

# Family Court Protocol

(Revised 11/19/21)

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### **Forms**

The following forms are referenced in this file:

- 04-192 Letter to Family Court (*CWS/CMS template*)
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  - 04-125fc Family Court Request for Child Welfare Services Records
  - 04-191 Family Court-Notice of Allegation Change
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### **Introduction**

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#### **Background**

The San Diego Superior Court Family Division makes rulings and orders relating to family law issues of divorce, legal separation, annulment, parentage, child custody, visitation, support (child and spousal), family violence restraining orders, and family related issues. These matters are heard in Family Court.

Child Welfare Services (CWS) Social Worker's (SW) often work with families who have an active Family Court case or need the assistance of Family Court.

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#### **Protocol Purpose**

This protocol provides the following:

- Basic information about Family Court.
  - Information on the role and services provided by Family Court Services (FCS).
  - Information on the services provided by the Family Law Facilitators Office.
  - Instructions on assisting families to access Family Court.
  - Instructions on working with Family Court, FCS and Family Law Facilitators (FLF).
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#### **Family Court Purpose**

Family Court handles the following:

- Provides a forum to resolve issues relating to child visitation, parentage and child custody when parents are separated from one another.
  - Issues court orders regarding child custody and visitation based on the best interests of the child(ren).
  - Issues temporary and permanent protective restraining orders to assure the safety of parents and children.
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**Differences  
between Family  
Court and Juvenile  
Dependency Court**

In Family Court:

- Parents are presumed capable of making decisions regarding their children without outside intervention or Juvenile Dependency Court oversight.
  - Parents must participate in Child Custody Recommending Counseling, formerly known as mediation, if there are disputes regarding custody or visitation.
  - There is **no** provision for on-going case management services, payment of treatment services or monitoring of court orders.
  - CWS is not involved.
  - Attorneys are not appointed to represent parents. Parents may retain their own attorney or represent themselves.
  - An attorney may be appointed to represent a child in rare circumstances.
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**Child Welfare  
Services and Family  
Court Interactions**

SWs are most likely to refer to and interact with Family Court in the following situations:

- A client needs assistance obtaining a restraining order to protect themselves and their child(ren).
  - It is determined that one parent is capable of protecting the child(ren) from the abusive/neglectful parent and child custody and visitation orders are needed.
  - CWS promotes a referral to a case in order to provide Voluntary Case Services to a family involved with Family Court.
  - The recommendation is termination of jurisdiction in a dependency case and child custody orders (exit orders) for Family Court are needed. Refer to Juvenile Court Custody Orders (Exit Orders) for detailed instructions.
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**Child Welfare  
Services Family  
Court Liaison**

Staff can consult with the Family Court Liaison if there are questions or issues regarding the Family Court policy or protocol.

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### **Family Court Services**

Family Court Services (FCS) is a department within the San Diego Superior Court that provides Child Custody Recommending Counseling Services (mediation) to families and Family Court. There are FCS offices at each court branch - Central, East, North and South. As per the San Diego Superior Court website, “The purpose of Family Court Services is consistent with the spirit of California law,” and assists with the following:

- Assist families in the settlement of domestic controversies involving the welfare of children where there is an action in Family Court.
- Try to ensure children get frequent and continuing contact with both parents after the dissolution of marriage or end of a relationship.
- Encourage parents to cooperate and share the rights and responsibilities of parenting during and following a dissolution.
- Investigate guardianship cases scheduled for the Probate Court when the prospective guardian is a relative of the child. [Probate Code §1513](#) and [Family Code §3110](#).

For more information regarding Family Court Locations and times of operation please, visit the [Superior Court of California, County of San Diego, Family Division website](#).

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### **Family Court Services Orientation Video and Workshops**

FCS provides a [Family Court Services Orientation Video](#) that is available in English and [Spanish](#). FCS also provides online workshops and group chats for child custody/visitation, divorce and parentage. SWs are encouraged to refer clients to [FLF Online Workshop Reservation System](#) to assist them with information regarding their family court case, and for assistance with forms.

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### **Child Custody Recommending Counseling (mediation)**

When parents disagree about child custody and visitation, they are referred to Child Custody Recommending Counseling in an effort to develop a mutually acceptable agreement that is in the best interest of the child. These sessions usually last 1½ to 2 ½ hours. Spanish-speaking counselors are available to work with Spanish-speaking parties.

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### **Family Court Services Reports**

FCS reports created for Family Court are placed in a confidential portion of the family court file and can only be disclosed to specific parties involved with the case, per Fam. Code § 3025.5. In order to view an FCS report, a CWS SW would have to request a Court Order from the Family Court Judge on the case. Consult with County Counsel if it is determined that a report may need to be reviewed.

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### **Family Law Facilitator's Office**

The Family Law Facilitator's (FLF) Office is a state mandated self-help program that is a part of the San Diego Superior Court and Family Court operations. It is staffed by court staff attorneys, paralegals and clerks with family law experience.

The FLF provides the following services:

- Assists unrepresented parents and other parties with questions regarding family law.
- Assists parties with completing court forms and providing general legal information.
- Remote assistance is provided on a first come, first served basis by applying on the Superior Court website.
- Provides Video Workshops by appointment on:
  - Divorce
  - Guardianship
  - Request for Order (child custody/visitation, child support)
  - Finish My Case (stipulated agreements and default judgments)
  - Video Chats

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### **Family Law Facilitator Assistance for Clients**

SWs should encourage families who do not have a Family Court attorney to seek assistance from the [FLF Office](#) by submitting a request through the San Diego Superior Court website. Provide families the following information regarding obtaining assistance:

- Appointments are only available for video workshops.
- Individuals are assisted on a first come, first served basis but FLF can prioritize cases for emergency situations.
- Families should be able to articulate what they are requesting and why (i.e. change in visitation order, change in child custody due to abuse of their child by the other parent).
- Families who need to file completed paper work will be directed to the courthouse where the case was filed.
- Families who want to open a case will be directed to file at the courthouse that matches their residence zip code.
- FLF will assist families with completing and filing the necessary paperwork and getting a court date.

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### **Referrals to the Family Law Facilitator's Office**

The FLF Office does not make appointments other than for workshops. Information about their services and hours can be obtained by calling the recorded message at (619) 844-2249 or accessing the web site at [www.sdcourt.ca.gov](http://www.sdcourt.ca.gov).

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**Family Law  
Facilitator’s Office  
Self Help Locations**

**FLF Office Self Help Locations and Information**

<p><b>Central Courthouse</b> 1100 Union San Diego, CA 92101</p> <p>Assistance with all issues in Department of Child Support Services (DCSS) cases; divorce, parentage, domestic violence restraining orders, child custody, visitation, spousal support, and child support in cases assigned to Dept. 45.</p> <p>Check-in time: 7:30 a.m. in lobby of courthouse. Session begins at 8:00 a.m.</p>	<p><b>South County Courthouse</b> 500 Third Avenue, Room 300 Chula Vista, CA 91910</p> <p>Divorce, parentage, child custody, visitation, spousal support, non-DCSS child support</p> <p>Check-in time: 7:30 a.m. in lobby of courthouse. Session begins at 8:00 a.m. Closed at noon on Fridays.</p>
<p><b>East County Courthouse</b> 250 E. Main Street El Cajon, CA 92020</p> <p>Divorce, parentage, child custody, visitation, spousal support, non-DCSS child support.</p> <p>Check in time: 7:30 a.m. at FLF office on second floor of courthouse. Session begins at 8:00 a.m.</p>	<p><b>North County Courthouse</b> 325 South Melrose Drive Vista, CA 92081</p> <p>Divorce, parentage, domestic violence restraining orders, child custody, visitation, spousal support, child support; assistance with all issues in DCSS cases located in North County. Check in time: 7:30 a.m. in lobby of south entrance to courthouse. Session begins at 8:00 a.m.</p>

**Children’s Waiting Rooms**

Some family court locations have a children’s waiting room, which provides a safe, nurturing environment for children while parents/guardians are dealing with court business. The children are supervised by court employed Children’s Waiting Room Assistants. The children’s waiting rooms have limited space and families are encouraged to find other childcare arrangements during their court visit.

The following court locations have a Children’s Waiting Room. They are open from 8-12 and 1-5pm:

- Central Courthouse-1100 Union , San Diego 92101
- South Bay-500 Third Ave ,Chula Vista,91910
- El Cajon-250 E. Main St., El Cajon, CA 92020
- Vista-325 S. Melrose Dr., Vista, CA 92081

If you have any additional questions regarding these waiting rooms, you may contact the Children’s Waiting Room Program Manager or Lead Assistant.

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**Family Court  
Services vs. Family  
Law Facilitator's  
Office**

The following table shows the different services that each office provides:

<b>Office</b>	<b>Type of Services Offered</b>
<b>Family Court Services</b>	<ul style="list-style-type: none"><li>• Provides Child Custody Recommending Counseling (mediation) to parents</li><li>• Makes recommendations to Family Court regarding child custody and visitation</li><li>• Prepare Family Court Reports</li><li>• Investigate guardianship cases for Probate Court for relatives</li></ul>
<b>Family Law Facilitator's Office</b>	<ul style="list-style-type: none"><li>• Help unrepresented parents and parties with family law questions</li><li>• Can help prepare court forms and provide general legal information</li><li>• Staff at FLF are not attorneys and are neutral parties who do not represent a parent or party. They can provide information or services to all parties in the case.</li><li>• FLF does not assist parents/parties who have an attorney of record on file.</li></ul>

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### **Addressing Safety Concerns in Family Court**

Family Court has jurisdiction over child custody and visitation issues for children unless the child is a dependent or there is a pending dependency matter. There may be situations when obtaining specific orders in Family Court may effectively address a safety threat or concern identified during a CWS investigation. Both the Structured Decision Making (SDM) Safety and Risk Assessment tools must be completed in order to determine the seriousness of the threat and the risk level.

Prior to determining that Family Court will be an effective method to maintain the safety of a child, the SW must carefully assess the following:

- non-offending parent's ability to protect the child(ren) if the appropriate child custody and/or visitation orders are obtained
  - non-offending parent's ability and willingness to obtain services needed to eliminate or reduce the safety threat
  - non-offending parent's evidence of acts of protection
  - non-offending parent's ability to consistently advocate for themselves and their child in Family Court
  - non-offending parent's understanding of the child(ren's) needs; emotional, therapeutic, physical, safety, and available resources to address those needs
  - assessment of alcohol or substance misuse by either one or both parents which poses a risk to the child(ren)
  - non-offending parent's financial and/or emotional dependence of the offending parent
  - parent's history of relationships (e.g. intimate partner violence, prior attempts to leave the relationship)
  - family stresses (e.g. financial, special needs children, mental health issues of parents or children)
  - criminal history
  - non-offending parent's available safety network or support system
  - likelihood that offending parent will abide by Family Court orders
  - children's ability to participate in safety planning.
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**Procedure for providing information to Family Court regarding a referral**

If during the course of an investigation the family is either encouraged by CWS to seek child custody or visitation orders in Family Court or the family self refers, the SW will follow the steps below:

Step	Who	Action
1	SW	<ul style="list-style-type: none"> <li>• Completes the 04-192 Letter to Family Court/Verification Letter (<i>CWS/CMS template</i>) and provide a copy to each parent.</li> <li>• Deliver the 04-192 to the parent by mail or in person.</li> </ul>
2	Client	<ul style="list-style-type: none"> <li>• Can provide 04-192 letter to Family Court Judge, Family Law Facilitator or Family Court Counselor.</li> </ul>
3	Family Law Facilitator	<ul style="list-style-type: none"> <li>• Can assist client with documents needed to present to court if opening a Family Court case or seeking a change in custody or visitation in an existing case.</li> </ul>
4	Family Court Counselor	<ul style="list-style-type: none"> <li>• Can request CWS records once referral is closed</li> <li>• Can review CWS records to assist in Child Custody Recommending Counseling, court report preparation and recommendations.</li> </ul>
5	Family Court Judge	<ul style="list-style-type: none"> <li>• Can request CWS records once referral is closed</li> <li>• Prior to obtaining CWS records, the judge can make temporary orders based on information received from the parents</li> <li>• Once the CWS case is closed and the judge has reviewed the file, and information obtained from the parents and FCS, the judge then makes permanent orders.</li> </ul>

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**Voluntary Case Services Active to Family Court**

In some cases, the decision to provide Voluntary Case Services to assist families in obtaining services and gaining protective abilities for themselves and their children may be appropriate. These cases must meet criteria for filing under WIC 300. Please refer to the Voluntary Services Protocol.

SW should advise parents to provide a copy of the Voluntary Services Case Plan to the FCS Counselor and FLF. The assigned SW may complete the 04-192A Verification of Voluntary Services (*CWS/CMS template*) and provide it to the client. The client can then provide it to Family Court or the FCS counselor.

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**Juvenile Court Custody Orders (exit orders) in Dependency Cases**

In Dependency cases, the child may be reunified with one parent and may or may not have contact and visitation with the other parent. When the Agency is prepared to recommend termination of jurisdiction, it is highly advised that Juvenile Court Custody Orders (Exit Orders) be drawn up at the termination hearing in Juvenile Court.

Custody Orders contain the Juvenile Dependency Court's orders regarding child custody and visitation and once completed will be sent to Family Court. If changes in the orders need to be made later, the Family Court will address those requests.

Custody orders are prepared by parent's counsel and presented to the Juvenile Court. The Agency is responsible for making recommendations for child custody and visitation based on the risk the parent poses to the child.

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**Obtaining Family Court Records**

Family Court proceedings are public record with the exception of documents deemed confidential, which includes the FCS reports. FCS reports are placed in a confidential section of the Family Court file and require a court order for good cause to obtain. All non-confidential Family Court records can be viewed or obtained from the San Diego Superior Court. Paternity cases are not public.

Case information can be found on the [San Diego Superior Court website](#), through the Accessing Court Records section, which provides instructions on how to obtain records in person, online or by mail. If you do not know the case number, you can look up the case number by the party's name. For cases from 1880 to 1964, go to [Central Records](#) where the index is located.

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**Obtaining Family Court Records (cont.)**

**In order to locate a record, you will need to know the name of the party associated with the case, or the case number.**

The table below provides details on different types of records requests and how to access the file:

Type of Record Request	Accessing the file
Online Case Search	<ul style="list-style-type: none"> <li>• Go to the San Diego Superior Court <a href="#">Court Index</a></li> <li>• Search case either by party name or case number if available</li> <li>• Enter the information on the required fields</li> <li>• Once case is located, you will look at the file location tab, which will indicate if the case is electronic or only accessed via the courthouse. If your case must be viewed in person, refer to “view Court Records in person,” below.</li> <li>• The results of your case search will provide you with:               <ul style="list-style-type: none"> <li>○ Case title</li> <li>○ Case number (this is the number you will use to view the file)</li> <li>○ Case location (this is the court facility which houses the file)</li> <li>○ Case type</li> <li>○ Date filed</li> <li>○ Parties involved in the court case</li> </ul> </li> </ul>
View Court Records in Person	<ul style="list-style-type: none"> <li>• Go to the Court business office where the case was heard, or the designated file location indicated in your online case search.</li> <li>• You will need a valid photo ID to view the record.</li> <li>• You will need to complete a required court form.</li> <li>• The record must be viewed at the business office if it is a legacy paper file, or at a court kiosk if it is an imaged case file.</li> </ul>

**Obtaining Family Court Records (cont.)**

Type of Record Request	Accessing the file (cont.)
Requesting copies from a record in person	<ul style="list-style-type: none"> <li>• Go to the courthouse where the file is located.</li> <li>• Provide the court staff at the counter with the case number.</li> <li>• A picture identification card must be presented to view case files.</li> </ul>

Type of Record Request	Information Results
Requesting copies from a record in person	<ul style="list-style-type: none"> <li>• Order copies from the microfiche/microfilm or file at a fee per page. (A page is defined as one side of a document.) Refer to the <a href="#">Court Fee Schedule</a> for current fees.</li> <li>• Some copy requests may require a minimum of two court days to process. You will be contacted by court staff when your copy request has been completed, or given a pick-up date at the time of your request. <b>You must pay for the copies before they are made.</b></li> <li>• <b>Note:</b> Copy requests must be made to the clerk at least 30 minutes prior to the business office closing.</li> </ul>
Requesting copies from a record via Mail	<p>Send a letter to the courthouse where the file is located. In the letter, include the following:</p> <ul style="list-style-type: none"> <li>• Case number</li> <li>• Names of the parties involved</li> <li>• Names of the documents that you want to have copied from the court file</li> </ul> <p>Include payment of fees per <a href="#">Court Fee Schedule</a></p>

## Sharing Confidential Information and Communication with Family Court

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### Communication with Family Court Judges

Ex parte communication refers to any communication outside of a Court Hearing. Ex parte communication with Family Court judges is prohibited.

If a judge contacts a SW via Ex parte or during a family court hearing, the SW will indicate that they cannot discuss the case and will refer the judge to the Legal Support Services Unit to request CWS records. Family Court always has the option of issuing a subpoena ordering the SW to be available to testify.

### Communication with Family Court Services Counselors

**Per Agency policy, communication between CWS SWs and FCS Counselors is prohibited.** If contacted by a FCS Counselor, the SW will complete the 04-192 Family Court Letter/Verification of Open Referral, (*CWS/CMS template*) or, if applicable the 04-192a Family Court Letter/Verification of Voluntary Case (*CWS/CMS template*) and send the form to the clients who can provide it to the FCS. No other information can be provided. If the counselor requests additional information, they should be referred to the Legal Support Services Unit to request CWS records.

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### Role of CWS Legal Support Services Unit

The CWS Legal Support Services (LSS) Unit provides the following services:

- Process all records requests from family court services, from out of county social service agencies, for closed cases, and all records that are ordered to be released through the 827 process. Please refer to the Responding to Different Record Requests for additional information.  
**Note:** Records are not provided until the referral or case is closed.
- Handling all subpoenas for both CWS records and testimony of CWS staff. Please refer to the Subpoenas policy for more information.
- You may contact Legal Support Services Unit.

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### Welfare and Institutions Code (WIC) 827 and CWS Records

WIC §827 allows for the disclosure of juvenile case file and records when the child is the subject of either a family law or probate guardianship case.

CWS will only release records regarding the child who is a subject of the proceeding. In order to request records regarding other family members or related children, the FCS Counselors must ask the client to obtain the records or request a protective order from the assigned Judge.

With the exception of LSS Unit staff, SW' are **NOT** authorized to provide CWS records to:

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**Welfare and  
Institutions Code  
(WIC) 827 and CWS  
Records (cont.)**

- FCS Counselors
- Family Law Facilitators at Family Court
- Domestic Violence Clinics at Family Court

The following people are allowed to inspect and receive copies regarding the child if they are actively participating in a family law or probate case:

- the judge, commissioner or other hearing officer assigned to the family law or probate case;
- the parent/guardian of the child;
- an attorney for a party to a family law or probate case;
- a FCS Counselor assigned to a case involving a child;
- a court appointed investigator, evaluator or a person conducting a court-connected child custody evaluation, investigation or assessment;
- counsel appointed for the child in the family law case. CWS or the court may require counsel to provide a certified copy of the court order appointing them as the counsel for the child.

**NOTE:** Any records or information obtained will be maintained solely in the confidential portion of the family law or probate file.

If the CWS files or records contain any privileged or confidential information pursuant to any other state law, federal law or regulation prohibiting or limiting release of the child welfare agency will be redacted.

The above information can also be found in the Confidentiality Guide.

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**CWS Records  
Requests by Family  
Court Judge or  
Family Court  
Services Counselors**

When the LSS Unit releases CWS records to the Family Court Judge and FCS counselors, the following documents are typically provided:

**Referrals:**

- Investigative narratives for completed investigations
- 1<sup>st</sup> page of the Emergency Response Document (ERD) for Evaluated out (EO) referrals

**Cases:**

- Court - Case notes and last court report
  - Voluntary - Case notes
  - Two years of records are provided unless otherwise specified.
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**CWS Records  
Requests by Family  
Court Judge or  
Family Court  
Services Counselors  
(cont.)**

Below are the steps for records requests from Family Court and FCS:

Step	Who	Action
1	Family Court Judge or FCS Counselor	<ul style="list-style-type: none"><li>• Complete Section 1 of 04-125fc</li><li>• Email to LSS Unit.</li></ul>
2	Legal Support Assistant (LSA) or Legal Support PSW	<ul style="list-style-type: none"><li>• Log request</li><li>• Give to LSS PSS to assign for review and redaction</li></ul>
3	LSS PSS	<ul style="list-style-type: none"><li>• Assign request</li></ul>
4	LSA or PSW	<ul style="list-style-type: none"><li>• Review and redact relevant documents</li><li>• Complete 04-124A and Section 2 of 04-125fc</li><li>• Email completed 04-125fc and attached documents to requestor</li><li>• Send completed 04-124A to closed filing</li></ul>

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**Subpoena for CWS  
Records**

If a SW receives a subpoena for records, contact Legal Support Services (LSS) Unit for guidance as CWS records are not subject to subpoena.

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**Subpoena for  
Testimony**

If a SW receives a subpoena for testimony in Family Court, the SW will contact Legal Support Services (LSS) Unit for guidance.

Refer to the Subpoenas file in the Policy Manual.

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**Procedure for Noticing Clients of Change in Referral Conclusion**

A lawsuit against the State of California, commonly referred to as the Gomez lawsuit, originated in July 2004 and was settled in October 2007. The lawsuit addresses the rights of individuals whose names are on the Child Abuse Central Index (CACI) and requires CWS to inform:

- individuals that they are being reported to the CACI
- individuals reported to the CACI, of their right to challenge the listing on the CACI in a grievance hearing
- individuals reported to the CACI, of state guidelines and procedures concerning the grievance hearing and process.

These mandates are accomplished through CWS’s Grievance Hearing Unit (GHU).

As a result of a GHU Internal Review or a Grievance Hearing, the allegation conclusion may change and perpetrators are provided notice of the change. In some cases, Family Court is also involved with the family, and a procedure has been developed to notify Family Court and FCS of the change in an allegation conclusion to correct the Family Court records.

The procedure for this is as follows:

Step	Who	Action
1	Legal Support PSS or DOJ PSS	As result of a GHU Internal Review or Grievance Hearing, if a referral conclusion is downgraded to inconclusive or unfounded: <ul style="list-style-type: none"> <li>• Email PSW, PSS and Manager of the change in conclusion and advise to refer any calls from clients to the Ombudsman’s office</li> <li>• Email GHU notification letter of allegation conclusion change to Family Court Judge.               <ul style="list-style-type: none"> <li>○ Enter the Family Court case # and Dept. /Judicial Officer if known in subject line of email.</li> </ul> </li> <li>• Send copies of letter to each parent and FCS</li> </ul>
2	PSW, PSS, Manager	<ul style="list-style-type: none"> <li>• Refer clients to Ombudsman’s office regarding client’s concerns about change in conclusion</li> </ul>
3	Ombudsman Office	<ul style="list-style-type: none"> <li>• Respond to client calls and complaints</li> <li>• Notify GHU PSS and Manager about complaint.</li> </ul>



### Domestic Violence Restraining Orders (DVRO)

The Family Division of the San Diego Superior Court handles matters that include filings of Domestic Violence Restraining Orders (DVRO). A DVRO is a court order issued to help prevent the recurrence of acts of abuse by an abuser. DVRO hearings are heard in Family Court.

The non-offending parent should be referred to Family Court to request a DVRO when there are family violence issues, there is a recognized relationship, and:

- there are no current restraining orders between the parties, or
- no Juvenile Court petition has been filed,
- a current restraining order exists but does not protect the children so it must be modified to protect the children.

The restraining order can include the following:

- restraint on personal conduct by the aggressor;
- order for the aggressor to stay away from the survivor's home/work and/or children's school;
- order for the aggressor to be removed from the residence;
- child custody and visitation and support orders and other miscellaneous orders.

A recognized relationships include individuals who:

- are married or were formerly married;
- are engaged or were engaged;
- are dating or used to date;
- have a child or children together;
- are closely related by blood, marriage or adoption; or
- live together or used to live together.
- **Note:** If the relationship is not described above, it may be possible to obtain a [civil harassment restraining order](#).

Advise the client to take the following information with them to complete the DVRO paperwork, if available:

- The address of the person you would like restrained
- Demographic information of the person you would like restrained
- Photographs of any injuries
- Police report or incident number if provided by law enforcement
- Any threatening text messages
- The Emergency Protective Order (EPO) or Criminal Protective Order (CPO) if there is one

There are [Domestic Violence Restraining Order Clinics](#) available to assist with the preparation of forms required to obtain a restraining order. The [San Diego Family Justice Center](#) also offers assistance and wrap around services. If the Domestic Violence Restraining Order Clinics are unable to assist, the Family Law Facilitator's office can also help.

Information on where to file and obtaining packets to request a DVRO are available under the [Domestic Violence Restraining Order](#) section of the website.

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**Domestic Violence Restraining Orders (DVRO) (cont.)**

**Note:** Please refer to the Family Violence Protocol for more information on definitions of family violence, different types of restraining orders, and safety regarding restraining orders.

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**CWS and Family Court Services Roles in Guardianship Cases**

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**Family Court Services Role**

FCS counselors file an investigation report with the Probate Court on any proposed guardian who is a relative to the child. The investigation includes reviewing family history, medical history, criminal history, and CWS history information on all members of the household, and a review of the child's well-being.

Per Probate Court 1513(e) the investigator shall have access to the child's school records, probation records, public and private social services records as well as medical records and psychological records.

In instances where there is no appropriate guardian and there is no available parent, as a mandated reporter, FCS will make a child abuse/neglect referral to CWS for investigation.

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**Child Welfare Services Role**

The CWS Guardianship Unit (GU) investigates the suitability of potential non-relative guardians and prepares an assessment for Probate Court. Family Court prepares the assessments for relatives.

SWs in the GU investigate and file a report with Probate Court on any proposed guardian who is a non-relative and the child is residing with them. Please refer to the Probate Court Protocol for more information.

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**Alignment with SET**

This protocol and ongoing collaboration aligns with our SET Values.

It aligns with SET [Value 1](#) and the guiding principle of recognizing that enchainning safety for children and youth in the home is the top priority for everyone involved.

It aligns with SET [Value 4](#) and the guiding principle of sharing responsibility with the community to ensure community resources are accountable, responsive, and culturally sensitive. It further aligns with the agency practice of staff and community partners having a shared vision for safety, permanency, and well-being.

It also aligns with SET [Value 5](#) and the guiding principles of regularly working towards efforts to improve court processes to ensure that they are supportive of mutual goals, and ensuring that all parties have mutual understanding of, and respect for one another's roles, the law, and the rights due to children, youth and families.

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