

IN THE JUVENILE COURTS OF THE MIDDLE JUDICIAL CIRCUIT  
STATE OF GEORGIA

IN RE:

\*CASE NO. \_\_\_\_\_

\*

STANDING ORDER REGARDING

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USE OF MEDICAL RECORDS

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Pursuant to their duties under OCGA § 15-11-24.2 as intake and probation officers of the Juvenile Courts for Candler, Emanuel, Jefferson, Toombs, and Washington Counties, probation officers are required to provide to the Court, the prosecuting attorney, all defense attorneys, and all guardians ad litem as well as any other person the court deems proper any and all documents and reports relevant to a case involving any child before the Court. It has come to the Court's attention that, without any consultation with the Juvenile Courts, the Department of Juvenile Justice has implemented privacy regulations pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") that purport to limit the type of "medical information" that probation officers can divulge to third parties, including the Court and attorneys or other individuals involved in the case. This Court makes the following findings:

- (1) That the purpose of juvenile court is that "children whose well-being is threatened shall be assisted and protected and restored, if possible, as secure law-abiding members of society." OCGA § 15-11-1.
- (2) The Juvenile Courts of this State are charged with determining whether delinquent and unruly juveniles are in need of treatment and rehabilitation and, if so, the type of treatment or rehabilitation necessary. See, e.g., OCGA §§ 15-11-65, 15-11-66.
- (3) That there are documented, strong relationships between a child's physical and mental health and his or her propensity to offend;
- (4) That often, a disposition given an unruly or delinquent child is dependent upon the child's physical and mental health needs;
- (5) That it is the duty of the Court and its probation officers to gather relevant information regarding a child's physical and mental health and to use that information in handling cases and to disseminate that information to those parties who, under the federal and state constitutions and federal and state law, are entitled to access it.
- (6) That in this Court, all medical information held by DJJ regarding a juvenile shall be considered necessary for use in the case by the Court, attorneys involved in the case, the child's guardian ad litem, and the child's parents, unless the Court determines otherwise in a specific situation.
- (7) That nothing in HIPAA or its implementing regulations prohibits the dissemination of such medical information to the above-described persons. See, e.g., 45 CFR § 164.512 (a), (e), and (f)(1).

THEREFORE, it is hereby ordered that DJJ probation officers serving the Juvenile Courts of the Middle Judicial Circuit are hereby authorized and directed to deliver medical information regarding juveniles before the Court or under its supervision to the following persons or entities upon their oral request: (1) The juvenile prosecutor or District Attorney's office, including staff; (2) Any attorney representing the juvenile,

including his or her staff; (3) any guardian-ad-litem or other person appointed by the Court to assist the child; and (4) any other person whom the Court directs, whether orally or in writing, whom the Court has determined to have a proper need for the information. Such delivery of information shall be accomplished by the most expedient means practicable, including by fax, hand delivery, email, and mail.

Any entity objecting to this Order, which shall constitute a local operating procedure authorized by the Uniform Rules of Juvenile Court, shall file a written objection thereto in this Court and shall request a hearing thereon. This order shall take effect immediately and shall be complied with upon penalty of law until this rule is declared invalid by this Court or another Court with proper jurisdiction. Any person or entity advocating the noncompliance with this rule is liable to be held in contempt of Court.

So Ordered this \_\_\_\_ Day of \_\_\_\_\_, 2003.

Juvenile Courts, Middle Judicial Circ