

Directions For Law Firms Seeking MCFD Disclosure By Way Of An Order

The Director will take no position with regard to a court application for the production of Director's records provided that: service is effected in accordance with s.8 of the *Crown Proceeding Act*, and in accordance with the applicable Court Rules for service; the parties satisfy the court that the threshold test of relevance is met; and the wording of a proposed order complies with the following:

1. The order should properly identify my client as the Director of Child, Family and Community Service, Ministry of Children and Family Development (the "Director").
2. The order should state the disclosure should be made no later than 45 days after the date on which an entered copy of the order is delivered to counsel for the Director. In most cases my client is able to produce records in a shorter time period, but considering the number of requests they receive, the volume of records held in offices located throughout the province, and the fact that older records are often in microfiche form and located in long term storage, it may take up to 21 days for my client to physically locate and copy all records.
3. The order should include a condition that the Director is not obliged to disclose the following information:
 - (a) the names of any informants under s. 14 of the *Child, Family and Community Service Act* or any information tending to disclose the identity of informants;
 - (b) information conveyed to the Director by third parties in confidence on the basis that it would not be disclosed;
 - (c) information with respect to which a claim of privilege is otherwise advanced, such as information subject to solicitor-client privilege or information subject to a claim of public interest immunity;
 - (d) any records created after the date of this order;
 - (e) information respecting any person or child who is not the subject of or involved in this particular proceeding where disclosure would be an unreasonable invasion of that person's personal privacy;
 - (f) information relating to the address or contact information of any person;
 - (g) information respecting any criminal proceedings or past criminal records created under the *Young Offenders Act* or *Youth Criminal Justice Act* unless specifically authorized by a Youth Justice Court Judge;
 - (h) any videotapes, audiotapes or transcripts of interviews with a child.
4. The order should provide that any and all information disclosed shall be limited to use in these proceedings and the parties and/or their respective counsel shall not use the information for purposes outside these proceedings without the prior written consent of the Director or by an order of a court authorizing such use.
5. The order should provide that the Director be at liberty to apply to the Court to withhold records which would otherwise be disclosed under this order where disclosure would be an unreasonable invasion of privacy, would impact the safety of any person or would be contrary to public policy.
6. The order should provide for payment to the Director for its reasonable expenses of producing the materials in question, and specify which party is responsible for making the payment.