for every committed child and his family, and the attorney is entitled to have a copy of this document. See also Conn. Gen. Stat. § 17a-15 and corresponding regulations.
- Multi-Disciplinary Evaluation Reports:
DCF facilitates a Multi-Disciplinary Evaluation (a comprehensive physical) for a child within 45 days of the child's commitment to the Department's care. The MDE report will contain useful information about your child client's physical, mental and emotional needs. It may contain recommendations for future evaluations or services that your client will be entitled to.
- Administrative Case Review Report:
Outcome of the Federally Mandated 6 month review, which includes the DCF worker, DCF supervisor, parent, community agency representatives and child's attorney.
- Service Provider Reports:
DCF will also obtain records from DCF-contracted providers who are serving your client. For example, if your client was referred for counseling, and your client signed pertinent releases, DCF should be receiving regular written status reports from the clinical provider.

If DCF sends a child or youth to a residential facility, DCF should be receiving regular reports from the facility regarding the child's progress and well-being.

How do I obtain records from DCF?

You will need to specifically ask for the records you want. For example, if you ask for the "Running Narrative" from January 1 to May 10, that is what you will receive. DCF will not send you the Treatment Plan or the Investigation Protocol unless you ask for them.

Connecticut General Statute § 17a-28 provides attorneys for parents and children the right to access records pertaining to their client's case.

"Records" is defined by the statute to include any "information created or *obtained* in connection with the Department's child protection activities."

Send a letter to DCF requesting the specific records you are seeking. Don't forget to include the DCF records request form along with your letter. Address your letter to the applicable DCF paralegal or principal attorney. All records requests are handled by the Central Office paralegal department. Check with the legal department to make sure you have the correct contact person. Be sure to include a date by which you expect to receive the records or a copy of any applicable court order for records.

Are there any DCF records that I will receive without asking?

DCF policy § 46-3-5 provides that social workers should bring “relevant Department records to the first OTC hearing so that parents and counsel may review any pertinent documents to the case.” Despite this policy provision, many attorneys report that no additional records are provided at the OTC hearing.

In re Lindsey P., 49 Conn. Supp. 132 (2004) mandated that DCF social workers must include any and all exculpatory information in affidavits supporting applications for ex parte orders of temporary custody.

Do I need a release from the parent in order to get records related to my client’s case?

As to DCF records, if you represent a child, Conn. Gen. Stat. § 17a-28(f) provides that DCF shall provide copies of records to “the attorney [or guardian ad litem] appointed to represent a child in any court in litigation affecting the best interests of the child.” No release or consent is required.

For other records pertaining to the child, such as educational, medical or mental health records, an attorney will be required to demonstrate that he or she has a right to the records sought. If the child remains living in the home with the parent, or is under an Order of Temporary Custody, then a child’s records may be obtained either through providing a release signed by a parent, by submitting a copy of the attorney’s appointment sheet to the holder of the records, or via a court order. If the child is committed to DCF (meaning DCF is the child’s legal guardian), then any pertinent releases may be signed by DCF instead of the parent.

If you represent a parent, Conn. Gen. Stat. § 17a-28(m) provides that an individual’s “authorized representative” or “attorney” has the right to access records maintained by the department. The statute defines “attorney” to mean the “licensed attorney *authorized to assert* the confidentiality of or right of access to records of a person.” Accordingly, many attorneys report that they obtain releases from their client prior to requesting records from DCF.

What should I do if DCF does not send me the records or refuses to provide certain records?

If you believe that you are legally entitled to the records and DCF does not have a valid reason to refuse your request, you have several options.

- You can call the DCF principal attorney (see link above for DCF legal directory) in the area office and attempt to resolve the dispute.
- You can call the Assistant Attorney General assigned to your case and enlist his or her help to solve the problem.
- You can file an emergency motion in court, pursuant to Practice Book § 34a-23, requesting that the records be delivered to the court by a date certain. If you file a motion for the records, you should detail the efforts you made to secure the records through non-judicial means. Practice Book Rule § 34a-20 provides counsel the right of discovery “with

the permission of the [court] if the information or material sought is not otherwise obtainable and upon a finding that proceedings will not be unduly delayed.”

COURT RECORDS

(Available to child’s counsel pursuant to Conn. Gen. Stat. § 46b-124)

- Petitions
Filings in support of Orders of Temporary Custody; Neglect Adjudications; Termination of Parental Rights.
- Summary of Facts
States allegations in support of neglect petitions.
- Status Reports
Description of child and family’s current situation, recommendation for future agency or court action.
- Permanency Plans
Motions and supporting reports filed by the state in which DCF recommends a future permanent living arrangement for the child. Any party may file an objection to a permanency plan within 30 days.
- Court Memorandum
Details what orders were entered at a particular hearing. (If you want a copy of the Court memorandum, you must ask the court to order the clerk’s office to make a copy.)
- Social Studies
Descriptions of present living situation, birth family history, home studies related to placements.
- Psychiatric and Psychological Evaluation Reports
The parties may request, or the court, sua sponte, may order the parents to submit to a psychological or psychiatric evaluation, including a parent/child interactional evaluation to assist the court in making decisions regarding the future of the case. These reports will be done through the court services office and copies of the reports will be provided to all counsel of record.

MEDICAL AND MENTAL HEALTH TREATMENT PROVIDER RECORDS

- Child’s counsel should access information and/or records from any community agency providing treatment to the child client.
- If DCF acquires these records, then child’s counsel can obtain the records from DCF pursuant to Conn. Gen. Stat. § 17a-28. However, the DCF records statute does not provide the child’s attorney with the right to records created and maintained by a third party provider agency. Currently, providers will ask the child’s attorney for a written authorization for records. Attorneys may find it useful to keep standard health information releases in their files and have DCF sign them at a court hearing or conference.