



**Confidentiality:  
Will I Know IT  
When I See IT?**

# Speakers

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# General Thoughts on Confidentiality

- Pursuant to federal and state laws, child support professionals must maintain confidentiality of their case files and case participants' information. For example, IRS Publication 1075 which governs access to Federal Tax Information mandates exacting standards about employee background checks, work stations, document destruction, facilities access, etc.
- However, certain state statutory exceptions provide for sharing case participant information, with the parties themselves and other government entities and to protect the children of the case.



# General Thoughts on Confidentiality



- In our current environment, do these confidentiality rules allow child support professionals to best serve the parents and children? Do we need more statutory exceptions for the greater good?
- What impact, if any, have information technology advances changed our work—imaged caseloads/paperless files, e-filing, data hacks/breaches—how do we keep our files and data confidential and how we do legally share them?
- Simultaneously, our case participants are becoming increasingly mobile, moving from County to County, State to State and abroad. Do the different state and national laws and regulations provide for a seamless exchange of information to best serve the parents or family?

# Presentation Goals

- To discuss and analyze how we define and administer confidentiality rules.
- To discuss limitations of current rules and recommend some legislation.
- To get your input and interact with each other.
- To learn how other jurisdictions handle complex confidentiality issues.



# Here's How It Works:

- We're going to ask questions
- You get to submit your answers
- We'll tell you what the answer is in our jurisdiction
- You tell us how your jurisdiction is different



# Poll Everywhere Details

- Web: [www.pollev.com/csdapoll](http://www.pollev.com/csdapoll)
- App: Join presentation: CSDAPOLL
- Text: To: 22333
- Message: CSDAPOLL
- [your response]
- If you're using your phone, don't forget to silence it!!!



# Are the Northern Lights Really Real?



# YOU Served ME?

- NCP was personally served with an action to establish child support and he disputes service. He wants to know the address where he was allegedly served.
- Can we tell him?



# What about Service in Canada?

- A modification of a California order is being pursued against NCP who now lives in British Columbia.
- You call the BC Central Authority and ask for NCP's address so you can serve him.
- Can Canada release the information?



## He's in New York. Why Do You Care If He Knows Where You Are?

- CP and child are in CA. NCP is in NY. NCP has NEVER been to CA. In preparing a UIFSA Petition to NY to establish parentage and support orders, you see there is a Family Violence Indicator on the case and CP claims that NCP is in the business of identity theft. She doesn't want NCP to know where she and the child are and doesn't want him to learn their SSNs.
- What do you send with the Petition?



## He's in New York. Why Do You Care If He Knows Where You Are? (continued)

- What if CP is undocumented with no identification or witnesses who can attest to her identity, but she needs support now?
- Do you proceed without the nondisclosure?



# She's in France. He's in California. Why do you care if he knows where you are? (Version 2)

- What if the CP has family violence concerns in a Convention application?
- All you have is the Application Form which is signed by an official in the initiating Central Authority, with the box checked which states "A determination of non-disclosure has been made in accordance with Article 40".
- The Restricted Information form containing the CPs personal information is attached.
- How do you meet the requirements of UIFSA § 312?



# Hello! It's Welfare Calling...

- The county agency that provides cash assistance for children (aka welfare department) wants to know the NCP's address.
- Can we give them NCP's address?



# Welfare Office from Ontario, Canada calls

- A welfare worker from Ontario calls. She heard the NCP moved back to California to live with his mother.
- The welfare worker wants to speak to him about his Canadian children.
- An application for services has been filed in Canada but not yet served on him.
- Can you give her NCP's contact info?



# Key Concerns

- The call is coming not from a U.S. welfare office but from one located in a foreign country.
- Is the Canadian worker able to legally obtain this information?
- May depend on if the worker is an “authorized person” under 42 U.S.C. 653.



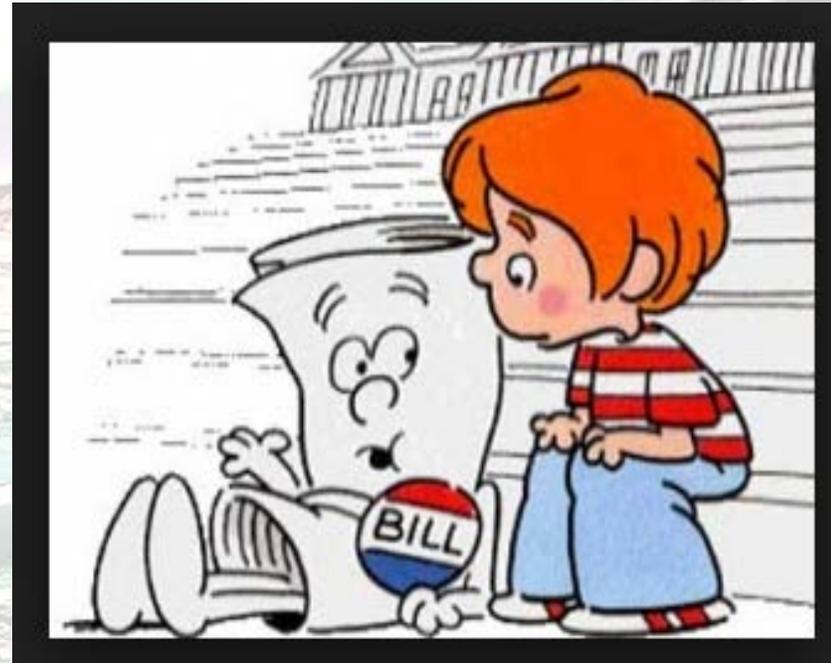
## She Did a Bad, Bad Thing...

- The DA's Office welfare fraud investigator wants to see our file on a CP who has been reported by the welfare department as possibly committing welfare fraud.
- Can we let them see our file?



# Proposed Legislation

- A law which crafts parameters for what an outside governmental agency can view within a paperless system.
- It would allow printing by child support personnel of all relevant information and would permit redaction of sensitive information unrelated to the investigation.



# 7 On Your Side Is Calling...

- NCP gets the ear of a local news reporter who investigates supposed governmental wrongdoings for the “wronged” viewers. The local news reporter shows up at your office with his camera crew and wants to interview you. He wants to ask specific questions about NCP and his case; he isn’t interested in your education of how we enforce support.
- What do you tell him?



# 7 on Your Side Is Calling...

(continued)

- Would it matter if NCP gave the reporter an authorization allowing you to speak to him about the NCP's case?



# NCP Got a Job! Maybe...

- An employer calls and says that he is going to hire NCP but only if NCP doesn't owe child support arrears. He wants to know if NCP owes arrears.
- Do we disclose?



# Show Me Her Income and Expenses (I&E)

- You are preparing a motion for an upward modification. The case is flagged with a Family Violence Indicator. NCP wants the CP's Income and Expense Declaration which lists her address and employer.
- Can we disclose it to the NCP?



# And the Options are...

- Option 1: Redact any information which may compromise the health and/or safety of the CP or the children.
- Option 2: Provide the I & E to the Court and have the Court determine what can be shared.



# CP Runs Rogue. Do You Help Her?

- The CP files an OSC re Contempt against NCP for failure to pay support (of course, without your permission). She calls and asks for a copy of a wage verification you recently received stating that NCP voluntarily quit his job.
- Can we disclose?



# Oh No! The Police Are Calling...

- The local police department calls, asking for NCP's address because they believe NCP has taken off with the children.
- Can we disclose?



# Child Texts During Visitation with NCP

- CP calls wanting NCP's address. CP just received a text message from the child, who is 10 and is currently with the NCP. The child states that NCP is acting really weird, sweating a lot, mumbling his words, and unable to give her dinner. CP wants to pick her up.
- Can we disclose?



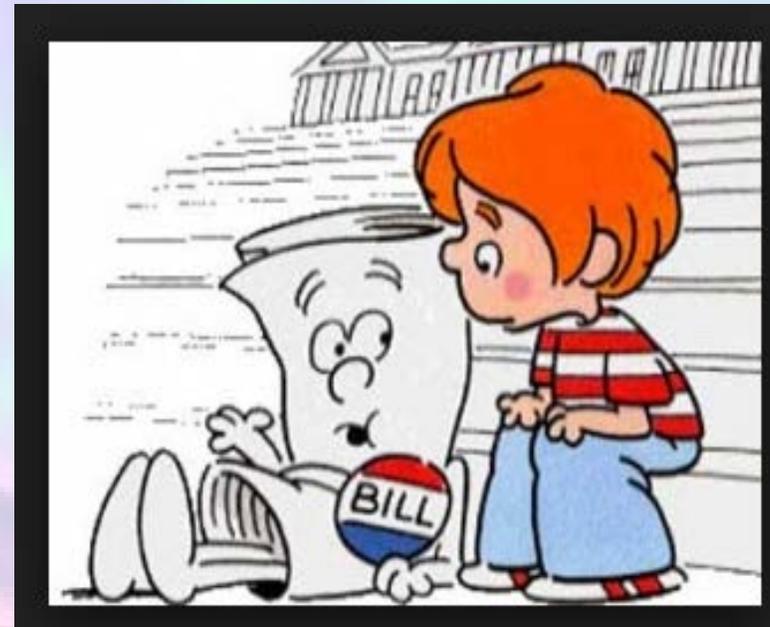
# I'm Going to Kill Myself!

- NCP comes into the office to dispute his arrears balance. During the conversation, he becomes very frustrated and states “I can't win with you. I'm going to kill myself.”
- Can we disclose any information to law enforcement to
- a) report the incident and
- b) request a safety check?



# Potential Legislation

- Draft appropriate exceptions to investigate threats by case participant to do severe harm to him or herself.
- Legislation must only carve out exceptions for safety checks (i.e. contact information) and only for threats which appear imminent and credible.



# Threat on Social Media

- NCP leaves our office, upset about his arrears balance. He immediately posts the this message on his Facebook page “I’m going to blow up DCSS.” CP sees the post and calls us.
- Can we disclose this to law enforcement?
- Should we warn staff?



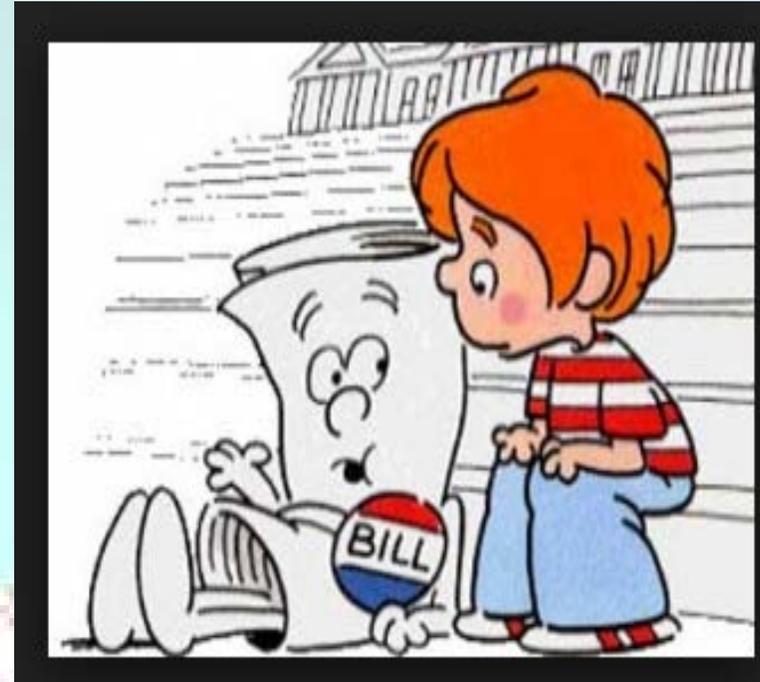
# What About Other Statutory Authorities?

- What about workplace safety?
  - Labor Code §6400 et seq., requires every employer to provide a safe working environment.
  - Any County rules, practices or polices, like Injury and Illness Prevention Plan?
- Is there a moral responsibility to report?
- Could the Good Samaritan law apply?
- What are the possible consequences for failure to report?



# Potential Legislation

- Threats by a case participant to cause harm to a member of an LCSA staff or the building/structure which the LCSA is housed.



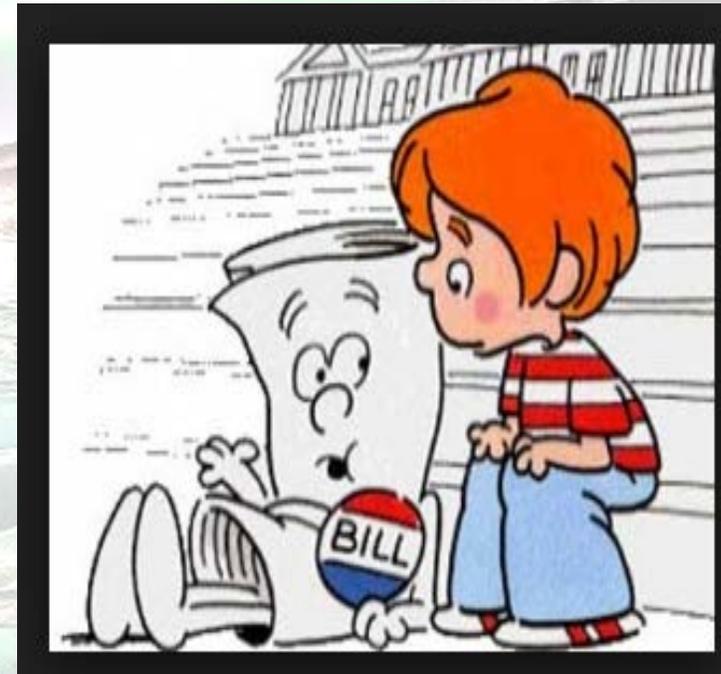
# Those Crazy Canucks!

- An angry NCP comes into the office to say he has filled up his pick-up truck with gas and is driving across the border to “blow up” the child support workers in Canada who are helping the CP.
- Can you call the Yukon child support program to warn them?



# Potential to Fill Legislation Gap

- Draft legislation which allows for local child support programs to communicate with each other on an international basis.
- Again, limited in scope in order to address the direct threat posed by the obligor.



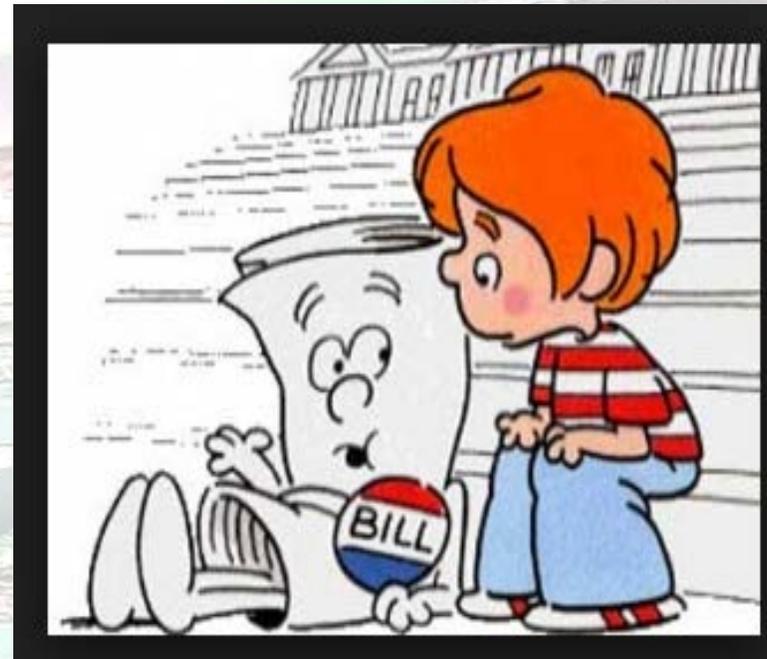
# Feds Come Calling

- A terrorist attack occurred at a nearby County building.
- The Office of Homeland Security has called, indicating its belief that one of our case participants was the mastermind of the attack.
- They have asked for any and all information about this case participant.
- Can we provide it?



# Potential Legislation

- Disclosure of pertinent confidential information to federal and state authorities about a case participant subsequent to an attack by that case participant.
- Keep it specific and limited to the information needed by federal investigators.



*Thank you!*

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