

CHAPTER 9 JUVENILE DELINQUENCY PROCEEDINGS

Rule 6.9.1

Preliminary Provisions

Rule 6.1.1 applies equally to juvenile delinquency proceedings.
(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2007)

Rule 6.9.2

Definitions, Construction of Terms

A. As used in these rules, unless the context or subject matter otherwise requires:

1. "Clerk" means the clerk of the juvenile court;
2. "Court" means the juvenile court, and includes any judge, commissioner, referee, or referee pro tem of the juvenile court, unless otherwise specified;
3. "D.A." means District Attorney;
4. "JPD" means the Juvenile Probation Department of the County of San Diego;
5. "Law Enforcement Agency" includes the San Diego County Sheriff's Department, all city police departments in San Diego County, and all school district police or security departments in San Diego County;
6. "Minor" or "child" means a person under the age of 18 years;
7. "P.O." means Probation Officer;

B. Construction of terms:

1. "Shall" or "must" is mandatory; "may" is permissive;
2. The past, present, and future tenses include the others;
3. The singular and plural numbers include the other.

(Adopted 1/1/2005; Rev. & Renum. 1/1/2006; Rev. 1/1/2007; Rev. 1/1/2008; Rev. 1/1/2010)

Rule 6.9.3

Assignment of Cases and Peremptory Challenges

The court assigns delinquency cases on an independent calendar system. Under that system, a delinquency case assigned to a particular judge, commissioner, or referee will remain with that judicial officer until the termination of jurisdiction, unless otherwise ordered. Under the independent calendar system, a peremptory challenge to any judge, commissioner, or referee must be made pursuant to Code of Civil Procedure section 170.6. Such a challenge must be made prior to any determination of contested issues of fact relating to the merits and within 10 days after notice of the assignment of the case to a specific judge, commissioner, or referee, or it will be deemed untimely. Notice of the assignment is complete upon service of such notice or initial appearance in court. The prosecution and the defense will each be allowed only one peremptory challenge per case. (This rule is adopted pursuant to *Daniel V. v. Superior Court* (2006) 139 Cal.App.4th 28.)

(Adopted 1/1/2005; Rev. 1/1/2007; Rev. 1/1/2008)

Rule 6.9.4

Continuances

Continuances of hearings will be granted only upon a showing of good cause and in accordance with the procedural requirements of Welfare & Institutions Code section 682 and California Rules of Court, rules 5.550 and 5.776. A continuance may be granted following a time waiver by the minor.
(Adopted 1/1/2005; Rev. & Renum. 1/1/2006; Rev. 1/1/2008)

Rule 6.9.5

Ex Parte Applications and Orders

A. No party may submit an ex parte application to the court for an order unless it appears by affidavit or declaration that one of the following is true:

1. Within a reasonable time before the application, the party informed all other parties or their attorney(s) when and where the application would be made and provided a copy of the application and proposed order to the attorney(s).
2. The party in good faith attempted to inform all other parties or their attorney(s) of the application but was unable to do so, describing with particularity the efforts made to inform each party.
3. The party should not be required to inform all other parties or their attorney(s) for the reasons specified. The court in its discretion may choose to inform the other parties of the reasons specified in the ex parte application.

B. If the JPD files an ex parte application for an order terminating jurisdiction, the JPD must also serve notice thereof on the D.A. and minor's counsel. Any objection(s) must be submitted in writing to the court within ten court days of the filing of the application. Failure to timely submit a written objection

constitutes a waiver of the objection. If a written objection is timely filed, the court will set a hearing on the application and serve notice of the hearing on all parties.

C. An ex parte report may be used to request modifications of previous orders that have been so stipulated, to correct or clarify orders, to get permission from the court to proceed in a certain manner with a case, to update information to the court, or to give the court additional information. Examples of matters that are appropriate for ex parte handling: funding orders that were not included in the original court order but that are essential to carry out the order; vacate orders that are no longer needed; 15-day reviews; permission for travel outside the county; termination of jurisdiction when it was previously stipulated that jurisdiction would terminate once the minor complied with specific orders.

(Adopted 1/1/2005; Renum. 1/1/2006)

Rule 6.9.6

Requirements for Noticed Motions

A. All motion papers, opposition papers, and reply papers must be in writing and must display on the first page the motion hearing date, time, and department and a time estimate for the motion hearing.

B. Time for Service When the Minor is Detained. Unless a different briefing schedule is set by the court,

1. All moving papers must be filed and served on the opposing party at least 5 court days before the time appointed for the hearing.

2. All papers opposing the motion must be filed and served at least 2 court days before the time appointed for the hearing.

3. All reply papers must be filed and served at least 1 court day before the time appointed for the hearing.

C. Time for Service When the Minor is Not Detained. Unless a different briefing schedule is set by the court,

1. All moving papers must be filed and served on the opposing party at least 10 court days before the time appointed for the hearing.

2. All papers opposing the motion must be filed and served at least 5 court days before the time appointed for the hearing.

3. All reply papers must be filed and served at least 2 court days before the time appointed for the hearing.

D. Time for Service of Motion to Suppress Evidence. Unless a different briefing schedule is set by the court,

1. All moving papers must be filed and served on the opposing party at least 5 court days before the time appointed for the hearing.

2. All papers opposing the motion must be filed and served at least 2 court days before the time appointed for the hearing.

3. All reply papers must be filed and served at least 1 court day before the time appointed for the hearing.

E. Points and Authorities.

1. All moving and opposing papers must be accompanied by supporting points and authorities.

2. A memorandum of points and authorities must include a statement of the case and a statement of facts setting forth all procedural and factual matters relevant to the issue presented.

3. The memorandum of points and authorities must clearly specify the factual and legal issues raised and the specific legal authority relied upon for the motion.

4. Only the factual and legal issues set forth in the memorandum will be considered in the ruling on the motion unless it is established that the new issues were not reasonably discoverable before the motion was filed.

5. Failure of the moving party to serve and file points and authorities within the time permitted without good cause may be considered by the court as an admission that the motion is without merit.

6. Failure of the responding party to serve and file points and authorities within the time permitted without good cause may be considered by the court as an admission that the motion is meritorious.

7. In case of a failure of either party to serve and file points and authorities within the time permitted, the court may find good cause to continue the hearing.

F. Abandonment of Motions. Any party intending to abandon a motion already filed must immediately notify opposing counsel and the clerk of the department in which the motion is to be heard, and must also notify the clerk immediately if the case is disposed of by plea prior to the hearing or if the proceedings are suspended because the minor is found not to be competent.

G. Concession That Motion is Meritorious. If the responding party elects not to oppose the motion, respondent must immediately notify opposing counsel and the clerk of the department in which the motion is to be heard.

H. Length of Points and Authorities. No opening or responding memorandum of points and authorities exceeding 15 pages may be filed, absent an order from the judge of the court in which the motion is calendared. Such an order will be granted only upon a written application including a declaration setting forth good cause for the order.
(Adopted 1/1/2005; Rev. & Renum. 1/1/2006)

Rule 6.9.7

Fax Filing

Any document in a delinquency case may be filed by fax between 8:30 a.m. and 4:30 p.m. Monday through Friday. The fax number may be obtained by contacting the Juvenile Court Business Office. Fax filings must comply with the requirements of California Rules of Court, rule 5.522.
(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008)

Rule 6.9.8

Warrants

All warrants of arrest and juvenile detention orders, including those stored in electronic form, are deemed authenticated at the time a Juvenile Court judge issues an order authorizing the issuance of the arrest warrant or juvenile detention order.
(Adopted 1/1/2005; Renum. 1/1/2006)

Rule 6.9.9

Reciprocal Discovery

The discovery provisions of Penal Code section 1054 et seq. apply to juvenile delinquency cases.
(Adopted 1/1/2005; Renum. 1/1/2006)

Rule 6.9.10

Public and Media Access

In most cases, juvenile delinquency proceedings are presumed to be confidential and closed to the public. However, any person whom the court deems to have a direct and legitimate interest in a particular case or in the work of the court may be admitted. Furthermore, hearings concerning petitions that include any of the offenses listed in Welfare & Institutions Code section 676, subdivision (a), are presumptively open to the public. A request for media coverage must be submitted on Judicial Council form MC-500 ("MEDIA REQUEST TO PHOTOGRAPH, RECORD, OR BROADCAST") at least five court days before the hearing unless good cause for noncompliance is shown. Forms and copies of the Juvenile Court Media Policy are available from Juvenile Court Administration, which is in room 254 at the Meadow Lark courthouse. This rule is not meant to affect the rights of any victim or other person entitled by statute to be present. (See Welf. & Inst. Code, §§ 676.5, 679.)
(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2010)

Rule 6.9.11

Competence and Mental Health Evaluations

Whenever a minor's competence or mental health is in doubt, an evaluation must be done as soon as possible after the delinquency case is initiated to determine whether the minor is incompetent or in need of emergency inpatient mental health services. When indicated, services must be provided in a timely manner. Requests for such evaluations must comply with the Juvenile Court's protocols for competence evaluations and court-ordered inpatient mental health evaluations.
(Adopted 1/1/2005; Rev. & Renum. 1/1/2006)

Rule 6.9.12

Administration of Psychotropic Medications

After a child is declared a ward of the court under Welfare & Institutions Code section 601 or 602 and removed, either temporarily or permanently, from the physical custody of his/her parent or guardian, only a Juvenile Court judicial officer is authorized to make orders regarding the administration of psychotropic medication to the child. The procedures and forms described in California Rules of Court, rule 5.640 apply in delinquency cases. Requests for orders for psychotropic medications for 601 and 602 wards must comply with the requirements of California Rules of Court, rule 5.640.
(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2008)

Rule 6.9.13

Initial Health Screening

Prior medical authorization will not be required for the initial health screening of minors at Kearny Mesa Juvenile Detention Facility and/or East Mesa Juvenile Detention Facility. Initial health screenings must be performed within 96 hours of detention and will include a physical examination, laboratory tests, immunizations, and X-rays. The Probation Department will attempt to obtain parental consent for medical

care. If such consent cannot be obtained, the Probation Department will seek a court order authorizing medical care. In an emergency situation, medical care may be delivered to minors in detention without parental consent or a court order. (See Welf. & Inst. Code, § 739.)
(Adopted 1/1/2005; Renum. 1/1/2006; Rev. 1/1/2007)

Rule 6.9.14

Immunizations

All minors detained in the Kearny Mesa Juvenile Detention Facility and/or East Mesa Juvenile Detention Facility, where medical records are unavailable and/or due diligence efforts are unsuccessful in locating a parent, guardian, or other responsible adult relative, will receive all necessary immunizations against poliomyelitis, diphtheria, pertussis, tetanus, measles, rubella and mumps. Such immunizations are reasonable and necessary under section 120335 of the Health and Safety Code to enable attendance in school programs operated by Kearny Mesa Juvenile Detention Facility and/or East Mesa Juvenile Detention Facility. All immunizations must be performed by a licensed health care provider.
(Adopted 1/1/2005; Renum. 1/1/2006)

Rule 6.9.15

Sex Education

The Kearny Mesa Juvenile Detention Facility and/or East Mesa Juvenile Detention Facility, in conjunction with the County Office of Education, the Department of Public Health, and approved community-based organizations, may conduct sex education classes as part of the education curricula for all minors detained in the Kearny Mesa Juvenile Detention Facility and/or East Mesa Juvenile Detention Facility. These classes may include information on AIDS and its transmission.
(Adopted 1/1/2005; Renum. 1/1/2006)

Rule 6.9.16

Off-Site Counseling

Any minor detained in the Kearny Mesa Juvenile Detention Facility and/or East Mesa Juvenile Detention Facility pending acceptance by and delivery to a 24-hour institution may be transported from the Kearny Mesa Juvenile Detention Facility and/or East Mesa Juvenile Detention Facility to the 24-hour institution for counseling or other rehabilitative treatment, provided the assigned probation officer consents to the off-site treatment.
(Adopted 1/1/2005; Renum. 1/1/2006)

Rule 6.9.17

Travel Out of San Diego County

The Probation Department is authorized to grant permission to wards to travel out of the County of San Diego but within the State of California for trips of up to 72 hours. An ex parte order from the Juvenile Court is required for trips over 72 hours and/or outside the State of California.
(Adopted 1/1/2005; Renum. 1/1/2006)

Rule 6.9.18

Disclosure of Medical Information

All records related to the medical or psychological treatment of a minor who is the subject of a juvenile delinquency petition shall be made available upon request to the Court and the Probation Department by all individuals, agencies and entities that are either paying for or providing medical or psychological treatment or assessment services to the minor. These individuals, agencies and entities include: hospitals, laboratories, health insurers, health plans, health maintenance organizations, clinics, physicians, psychologists, psychotherapists, counselors and any other individual or entity providing medical or psychological treatment or assessment services to the minor.

The minor's treatment records include, but are not limited to: medical history and physical examination, discharge summaries, progress notes, medication records, drug and alcohol test results, x-rays and their interpretation, laboratory results, dental records, psychiatric records including consultations, physician orders, pharmacy records, nursing notes, mental health records and alcohol and substance abuse treatment records. Treatment records do not include any document that would violate the attorney-client or attorney work product privileges.
(Adopted 1/1/2011)