

Confidentiality

Overview

Purpose The purpose of this procedure is to establish written procedures for confidentiality and reporting of breach of confidentiality processes within the AAA PSA 26. PSA 26 conforms to Lake County Department of Social Services Confidentiality procedures.

Policy It is the policy of LCDSS that all confidential information will be handled in the manner set forth in this policy.

All staff should frequently review these statutes to ensure unwavering compliance. Staff members subject to the rules of confidentiality include, but are not limited to, full-time, part-time, on-the-job training, work experience and volunteer staff.

All LCDSS staff are required to abide by the regulations governing the confidentiality of records which are contained in Welfare and Institutions Code (**W&IC**), section 10850 and the Manual of Policies and Procedures (**MPP**) division 19, as well as those regulations listed below for each program. All new staff will be required to review these statutes, signing a statement which acknowledges their awareness of the requirements and their willingness to comply. All existing staff will be required to review these statutes on a yearly basis, updating their signature statements indicating their awareness of and compliance with the requirements. In addition, Area Agency on Aging (AAA) Long-Term Care (LTC) Ombudsman staff will sign a confidentiality statement for paid or non-certified/volunteer staff at induction and yearly **thereafter**.

Contents This section contains the following topics:

Topic	See Page
Protection of Confidential Information	3
Release of Confidential Information	5
Additional Requirements for Adult Services (AS)	11
Additional Requirements for Child Welfare Services (CWS)	14
Additional Requirements for Welfare Fraud Investigations (WFI)	15

Continued on next page

Overview, Continued

Authority

This document is written under the following authorities:

- General authorities:
 - Manual of Policies and Procedures ([MPP](#)) Division 19
 - Welfare and Institution Code ([W&IC](#)) Section 10850
 - Health Insurance Portability and Accountability Act ([HIPAA](#))
 - Medi-Cal Eligibility Data System (MEDS) Security Agreement
 - Specific authorities:
 - **Adoptions:** [W&IC](#) §§ 35037-35077, [ACL](#) No. 11-23; [CCR](#), Title 22, Chapter 3
 - **Adult Protective Services:** [MPP](#) § 33-805; [W&IC](#) § 15630; [ACL](#) No. 01-18; Older Americans Act, § 307, etc. seq. 42 [USC](#) § 3027 et. seq.
 - **Area Agency on Aging:** [CCR](#), Title 22; [W&IC](#) §§ 9000-9757.5
 - **CalWORKs:** [MPP](#) §§ 40-101.13, 40-157.22, 40-181.31 & 42-715.3; [ACIN](#) No. I-11-02
 - **CalFresh:** [MPP](#) § 63-201.3; [ACIN](#) No. I-47-03
 - **Child Welfare Services:** [MPP](#) § 31-005.151; [California Penal Code](#) Article 2.5
 - **Domestic Violence:** [MPP](#) § 42-715.6; [ACL](#) No. 99-07 & 99-09; [ACIN](#) No. I-60-09
 - **Independent Living Program:** [ACL](#) No. 92-66
 - **In-Home Supportive Services:** [MPP](#) § 30-763.621
 - **Juvenile Court:** [ACIN](#) No. I-49-99
 - **Mandated Reporters:** [ACL](#) No. 03-05
 - **Medi-Cal:** [MEPM](#) Articles 2H and 14D
 - **Recipient Fraud:** [MPP](#) § 20-007.36
 - **Tribal TANF:** [ACL](#) No. 10-41
 - **AAA/Ombudsman:** Older American Act, Section 307 et. seq. 42 USC, California Welfare and Institutions Code Section 9725 et. seq.
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Protection of Confidential Information

Confidential Information

All information, written or verbal, that is gathered by LCDSS for the purpose of administering any program or for the determination of eligibility for any program is to be considered confidential. No LCDSS staff member or former staff member of LCDSS may release confidential information except as specified in these procedures. Confidential information includes:

- All identifying information such as name, address, Social Security Number (SSN), telephone number, date of birth (DOB), Personal Identification Number (PIN), Client Identification Number (CIN), etc.
- All information concerning the circumstances of an individual. For example the type(s) of assistance being applied for or receiving/received and who lives in the home.
- All records, papers, files and communications.
- Tax information. This encompasses any information supplied by the Internal Revenue Service (IRS) including identifying information and information concerning income.
- Information with respect to domestic abuse victims and their dependents.
- Medical data including medical services provided, diagnosis, and past history of disease and disability.
- All information contained in the Adult Services (AS) Case Record.
- Alcohol treatment reports, medical reports, mental health reports,
- Human Immunodeficiency Virus (HIV) information provided by other agencies, used in APS, such as the Social Security Administration (SSA), Veteran's Administration (VA) and the Worker's Compensation Division of the Department of Industrial Relations. Any individuals seeking information from APS that has been obtained from any of these agencies should be referred to those other agencies directly.
- Juvenile dependency proceedings connected with Child Welfare Services (CWS). The petition, all reports and other documents filed in the case and any documents relied upon or used by the Social Worker (SW) in preparing the case are confidential.
- CWS investigations which do not lead to a petition. Even when a SW conducts an investigation into a report of child abuse/neglect but determines not to file a juvenile dependency petition, the information collected by the SW, the SW's notes and any report composed by the SW are confidential. This includes both handwritten materials and all reports, forms, etc. generated by the CWS automated system.

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Protection of Confidential Information, Continued

Non-Confidential Information

Statistical information and social data not identified with a particular individual may be released. Such information includes:

- Statements of the number of recipients.
 - Information on expenditures associated with the various programs.
 - General information concerning the caseload as a whole
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Removal of case files from department buildings

To ensure strict confidentiality, all case files and related material may only be removed from LCDSS buildings for the following reasons:

- Required court appearances.
- Routing of cases between the Lakeport and Lower Lake offices and the Medi-Cal outreach offices.
- Filing/retrieving closed cases in/from storage.
- Consultation with County Counsel.
- Quality control by CDSS or United States Department of Agriculture (USDA) Food and Nutrition Services.

When staff is outside department buildings in the course of county business, caution should be taken not to discuss the names of clients or the specifics of a case in such a manner that would allow a listener to identify the case.

All records must be in staff's physical possession at all times; records may not be locked in trunks of unattended vehicles.

Breach of Confidentiality

Unlawful disclosure of confidential information is a **CRIME**:

- Violators will be referred to the District Attorney for criminal prosecution.
 - The client will be notified; the client may choose to pursue a civil action lawsuit against the violator.
 - Disciplinary action, up to and including termination, will be taken.
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Release of Confidential Information

Release of information

It is sometimes necessary to contact outside agencies and individuals for the purpose of determining initial and ongoing eligibility or to routinely verify progress within an assigned activity related to Welfare to Work (WtW).

SW's in Adult Services (AS) and CWS are frequently required to contact outside agencies in the course of conducting an investigation of abuse or neglect or to monitor a client's compliance with their service plan. In most instances, confidential information can only be shared with outside agencies or individuals when a release of information is on file. The following is a list of releases of information currently in use:

- Consent for Release of Information, *LAKCW00915* or *LAKES00915*. This release is used for the CalWORKs program, either eligibility (*LAKCW00915*) or employment services (*LAKES00915*). The *LAKCW00915* or *LAKIS00915* contains a list of the agencies that cash aid caseworkers normally contact. Additional blank lines are also available to fill in those agencies not listed on the form.
- Applicant's Authorization for Release of Information, *ABCDM228*. This is a state form that is used by Other Program Assistance (OPA), which includes Medi-Cal, CMSP, General Relief (GR), and CalFresh (formerly Food Stamp) programs. A separate release must be completed for each agency or individual the worker is requesting information from.
- Authorization for Release of Medical Information, *MC220*. This form is used by Medi-Cal as part of the Disabled Adult Program Division (DAPD) packet. It authorizes the recipient's medical provider to release information to DAPD. A separate *MC220* must be completed for each medical provider.
- Consent for Exchange of Information, *LAK00935*. This release is used by AS. The client's initials are required for each agency to be contacted.
- Consent for Exchange of Information, *LAK01025*. This release is used by CWS. The client's initials are required for each agency to be contacted.
- Acknowledgement and Agreement Regarding Release of Child Welfare Services Records, *LAK01027*. This form authorizes staff of the Probation Department to review CWS records when conducting a relative guardianship assessment. The form allows probation to view and take notes of the case file but not make copies or remove any documents from DSS.

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Release of Confidential Information, Continued

Release of information (continued)

- Lake County Multi-Disciplinary Teams Confidential Referral Form, *LAK01026*. This is a CWS form. It is sent to an outside agency, usually a school, when a staff member of that agency requests that a multi-disciplinary team (MDT) meeting be held regarding a child who is receiving services through CWS. The staff member completes the form, sends it back to CWS and a meeting may be scheduled.
- Vocational Health Statement, *LAK00824 GR*. This form is used to capture information relating to a General Relief applicant or recipient's disability from the client's physician. Section I of the form authorizes the physician to release medical information to LCDSS when signed by the client.
- Income In-Kind/Housing Verification (Supplement to the *MC 210* Statement of Facts), *MC 210 S-I*. Section I of the form authorizes LCDSS to contact any person(s) who may be giving or sharing with a Medi-Cal recipient housing, food, utilities and clothing, free or in exchange for work.
- Food Stamp Verification of Disability, *LAK00824*. This form is used to obtain information from a food stamp applicant/recipient's physician regarding their disability. The client authorizes the physician to release this information to LCDSS by completing the top portion of the form.

The laws governing confidentiality for all programs prohibit a staff member or former staff member from even acknowledging that a person is receiving public assistance, has applied for public assistance or has applied for other services through LCDSS. This includes closed files as well as active files. When a release of information is on file, information can only be shared that relates directly to the program the applicant/recipient is applying for, is receiving or to services provided through AS/CWS. If an agency needs to be contacted regarding an ongoing case, a release must be obtained at the time if one has not previously been obtained. Any time that information is released, the caseworker should narrate in case comments the reasons surrounding their decision to release the information.

For all programs, a release of information is valid for one year unless a shorter time is indicated on the release.

Confidential information can be released to certain agencies without a release of information. This includes the following:

- Investigations. All programs allow for the disclosure of information for the purpose of investigating alleged fraud.

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Release of Confidential Information, Continued

**Release of
information**
(continued)

- Local, state or federal law enforcement officials. For food stamps, information can only be released to law enforcement if it is in connection with a violation of the food stamp program, the recipient committed a felony or is wanted for parole violation. For all other programs, with the exception of Medi-Cal, information may be released to law enforcement officials only if the applicant or recipient is deceased or a felony arrest warrant has been issued. No information obtained for administering the Medi-Cal program may be released to law enforcement with the exception of information regarding alleged fraud.

In all cases, requests for information must be made in writing by the head of the law enforcement agency. Requests must also specify the violation being investigated and the identity of whom the information is being requested.

- District Attorney. For the purposes of conducting investigations, prosecutions and criminal or civil proceedings that are directly related to social services.
- County Counsel.
- County Auditor. Auditors can examine confidential records without a release for the purpose of verifying that overpayments, etc. are being processed properly.
- State Auditors. Records can be examined by the California Department of Social Services (CDSS) to ensure that cases are in compliance with state regulations.
- Attorneys representing the State of California, any political subdivision of the state or any agency administering the laws governing the administration of public social services, in a lawsuit which challenges the validity of the laws governing the administration of public social services or the manner in which the laws have been applied.

Said attorneys will be given access to all files and records related to the plaintiff. The files and records regarding the plaintiff may also be released to the court having jurisdiction of the lawsuit as long as they are relevant to the legal issues of the case. Any subpoenas requiring the disclosure of confidential information that is not connected with the administration of social services must be referred to county counsel so that steps can be taken to safeguard the records.

- Superintendents of school districts or staff authorized by the superintendent solely for the purpose of verifying a child's eligibility for school programs, such as free lunch programs. School personnel must be advised that such information is confidential.

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Release of Confidential Information, Continued

Release of information (continued)

- An applicant/recipient or their Authorized Representative (AR) is entitled to information contained in their case file, in conjunction with a state hearing, with the exception of privileged communications. Privileged communications are records relating to an attorney and their client and the identity of the reporting party on referrals.
- Medi-Cal providers, for the purpose of verifying Medi-Cal eligibility as required by regulation, when such verification is requested by the provider. After the identity of the provider has been established, the following recipient information may be released:
 1. Case number.
 2. Date of birth.
 3. Eligibility status for the requested months.
 4. Other health coverage.
 5. Restricted status (if applicable)
 6. Medicare coverage (if applicable)

The disclosure of information to other agencies and individuals requires a release of information. Medi-Cal Eligibility Data System (MEDS) printouts cannot be given to any provider.

Authorized Representatives

An Authorized Representative (AR) is a person or group that has authorization from an applicant or recipient to act on their behalf. All authorizations must be in writing. They must be signed by the applicant/recipient and dated. All written authorizations expire one year from the date they are given unless the authorization is limited to a shorter period or revoked. Authorizations in cases involving fair hearings end when the hearing issue has been resolved. In situations where the AR and applicant/recipient are both present, no written authorization is needed for that occasion. However, written authorization would be needed to discuss the case with the AR in the applicant/recipient's absence.

A telephone call is not an acceptable form of authorizing an individual to be a representative for a client or for releasing information to someone other than the client. The signature on the written request should be matched with an existing signature in the case file before releasing any information. **In all cases, the receipt of any authorizations must be fully documented in the case file. Additional documentation is necessary each time information is released to an AR.**

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Release of Confidential Information, Continued

Absent parents When a request for confidential information is received from an individual claiming to be an absent parent, the following steps should be taken to assure both the safety of the recipients and that confidential information is preserved:

- No acknowledgement that the other parent and/or child(ren) are receiving aid may be made.
- The identity of the absent parent should be verified. This can be done by requesting identifying information such as DOB or SSN from the individual claiming to be the absent parent.
- If the family is receiving aid, the caretaker will be contacted for permission to release the requested information. The caretaker will be asked to give any identifying information of the absent parent they are familiar with. This information will be compared with the information given by the absent parent to complete the verification process.
- Information will be released to the absent parent if permission has been granted by the aided caretaker.
- In situations where the absent parent alleges that the aided caretaker has kidnapped or is abusing or neglecting the child(ren), a referral will be made to CWS.

Client access to case records Applicants, recipients and AR's are entitled to have access to their case records upon their request. Any information provided by the client or their AR, or for which the client consented to release to the County, which is not considered privileged information, must be shown to the client and/or AR. Such information may include, but is not limited to:

- Information from their own or their children's health care providers.
- School attendance information.
- Letters or records regarding attendance at WtW activities.
- Case comments or other case narratives.
- Verification of employment records.
- Copies of reports submitted.
- WtW appraisals.
- Documents regarding supportive services.
- 60-month time limits and related documents.

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Release of Confidential Information, Continued

Client access to case records
(continued)

Privileged information is information about the client that came to the County from a third party, without the client's permission. Clients are not entitled to access privileged information. Privileged information may include, but is not limited to:

- The whereabouts of an absent parent, such as that information provided by the Lake County Department of Child Support Services (LCDCSS).
- Private information concerning the status of children who have been removed from the home by CWS.
- Medical or criminal background information provided to the caseworker by an adult in the household, or formerly in the household. This information could not be released to anyone else in the household.
- Case records of minors who have received Minor Consent services. Access to this information is limited to the minor who received the services.
- Income Eligibility Verification System (IEVS) reports.
- Fraud Referrals

The claimant also has access to non-privileged case information stored electronically. This would normally include case comments for example that have not been printed. This information should be reviewed and printed out for the claimant's review, with all privileged information omitted. At a future time most, if not all, information in the case may be stored electronically. Procedures will be in place for reviewing electronic cases with claimants prior to that time.

Additional Requirements for Adult Services (AS)

Adult Services Confidential information can be released without a release of information, LAK00935 to the following agencies:

- Local law enforcement. Local law enforcement does not include investigators with the District Attorney's (DA's) office. Investigators with the DA's office may access confidential records only for purposes directly connected with a prosecution, or if DA investigators are normally part of MDT meetings.
- The Bureau of Medi-Cal Fraud and Elder Abuse.
- The Department of Consumer Affairs, Division of Investigation.
- The Long-Term Care Ombudsman.
- Licensing agencies (California Department of Social Services' Community Care).
- Licensing Division (Department of Health Services' Licensing and Certification Unit).
- CDSS.

Mandated reporters do not have equal access to confidential information. The determination of what information to release to a mandated reporter is based on the identity of the mandated reporter and the purpose for the release of the information.

Example: The mandated reporter is the client's dentist. The dentist's services are not required by the client's service plan. Disclosure of confidential information, including acknowledging that the client is receiving adult protective services, is not directly connected to the administration of the Adult Protective Services Program. Therefore, the adult protective services agency may not release confidential information to the dentist. The adult protective services agency may, however, confirm receipt of the report of known or suspected abuse or neglect.

The types of confidential information that **may** be released to the above agencies is limited to the following:

- The identity of the reporter.
- A description of the injuries and conditions suffered by the victim due to the alleged incident of abuse.
- The information relevant to the alleged incident of abuse.

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Additional Requirements for Adult Services (AS), Continued

Adult Services (continued)

This information is contained in the Suspected Dependent Adult/Elder Abuse form, SOC 341. Local law enforcement can also receive a copy of the county adult protective services agency investigative report, SOC 343, along with any information or findings relevant to the incident of elder or dependent adult abuse. AS staff are also required to inform the above agencies that this information is confidential.

AS is **required** to disclose confidential information to state and local law enforcement agencies under the following circumstances:

- During the investigation or gathering of information regarding a criminal act committed in a welfare department office, a criminal act against APS staff or any criminal act against or witnessed by APS staff or any criminal act witnessed by any welfare worker while involved either while the staff member is on or off duty. The information that can be released is limited to the applicants or recipients name, physical description and address.
- When a warrant has been issued for the arrest of the applicant or recipient for the commission of a felony or misdemeanor. The information that can be released under these circumstances is limited to the name, address, telephone number, birth date, social security number and physical description of the applicant or recipient. This information cannot be released without a written request from the law enforcement agency. This request must be made by the head of the law enforcement agency or by an authorized employee of the agency identified by name and title. AS staff must advise clients that confidential information will be released if a warrant is issued against them.

Emergency circumstances

The Director of LCDSS may authorize AS staff to release the name and address of elderly or disabled clients to emergency service personnel in the event of a public safety emergency such as fires, earthquakes, gas leaks, bomb scares and other natural or human made occurrence that jeopardize the immediate physical safety of those residents. Confidential information may also be released by AS staff in an emergency situation where action is necessary to prevent harm to a client and the consent of the client cannot be secured due to the condition of the client. Examples of emergency situations include: arranging for necessary medical treatment, housing and/or placement of an elder or dependent adult.

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Additional Requirements for Adult Services (AS), Continued

**Emergency
circumstances**
(continued)

In all circumstances, SW's will disclose the least amount of confidential information necessary to achieve the desired result. Only information that is directly relevant to the purpose for which the disclosure is made will be revealed

In situations involving an Authorized Representative (AR), AS staff may choose not to give documents to the AR when the contents of the documents suggest that the client would not want the information released to the AR.

Example: Allegations of neglect involving a dependent adult have been made against the AR. There is an ongoing investigation. It would not be appropriate for APS staff to release records of this investigation to the AR. Staff should release the information to the client only.

**Multi-
Disciplinary
Action Teams
(MDT's)**

Confidential information can also be released to MDT's, if the information is relevant to the prevention, identification or treatment of abuse of elders or dependent adults. APS staff must inform members that the information cannot be released to non-team members and that confidential information disclosed to team members cannot be used for any other purpose.

**Area Agency on
Aging (AAA) –
Long-Term
Care (LTC)
Ombudsman**

Confidentiality is mandated by federal and State law for all residents, complainants, and witnesses. The AAA shall assure that the LTC Ombudsman Program maintains confidentiality in accordance with Federal and State requirements. The provisions of confidentiality apply to all Ombudsman representatives. Ombudsman representatives or other Program staff shall not disclose the identity of any resident, complainant or witness providing information to the Program during the investigation of a complaint, unless there is consent from each person identified in the complaint which has been documented, or a court orders the disclosure. All persons with access to confidential files within the office must sign an oath of confidentiality annually. All files, telephone and e-mail communication, and internal communication within the AAA Office will meet the confidentiality requirements under State and Federal law.

If confidentiality is breached, in addition to "breach of confidentiality" protocol above, the California Department of Aging (CDA) will be notified.

Additional Requirements for Child Welfare Services (CWS)

Background

There are many individuals such as the child, the child's family and the individual who made the report to CWS, whose right to privacy are impacted by the release of confidential records retained by CWS. In addition to addressing confidentiality issues with regard to releasing information to other agencies who are involved with a CWS case, SW's also receive requests for confidential information from attorneys, law enforcement officials and courts. Many times these requests are related to ongoing child custody cases or the investigation of a crime against a child not receiving services through this agency.

Requests for information

There are three ways in which confidential information may be sought by individuals or attorneys outside DSS:

- Subpoena of SW. The SW may be subpoenaed to appear in court to testify regarding their knowledge of a juvenile dependency matter or investigation.
- Petition for Disclosure of Juvenile Records. The SW may receive such, requesting that records, notes and case file information be provided in lieu of testimony. This will be directed to supervision and County Counsel.
- Informal request. The SW may receive a telephone call or personal request for information or a request that the SW voluntarily agree to testify.

In the event of a request for disclosure of records or testimony, SW's will forward all such requests immediately to their supervisor. The supervisor will contact county counsel's office to review the request. For exchange of information between CWS and agencies working with a mutual client, an *LAK01025* must be on file and have been signed and dated by the client within the last twelve months.

Mandated reporters

Mandated reporters are individuals who, because of their occupation, are required by law to report incidences of suspected abuse and neglect of children. Mandated reporters include law enforcement officers, teachers, counselors and all LCDSS staff. Regulations allow Sw's to provide a limited amount of feedback to a mandated reporter regarding the disposition of the report they made to CWS. The automated CWS system generates an Emergency Response Notice of Referral Disposition.

Additional Requirements for Welfare Fraud Investigations (WFI)

Welfare Fraud Investigations

Fraud investigators by regulations have access to all confidential information, as described above, when there is a fraud investigation in progress. LCDSS staff can make a referral to investigations by completing a Referral for Investigations, LAK00520. The confidential information accessed by fraud must pertain only to information necessary to investigate the alleged instance of fraud. In conducting an investigation, investigators will adhere to the following guidelines:

- Reveal no more about the client than is necessary in order to perform duties.
- Tell as few people as possible.
- Request that any collateral contacts maintain the confidentiality of such information. A release of information signed by the client is not necessary to contact collateral sources in the course of an investigation.

Fraud investigators may share fraud-related information with other agencies in pursuit of a fraud investigation. For example, investigators can give a client's address to a law enforcement official if the address is needed to serve a warrant charging the client with welfare fraud. Other agencies include:

- Other county welfare departments.
- DA on fraud-related matters.
- Law enforcement, provided there is an active warrant on a fraud-related charge.
- CDSS
- Project Intercept.
- County collection agency involving information necessary for collecting overpayments related to fraud cases.
- Auditor's office regarding forgery affidavits.
- Courts (Juvenile).
- State Adoptions.
- Licensing.

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Additional Requirements for Welfare Fraud Investigations (WFI), Continued

Welfare Fraud Investigations
(continued)

Investigators cannot share information with other employees of the department, unless those employees have a real need to know, that is directly connected to the administration of aid or social services. Some possible scenarios of a need to know include:

- A caseworker who is carrying the client's active case and that case is under investigation has a need to know.
- A SW who is providing direct services to the client may have a need to know. This would depend on whether the fraud referral is likely to result in a reduction of income to the family or in a family member going to jail.
- Administrators and supervisors in the direct line of authority to the caseworker also have a need to know.

When interviewing clients, investigators will take the following steps to ensure that respect for confidentiality is promoted:

- The person being interviewed has a right to know who you are and which agency you represent. When interviewing collateral sources of information, investigators should always introduce themselves as fraud investigators and show their badge if necessary.
 - The investigator may respond truthfully if the person being interviewed asks a direct question such as "is Jane Doe on welfare?" However, the investigator should attempt to protect the client's right to confidentiality to the fullest extent possible.
-