



Subpoena and information release Procedure

1. Purpose

The Subpoena and information release Procedure provides instruction and guidance for Department for Child Protection (DCP) staff when:

- receiving and responding to requests for information pursuant to section 67ZBE of the *Family Law Act 1975*
- receiving and responding to requests for information pursuant to subpoenas and summons sealed by a State or Commonwealth Court
- receiving and responding to requests for information pursuant to a General Search Warrant
- responding to requests for information which fall within s 164(1) of the *Children and Young Peoples (Safety) Act 2017* (CYPS Act)
- uploading Child Protection Orders to C3MS
- uploading Intervention Orders to C3MS
- uploading Qualifying Offences to C3MS
- receiving and responding to interstate child transfer requests and interstate child protection checks, including requesting interstate child protection information
- responding to Victims of Crime requests for information.

2. Scope

The procedure applies to all DCP staff in the Subpoena and Information Release Team (SIRT) who are engaged at any stage in the receipt and processing of requests for documents and information of a type set out in points 1 to 9 above.

This procedure does not apply to:

- information shared with the Family Court by the co-located child protection practitioner as part of the Family Law Information Sharing Project Agreement
- applications made pursuant to the *Freedom of Information Act 1991*
- applications for Provision of Information Release made pursuant to section 153 of the *Children and Young People (Safety) Act 2017* (CYPS Act)
- applications made pursuant to section 27 of the *Adoption Act 1988*
- directions to Enter pursuant to the *Coroners Act 2003*
- information shared pursuant to section 152 or 164 of the CYPS Act in accordance with the Manual of Practice guidance on gathering and sharing information for social workers with DCP.

3. Authority

3.1 Legislative context

This procedure should be read in conjunction with the following legislation, rules and protocols:

- [Children and Young People \(Safety\) Act 2017](#)



- [Children and Young People \(Safety\) Regulations 2017](#)
- [Family Law Act 1975](#)
- [Family Law Amendment \(Information Sharing\) Act 2023](#)
- [Evidence Act 1929](#)
- [Child Sex Offenders Registration Act 2006](#)
- [Victims of Crime Act 2001](#)
- Federal Circuit and Family Court of Australia (Family Law) Rules 2021
- Joint Criminal Rules 2022
- Uniform Civil Rules 2020
- [Interstate Child Protection Protocol](#) 2021
- [State Records Act 1997](#)

3.2 Whole of Government requirements

Not Applicable.

3.3 DCP requirements

Not Applicable.

3.4 Principles

- The safety of children and young people is the paramount consideration.
- 67ZBE orders of the *Family Law Act* and court issued summons' and subpoenas are to be processed as soon as practicable in accordance with the stipulated timeframes.

4. Procedure requirements

4.1 Maintaining Confidentiality

SIRT staff must have regard to the confidentiality provisions contained in the CYPS Act as well as the confidentiality provisions in the *Family Law Act 1975*:

- section 163 of the CYPS Act prohibits the disclosure of the identity of a notifier (or any other information which would tend to identify a notifier) unless explicit consent is provided from the notifier
- section 164 of the CYPS Act prohibits the disclosure of personal information unless an exception in section 164(1)(a)-(f) or as authorised by the Chief Executive in accordance with section 164(4) and regulation 42(1) applies
- section 67ZBF(3)(b) of the *Family Law Act 1975* prohibits the disclosure of the identity of a person who communicated information to the Department in confidence.

Unauthorised disclosure could put an individual at risk of harm and constitute an offence under the CYPS Act or the *Family Law Act 1975*.

If a person consents to their personal information being disclosed to a third party and it is considered that the disclosure of that information may put that person at risk of harm it should be brought to the attention of the SIRT Manager. The SIRT Manager will consider whether the information is appropriate to be released.



In the event that the Family Court admits any particulars, documents or information provided under a 67ZBE order, on which the Court intends to rely, the Court must not disclose the identity of the notifier unless an exception in section 67ZBH(3) applies. In the event that section 67ZBH(3)(b) or (c) applies, the Court must notify the SIRT Manager of the intended disclosure and the SIRT Manager will consider whether the Department provides its position on the disclosure.

4.2 Requesting legal advice

If legal assistance and/or advice is required in relation to processing and determining a Court order or SIRT request, the question is to be brought to the SIRT Manager. The SIRT Manager will engage in a manner appropriate to time sensitivities with DCP Legal.

DCP Legal may refer the matter to the Crown Solicitor's Office if complex legal questions arise.

In circumstances where formal legal advice is sought, the SIRT Manager will attempt to negotiate an extension of time for compliance with the Court order, summons or subpoena as necessary.

4.3 Processing summons', subpoenas, orders and Requests for Information

Section 164(1)(a) provides power for SIRT to respond to summons, subpoenas and court orders.

Section 164(1)(e) provides power to respond to other information request types.

There are six processing steps upon receipt of a SIRT application:

1. opening the request on SIRT systems
2. research and discovery
3. scoping application (where necessary)
4. redacting documents
5. review of documents
6. closing on internal systems.

The SIRT Manager and Lead, Subpoena and Information Release Officer (SIRT Lead) will allocate and triage applications received in accordance with compliance dates and the volume of documents within scope. Where the SIRT Lead identifies that an application is complex or has a short compliance timeframe, the SIRT Manager must be informed.

4.3.1 Effective service and receipt of application

Summons', subpoenas, orders and requests for information are received by the DCPSubpoena&InformationRelease@sa.gov.au inbox or via Australia Post. Each valid incoming request will be:

- recorded on the SIRT Register
- have a corresponding Digital Workspace file created the appropriate digital Library
- a record of the request and the requestee's details (such as the court or agency) in the individual tracking sheet
- recorded on C3MS.

Determining the validity of a summons or subpoena

For a summons or subpoena to be valid, all of the following criteria must be met:

- addressed to the Chief Executive of DCP



- subpoenas must be signed, stamped (sealed by the court) and served within the specified service period
- subpoenas must set out the names of the people in respect of whom information is sought and a description of the information sought.

If any of the above criteria are not met, then the subpoena will not be accepted and the issuing party will be contacted.

Determining the validity of a 67ZBE court order

Section 67ZBE of the *Family Law Act* sets out that orders:

- must be addressed to DCP or the Chief Executive of DCP
- should have a date by which DCP must comply. In the event the compliance date is not specified, DCP and the Federal Circuit Court have agreed that DCP will respond within 28 days of service or by the next hearing date (whichever comes first)
- must set out the names of the children or young people in respect of whom information is sought and a description of the information sought.

The Court may also make an order pursuant to section 91B of the *Family Law Act*, inviting DCP to intervene in a matter. Where this occurs the SIRT Business Support Officer must also email a copy of the order to the Supervisor, Court Services and Liaison Team who are responsible for responding to these orders.

Determining validity of a general search warrant

General search warrants may be issued by South Australian Police (SAPOL) or the Australian Federal Police (AFP), during the course of a criminal investigation. A general search warrant will be considered valid if it contains:

- the name and identification number of the Requesting Officer
- the search warrant was issued no longer than six months prior to execution.

Determining validity of a request for information

Where SIRT receives a request for information from an agency of the State or Commonwealth, the identity of the requestee must be verified. The request must come from an official government email address or letterhead and the request must set out the information sought and the purpose for which the information will be used.

If the request is better responded to by another area within DCP, SIRT will advise the agency.

Once the SIRT request is determined as valid it is moved to research and discovery. The date the request / order is due is recorded by the SIRT business support officer on the SIRT spreadsheet to ensure the processing time can be monitored.

4.3.2 Research and discovery

Once a file is opened, the SIRT Lead or the Senior Research Coordinator (SRC) will allocate the file to a Senior Research and Discovery Officer (SRDO). This will occur in accordance with the processing priorities identified by the SIRT Manager. The SRDO undertakes searches using available databases to identify all records within the scope of the request. The SRDO will seek advice from the SRC when required.

Where appropriate, such as if the request is vague or requests all information held where the volume of records is large, the SRDO will work with the issuing party to scope the application.

The SRDO must identify all relevant records on the tracking sheet including key search terms used.



Where records relate to an open case, the SRDO must contact the relevant DCP office to ensure all documents are uploaded to C3MS by an agreed date.

All records able to be downloaded are to be saved in the digital workspace file, in a sub-folder library titled 'Discovered Documents'. Where records are not available digitally, the hard copy record is to be requested, scanned in and saved in the 'Discovered Documents' folder.

Where no documents are discovered

In the event DCP does not hold information within the scope of the request / order, the SRDO should draft an email advising the requestor / issuing party. Where it relates to an order, the SRDO should also email the Court to advise that DCP do not hold information within the scope of the order.

4.3.3 Scoping request / order (where necessary)

When collating documents for redacting, the SRDO must consider whether information falls within the scope of the request having reference to the specific wording of the request.

Where the scope of the request is unclear, guidance should be sought from the SIRT Lead or SIRT Manager. Where necessary, further clarification should be sought from the requestor / issuing party. Where there is a specific interpretation of the scope taken it is to be recorded on the tracking sheet.

External Agency Requests

Where a large number of documents are within the scope of the request, the SRDO will attempt to negotiate the scope of the request with the requestor to narrow the information to a reasonable number of pages. Where the SRDO attempts are unsuccessful, the SIRT Manager must be notified.

Court Orders

Where a large number of documents fall within the scope of an order, the SRDO will attempt to negotiate the scope of the order with the issuing party or the associate in 67ZBE orders. If the issuing party agrees, in writing, to the proposed narrowed scope, the issuing party will either re-issue the order in the new agreed terms or the Department will seek an administrative order (by consent, where both parties agree) to amend the terms of the order.

Where the SRDO attempts are unsuccessful, the SIRT Manager must be notified. The SIRT Manager will seek advice from DCP Legal and consider whether the order should be set aside on the basis that it is too broad, oppressive and/or for an illegitimate forensic purpose.

4.3.4 Seeking extensions of time for orders (where necessary)

Where the SIRT requires additional time to comply, the SRDO will attempt to negotiate an extension of time with the requestor/issuing party.

Any agreements reached will be recorded in writing and where the extension of time has been sought for an order, the Court must be notified.

Where an extension of time cannot be negotiated for court orders, advice will be sought from DCP Legal.



4.3.5 Redacting documents

The SIRT Lead or SIRT Manager will allocate the request / order to a Subpoena Officer (SO) to redact the documents that fall within the scope of the request / order. Where a document is not within scope of the request / order, it will be removed from the documents being produced.

For all documents within scope, the SO must consider whether there are any statutory and non-statutory prohibitions to releasing the information and redact that information.

All redactions should be clearly labelled in accordance with the objection relied upon to redact the information. All actions should be recorded on the Tracking Sheet by the SO and the SIRT Lead or Manager advised when completed (where practicable three business days prior to the compliance date).

4.3.6 Review of documents

The SIRT Lead or SIRT Manager will review the documents prior to release and finalise the files.

The SO is responsible for preparing the documents for release (such as applying a watermark) and sending via secure email (Kiteworks) or where the requestor is the Federal Circuit or Family Court, uploaded to the [Federal Court of Australia Sig Box Portal](#).

Documents sent to courts will include the Audit and Redacted versions.

4.3.7 Finalise on internal systems

A business support officer will close the file and upload a record to C3MS.

4.4 Processing incoming and outgoing interstate Child Protection (CP) checks

4.4.1 Incoming CP requests

Receipt of CP request

Incoming interstate CP checks are received by the DCP Interstate Information Request inbox. Each valid incoming request will be:

- recorded on the SIRT Register
- have a corresponding Digital Workspace file created the appropriate digital Library
- a record of the request and the requestee's details (ie court / agency) in the individual tracking sheet
- recorded on C3MS.

Once opened, the file is transferred to a SRDO who will open the CP request in C3MS.

A valid request is made in accordance with the [Interstate Child protection Protocol 2021](#) (Protocol), and will be:

- in writing
- reasonable and in scope with the Information Sharing provisions set out in the Protocol (ie for the purposes of conducting an investigation and assessment)
- where it relates to an adult's history, have the written consent of that adult.

As a general guide and on a mutual understanding between State and Territory agencies, all non-urgent requests should be responded to within five business days and all urgent requests should be responded to within 24hours.



Research and discovery

Once opened, the file will be allocated to a SRDO. Urgent requests must be actioned within 24 hours and will generally require provision of summary information as per the Protocol and agreement between agencies. If further information is required, for example for the purposes of Court proceedings, the requesting State or Territory should be asked to seek a subpoena.

Whilst undertaking research and discovery the SRDO must ensure:

- all potential matches on C3MS are thoroughly checked by comparing names, birth dates, relationships, addresses and any other identifying information, including C3MS ID numbers provided from the State's and/or Territory's Connect for Safety search
- review all recorded information for each subject/s of the request
- depending on the nature of the request, review CP information of persons who are not the subject/s of the request but have a significant link to or concerns raised against one of the subject/s
- all potential matches on Client Information System (CIS) are checked
- consideration is given to whether there is a need to retrieve client file/s from archives
- that the Care Concern Management Unit is consulted in instances where the information request relates to a person who may be, or may have been, an approved carer in SA.

Once discovery is complete, the SRDO should determine the most appropriate way to collate a summary of the recorded information. The format used to provide a summary of the CP information will depend on the amount of information recorded, who the information relates to, and the rationale provided by the requesting State or Territory for the information sought. It may take the form of:

- provision of the most recent CP intake
- a written summary provided within an email
- case notes compiled in a PDF document
- a screenshot of the C3MS 'History Summary' tab
- any combination of the above.

4.4.2 Where no documents are discovered

In the event DCP does not hold information within the scope of the interstate request, the SRDO should draft an email advising the requesting state.

Redacting

The SIRT Lead or SIRT Manager will allocate the interstate request to a SO to redact the documents who will follow the same process as set out above in [4.3.5].

The SO will inform the SIRT Lead or SIRT Manager that the interstate request is ready for review as early as practicable.

Review of Documents

The SIRT Lead or SIRT Manager will review the documents prior to release and finalise the files.

The SO is responsible for preparing the documents for release (such as applying a watermark) and sending via email. Where there is an open case for the child/ren who are subject of the request, the email must provide the allocated case manager's contact details.



Finalise on internal systems

Once the matter has been finalised, SRDO closes the file on the SIRT system and uploads a record to C3MS. The matter is moved to 'closed' on the spreadsheet and data recorded for statistical purposes.

4.4.3 Outgoing CP requests

Receipt of CP request

Outgoing CP Requests are received through the DCP Interstate Information Requests inbox. The SIRT business support officer is responsible for monitoring the outgoing requests and will review the request and create:

- a record of the request on the SIRT Register
- a digital workspace file, including relevant libraries in digital workspace
- a record of the request and applicant's details in the individual tracking sheet.

Once the SIRT business support officer has recorded the CP request, the SIRT business support officer will open the CP request in C3MS by uploading copies of the email / application form in C3MS.

The SIRT Business Support Officer must check if the interstate request is valid. In accordance with the [Interstate Child protection Protocol 2021](#) (Protocol), an interstate request for access to an interstate states records is valid when:

- the [Interstate Child Protection Information Request Form](#) is completed
- the request clearly articulates the information being sought and for what purpose
- a Connect for Safety search has been completed and the Connect for Safety boxes correctly filled out
- the individual/s listed as the subject/s of the request corresponds with the rationale provided as the purpose of the request
- adequate information is provided to allowing the receiving state and/or territory to conduct a thorough search
- a written consent form is provided for requests for information relating to carer assessments and individuals who are not biologically related to the subject/s.

In the event that the request is deemed invalid based on one of the above criteria not being met, the SIRT business Support Officer will ask the requesting office / worker to re-submit the form correctly.

Once the SIRT Business Support Officer has checked the validity of the request, the file is transferred to the SRDO.

The SRDO must take note of the timeframe for the response and record it on the SIRT Spreadsheet. As a general guide and on a mutual understanding between the States and Territories, all non-urgent requests should be responded to within five business days and all urgent requests should be responded to within 24hours. The SIRT Business Support Officer should also alert the nominated interstate SRDO to any urgent requests to ensure the request can be sent as soon as possible.

Sending Request

The SRDO will forward via email the Interstate Child Protection Information Request Form to the receiving State/s and/ or Territory/s. A copy of the sent request is then uploaded to C3MS and internal digital workspace files updated.

If the state or territory requires additional information or is not satisfied with the validity of the request form, the SRDO will liaise with the requesting office / worker to attempt to met the requirements of the receiving state or territory.



Response received

Once a response has been received, the SRDO will forward the response via email to the requesting office / worker. If the requesting office / worker is from the Call Centre, Crisis Care (DCPCrisiscareReferrals@sa.gov.au) will also be cc'd into the email to ensure in the absence of the worker, necessary information can be processed. The SRDO will upload the response to C3MS, update digital workspace file and then proceed to close the file. The matter is moved to 'closed' on the spreadsheet and data recorded for statistical purposes. If DCP are waiting on responses from multiple states or territory's, the matter cannot be closed until all responses have been received.

In the event that the timeframe to receive a response has lapsed, the SRDO will email the receiving state or territory and request an updated timeframe for a response.

4.5 Ancillary functions

Victims of Crime (VOC) Requests

VOC requests are received through the DCPSubpoena&InformationRelease@sa.gov.au inbox. The SIRT business support officer is responsible for monitoring incoming VOC applications and will review the application and create:

- a record of the application on the SIRT Register
- a digital workspace file in the appropriate digital Library, allocating it the next file allocation number
- a record of the request and the requestee's details (ie solicitor or DCP worker) in the individual tracking sheet.

Once the SIRT business support officer has recorded the application, the request is opened in C3MS by uploading copies of the letter / email request to C3MS.

The application is then transferred to SDRO and the SDRO must check that [VOC request form](#) has been completed by the DCP case worker and all details, including the name and contact details of the solicitor representing the child or young person have been filled out.

The SDRO liaises with the solicitor for the child or young person to identify which documents may support the VOC application. The identified documents are then redacted by the SO and provided to the solicitor to advance the claim. The SRDO will upload the correspondence to C3MS, update digital workspace file and then proceed to close the file. The matter is moved to 'closed' on the spreadsheet and data recorded for statistical purposes.

Intervention Orders

The *Intervention Orders (Prevention of Abuse) Act 2009* requires the DCP to be notified of all Intervention Orders issued by either the Court or Police.

All Intervention Orders are emailed to the DCPInterventionOrders@sa.gov.au inbox by the Courts Administration Authority. The SIRT Business support officer is responsible for managing this inbox and uploading the orders to all parties that are subject to the intervention order to C3MS.

Once the order has been uploaded, the SIRT business support officer files the email within a sub-folder of the inbox categorised by months.

Child Protection Orders

Child Protection Orders are emailed to the DCPFamilyandYouthCourtLiaison@sa.gov.au inbox.



The SIRT business support officer is responsible for uploading the Child Protection Orders to the child or young person's profile in C3MS.

Once the order has been uploaded, the SIRT business support officer files the email within a sub-folder of the inbox categorised by months.

Qualifying Offences

Qualifying Offences (QO) are emailed to the DCPQualifyingOffences@sa.gov.au inbox. The SIRT Business support officer is responsible for monitoring this inbox and will review the 'Information form' and create:

- a record of the offence on the SIRT Register
- a digital workspace file, including relevant libraries in digital workspace
- a record of the offence and defendant's details in the individual tracking sheet.

The SIRT business support officer must then alert the SIRT Lead or SIRT Manager of the QO. The SIRT Lead or SIRT Manager will assess whether the offence in fact meets the criteria of a 'qualifying offence' pursuant to s 44 of the *Children and Young Peoples (Safety) Act 2017*.

In the event that the offence is a QO, the SIRT Lead or SIRT Manager will transfer the file to the SRDO. The SRDO will:

- email DCP Crisis Care Referrals to alert them to the QO. The DCP Call Centre manager must also be cc'd in the email
- create a QO Alert on C3MS. In the event the defendant does not have a C3MS profile, the SRDO will create a profile based on the information provided in the 'Information'.

In the event that the offence is **not** a QO, the SIRT Lead or SIRT Manager will transfer the file to the SRDO. The SRDO will:

- create an Alert on C3MS as a 'Review Critical History' against the defendant
- email DCP Crisis Care Referrals to inform them of the offence and the Alert.

The SRDO will update digital workspace file and then proceed to close the file. The matter is moved to 'closed' on the spreadsheet and data recorded for statistical purposes.

High Risk Offender

All High Risk Offender orders are emailed to the DCPHighriskoffences@sa.gov.au inbox by the Courts Administration Authority. The SIRT Business support officer is responsible for managing this inbox and uploading the orders to all parties that are subject to the order to C3MS.

Once the order has been uploaded, the SIRT business support officer files the email within a sub-folder of the inbox categorised by the months of that calendar year.

5. Compliance, monitoring and evaluation

The Subpoena and information release Procedure will be reviewed in alignment with the DCP policy review cycle, or earlier if required by legislative or organisational imperatives.

The DCP SIRT Manager will also monitor and evaluate the adequacy of the procedure in meeting legislative, departmental and other requirements on an ongoing basis.



6. Related documents

Related documents, forms and templates
DCP Information Statement
Record Retrieval Form
Policy Governance Framework

Document control

Reference No./ File No.			
Document Owner		Lead Writer (position)	
Directorate/Unit: Legal Services		Manager, Subpoena and Information Release	
Accountable Director: Director, Legal Services			
Commencement date	17 January 2025	Review date	10 January 2028
Risk rating	Consequence Rating	Likelihood	Risk Rating
Risk Assessment Matrix	Moderate	Unlikely	Moderate

REVISION RECORD		
Approval Date	Version	Revision description
10 January 2025	1.0	New document