

**SAN DIEGO JUVENILE COURT
PROTOCOL FOR INSPECTION AND COPYING
OF JUVENILE CASE FILE DOCUMENTS
(WIC § 827; Cal. Rules of Court, rule 5.552)**

I. INTRODUCTION AND APPLICATION

As a general rule, juvenile court records are confidential and cannot be inspected or copied without a court order issued by a judge of the juvenile court. This general rule is subject to numerous exceptions, which are contained in Welfare and Institutions Code ("WIC") sections 105, 204, 362.5, 827, 827.10, and 827.12; rule 5.552 of the California Rules of Court ("CRC"); local rules (San Diego Superior Court Rules, Division VI - Juvenile, Chapter 6 - Access to Confidential Information); and this protocol. This protocol applies to juvenile case file documents, as defined in WIC § 827(e) and CRC 5.552(a), which are maintained in: [1] the San Diego Juvenile Court and/or [2] the offices of the San Diego Health & Human Services Agency Child Welfare Services ("HHS") and/or [3] the San Diego Probation Department.

II. INSPECTION – NO COURT ORDER OR HEARING REQUIRED

Persons or entities described in WIC § 827, subd. (a)(1)(A) through (T) and subd. (f), may inspect juvenile case file documents without a prior court order or hearing unless the documents sought are privileged or confidential pursuant to any other state or federal law or regulation. A person who is entitled to inspect juvenile case file documents pursuant to WIC § 827 must sign and file forms SDSC JUV-004 and SDSC JUV-237. Access to the court file normally can be given on the same day the forms are filed. However, if the file is on microfiche, there may be a delay of up to five court days to retrieve and print the file.

Inspection of documents maintained by HHS: A person entitled to inspect HHS documents pursuant to WIC § 827 may initiate the process by contacting the assigned social worker or the HHS Legal Unit [see address in IV.C. below]. The person must fill out and sign the appropriate HHS declaration form. The process of producing the documents could take from three to ten business days, depending upon the location and the status of the case.

Inspection of documents maintained by Probation: A person entitled to inspect Probation documents pursuant to WIC § 827 may initiate the process by contacting the assigned probation officer or the Probation Support Manager [see address in IV.C. below]. The person must fill out and sign the appropriate Probation form. The process of producing the documents could take from three to ten business days, depending upon the location and the status of the case.

To obtain a court order authorizing the inspection of documents that are privileged or confidential pursuant to any other state or federal law or regulation, a petition must be filed on form JV-570, and the procedures described in CRC 5.552(b)-(d) must be followed. (WIC § 827(a)(3)(A).) However, an attorney may inspect a psychological evaluation of his/her own client.

III. COPYING – NO COURT ORDER OR HEARING REQUIRED

Persons or entities described in WIC § 827(a)(1)(A), (B), (C), (D), (E), (F), (H), (I), (J), (P), (S), and (T) may receive copies of juvenile case file documents without a prior court order or hearing unless the documents to be copied are privileged or confidential pursuant to any other state or federal law or regulation. The procedures in section II will apply. Documents will be released only with signed forms SDSC JUV-004 and SDSC JUV-237 and a cover letter stating that the documents are confidential and cannot be released to anyone else not entitled to them. Copying will be done by court or HHS or Probation personnel as appropriate, unless otherwise ordered by the court or agreed to by the parties. The person requesting the copies will pay all copying fees at the time of production (in accordance with the current San Diego Superior Court Schedule of Fees).

To obtain a court order authorizing the copying of documents that are privileged or confidential pursuant to any other state or federal law or regulation, a petition must be filed on form JV-570, and the procedures described in CRC 5.552(b)-(d) must be followed. (WIC § 827(a)(3)(A).) However, an attorney may receive a copy of a psychological evaluation of his/her own client.

IV. COURT ORDER REQUIRED

A. A *Petition for Access to Juvenile Case File* (form JV-570) must be filed to obtain a court order authorizing the following:

1. Inspection of juvenile case file documents by a person or entity not described in WIC § 827, subd. (a)(1)(A) through (T) or subd. (f).¹
2. Copies of juvenile case file documents by a person or entity not described in WIC § 827, subd. (a)(1)(A), (B), (C), (D), (E), (F), (H), (I), (J), (P), (S), or (T).
3. Inspection and/or copies of juvenile case file documents that are privileged or confidential pursuant to any other state or federal law or regulation.
4. Further dissemination of juvenile case file documents to a person or entity not described in WIC § 827, subd. (a)(1)(A) through (T) or subd. (f).
5. Attachment of a juvenile case file document to any other document(s) that will be released to a person or entity not described in WIC § 827, subd. (a)(1)(A) through (T) or subd. (f).
6. Permission for a social worker or probation officer to testify.

¹ If defense counsel seeks inspection or copies of documents from a file of someone other than his/her own client (e.g., the subject of the juvenile records is a victim or a witness), defense counsel must file a petition for access (JV-570), and must specify what is requested and why. When legally justified, the petition for access can be filed under seal.

- B. FORMS:** The following forms are available in the juvenile court business office or at <http://www.courts.ca.gov/forms.htm>:

JV-569: Proof of Service - Petition for Access to Juvenile Case File

JV-570: Petition for Access to Juvenile Case File

JV-571: Notice of Petition for Access to Juvenile Case File

JV-572: Objection to Release of Juvenile Case File

The following forms are available in the juvenile court business office or at <http://www.sdcourt.ca.gov/sdcourt/generalinformation/forms>

JUV-004: Petition to View Records and/or Request for Copies

JUV-237: Stipulation Regarding Inspection, Copying and Non-Dissemination of Juvenile Records without Court Order

JUV-263: Protective Order on Petition for Access to Juvenile Case File

JUV-276: Supplemental Request for Disclosure of Juvenile Case File

- C. NOTICE:** The following parties must be given notice of the petition for access at least ten calendar days before the request is submitted to the court. Each of these parties must be served either personally or by first-class mail with the completed JV-570 and JV-571 and a blank JV-572. If the person filing the request does not know the identity or address of any of the parties, the person should check the appropriate boxes in item 2 on the JV-569, and the clerk will complete the service. The completed JV-569, JV-570, JV-571, and JUV-263 forms must be filed with the court. If information is requested regarding a person who has both a dependency and a juvenile justice record, two separate requests must be filed and served.

JUVENILE JUSTICE:

- 1) The person who is the subject of the record.
- 2) The attorney of record for the person who is the subject of the record if that person is still a ward of the court.
- 3) The parent(s) or guardian(s) of the person who is the subject of the record if that person is under 18 years of age.
- 4) The CASA volunteer, if any.
- 5) The youth's Indian tribe, if any.
- 6) District Attorney - Juvenile Division
2851 Meadow Lark Drive
San Diego, CA 92123
- 7) Juvenile Probation Department
Attn: Probation Support Manager
2901 Meadow Lark Drive
San Diego, CA 92123

DEPENDENCY:

- 1) The person who is the subject of the record, if that person is 10 years of age or older.
- 2) The attorney of record for the person who is the subject of the record if that person is still a dependent of the court. Most children in dependency cases are represented by
Children's Legal Services of San Diego
4801 Viewridge Avenue
San Diego, CA 92123
- 3) The parent(s) or guardian(s) of the person who is the subject of the record.
- 4) The attorney of record for the parent(s) or guardian(s) if there is an open dependency case. Most parents in dependency cases are represented by
Dependency Legal Services of San Diego
1660 Hotel Circle N., Suite 200
San Diego, CA 92108
- 5) The CASA volunteer, if any.
- 6) The child's Indian tribe, if any.
- 7) County Counsel
5530 Overland Avenue, Suite 170
San Diego, CA 92123
- 8) Health and Human Services Agency/CWS
Attn: Legal Unit
8965 Balboa Avenue
San Diego, CA 92123

NONMINOR DEPENDENCY:

- 1) The nonminor dependent.
- 2) The attorney of record for the nonminor dependent. Most nonminor dependents are represented by
Children's Legal Services of San Diego
4801 Viewridge Avenue
San Diego, CA 92123
- 3) The District Attorney, if the nonminor dependent is also a ward in a juvenile justice case.
- 4) The CASA volunteer, if any.
- 5) The nonminor's Indian tribe, if any.
- 6) County Counsel
5530 Overland Avenue, Suite 170
San Diego, CA 92123
- 7) Health and Human Services Agency/CWS
Attn: Legal Unit
8965 Balboa Avenue
San Diego, CA 92123

If the records are sought for use in a legal action which is not a juvenile court proceeding, the petitioner must also give notice to all parties in that action and must attach a copy of the complaint or petition from that action to the petition for access.

- D. OBJECTIONS:** An objection to the petition for access must be filed on form JV-572 and served on all parties listed in C, above, within ten calendar days after the objecting party is served with the request. The objecting party must complete a proof of service, which may be on form JV-569, and file it with the court.
- E. DISCOVERABLE MATERIAL:** A prosecutor, or an attorney who represents the person who is the subject of the juvenile case file, may inspect and make copies of the juvenile case file without a prior court order. A court order is required only if that person wishes to further disseminate the information from the case file for other purposes, including use of the information in a court proceeding. (WIC § 827(a).) Before filing a petition for access, the attorney must review the juvenile case file and obtain copies of the documents s/he deems relevant [see sections II and III].
1. If the prosecutor has inspected or obtained copies of juvenile case file documents and finds that they contain discoverable material, the prosecutor must turn the discoverable material over to the defense. If the documents are to be turned over to the subject of the juvenile case file or to that person's attorney, the documents may be turned over without a court order. If the documents are to be turned over to someone not listed in WIC § 827(a)(1), the prosecutor must first obtain a court order. The prosecutor will file a petition for access (JV-570), specifying what documents in the file s/he believes are discoverable and attaching those documents to the request. The prosecutor will also attach a protective order (JUV-263) signed by the defense counsel who will receive the documents. If no objection is filed within ten calendar days from the latest date stated in the proof of service, the court will grant the request without requiring a hearing.
 2. If an attorney has inspected or obtained copies of juvenile case file documents and wants to use those documents for a purpose not allowed by WIC § 827, the attorney must first obtain a court order. The attorney will file a petition for access (JV-570), specifying what documents in the file s/he believes are discoverable and attaching those documents to the request. The attorney will also attach a protective order (JUV-263) signed by any person who will receive the documents. If no objection is filed within ten calendar days from the latest date stated in the proof of service, the court will grant the request without requiring a hearing.
- F. TESTIMONY:** If any person seeks permission for a social worker or probation officer to testify in any criminal case, the person will file a petition for access (JV-570) and a protective order (JUV-263). If no objection is filed within ten calendar days from the latest date stated in the proof of service, the court will grant the request without requiring a hearing. The person who intends to use the testimony will serve the social worker or probation officer with a subpoena and a copy of the juvenile court's protective order.
- G. SPECIFICITY OF REQUEST:** Any person filing a petition for access (JV-570) must state specifically what is requested and why. The request must specify whether it seeks court records, HHS records, Probation records, or some specified combination of records. It also must specify what documents or what types of documents or information are sought. HHS and/or the Probation Department need to know whether to send their

file to the court for review, and the judge reviewing the file needs to know what to look for. Simply stating, "I would like documents helpful to my client in his defense," or failing to provide adequate guidance to the court for review, will result in a denial for lack of specificity.

- H. RESOLUTION OF CASE:** If the related case settles and the documents are no longer needed, the petitioner must promptly notify the juvenile court and withdraw the petition for access.
- I. SEALED RECORDS:** Sealed records may be accessed only as provided by law. (See S.V. v. Superior Court (2017) 13 Cal.App.5th 1174.) If the petitioner is not legally entitled to access a sealed record, the petition for access will be denied. (WIC § 827(g).)
- J. ACCESS TO SEALED RECORDS BY PROSECUTOR:** WIC §§ 781, 786, and 793 and Penal Code § 851.7 all allow a sealed record to be accessed, inspected, or utilized by the prosecuting attorney to meet a statutory or constitutional obligation to disclose favorable or exculpatory evidence to a defendant in a criminal case. CRC 5.860 provides a procedure and forms to petition the juvenile court to allow such access. In addition to the JV-592, JV-593, and JV-594, the prosecuting attorney will submit a signed JUV-263 (protective order). If the judge grants the prosecuting attorney access to the sealed records, the order will be made on the JV-574 form with an "Attachment A to JV-574." The Attachment will inform the prosecuting attorney whether the records can be released to the defense without further review or whether subsequent review by the court will be required prior to release.
- K. CROSS-DESIGNATION:** A petition for access to a juvenile case file may be heard and decided only by a judge of the juvenile court. (WIC § 827(a)(1)(Q).) In a special case, a judge in another division of the court may be designated to be a juvenile court judge for the purpose of hearing and deciding a petition for access. This will be done only if the judge to be cross-designated is in a better position to do the balancing test provided in CRC 5.552(d)(4) and has been trained on how to handle such a petition.
- L. DE FACTO PARENTS:** A de facto parent's petition for access to court records will be handled by the judge in the home department for the underlying dependency case and must be filed in the business office for the court where the dependency case is located. Item 1 on the JV-570 must clearly state "de facto parent" for the relationship to the child. The home department will issue an order on the JV-574 form. A de facto parent's petition for access to HHSA records will be handled by the judge assigned to do disclosures and must be filed in the Meadow Lark business office.
- M. RESOURCE FAMILY APPROVAL (RFA) REQUESTS:** Mirroring the process for requests by de facto parents, a petition for access to RFA records will be handled by the judge in the home department for the underlying dependency case and must be filed in the business office for the court where the dependency case is located. Item 5 on the JV-570 must clearly state "RFA Records Only." The home department will issue an order on the JV-574 form. A petition for access to HHSA records is to be filed separately and will be handled by the judge assigned to do disclosures. Petitions for access to HHSA records must be filed in the Meadow Lark business office.

- N. SUPPLEMENTAL REQUESTS:** After an initial petition for access has been granted, any supplemental request for disclosure may be filed on the SDSC JUV-276 form. Notice must be given to all parties, just as it would be for an initial petition for access, and a completed JV-569 must accompany the JUV-276. The party filing the request for supplemental disclosure may request a waiver of the ten-day notice requirement upon a showing of good cause.
- O. REQUESTS MADE IN THE COURTROOM:** In an exceptional case where all parties required to be given notice are present, a judge may entertain a request for access to the juvenile case file during a normally-scheduled court hearing. Before such a request is entertained, the parties must waive the 10-day notice requirement. After reviewing the case file and considering any objections, the judge will grant or deny the request. If the request is granted, a JUV-263 (protective order) will be signed by the judge and any person who will be given access to the documents. If the request is granted and the documents are to be released in court, the judge or clerk will make any necessary redactions and the minute order will document what was released. If the request is granted and the documents are not released in court, the judge will issue an order on the JV-574 form.

V. DOCUMENTS FOR FAMILY LAW AND PROBATE PROCEEDINGS

The persons specified in WIC § 827.10(a)(1)-(6) may inspect and receive copies of HHS files and records relating to a child who is the subject of a family law or a probate guardianship case involving custody or visitation issues, or both, if the person seeking the records is actively participating in the family law or probate case. Requests for these records should be submitted to:

Health and Human Services Agency/CWS
Attn: Legal Unit
8965 Balboa Avenue
San Diego, CA 92123
Phone: (858) 616-5950
Fax: (858) 616-5833

Family law judicial officers and court staff will use the HHS form 04-125fc for WIC § 827.10 requests when submitting a request to HHS by fax. Requests will be handled in the order received.

Information that is privileged or confidential pursuant to any other state law (except WIC § 827) or federal law or regulation will be redacted. The person(s) requesting copies (other than judicial officers and court staff) will pay all copying fees at the time of production.