

MEMORANDUM

DATE: October 23, 2012

TO: News Media Representatives
Juvenile Court Judicial Officers
Juvenile Court Attorneys
HHSA Child Welfare Services
Juvenile Probation Department
Nora Sanchez, Juvenile Court Operations Manager
Michael Roddy, Superior Court Executive Officer
Karen Dalton, Superior Court Public Affairs Officer
Kris Nesthus, Superior Court Director of Legal Services

FROM: Hon. Cynthia Bashant
Presiding Judge, Juvenile Division, San Diego Superior Court

RE: **JUVENILE COURT MEDIA POLICY (REVISED 2012)**

I. STATEMENT OF PURPOSE

Under California law, the Juvenile Court has a duty to protect the confidentiality of its records, courtroom proceedings, and — most importantly — the identities of the children who are or may come under the court’s jurisdiction. Safeguarding the confidentiality of a child’s contact with the judicial system is essential to protect children and their families from public scandal, harmful curiosity, and humiliation, and to enable the Juvenile Court to act in the best interests of the child and the public.

The Juvenile Court also recognizes the media’s responsibility to inform and educate the public about the judicial system and how it works with child victims of abuse and neglect (who may be declared “dependents” of the court) as well as youthful offenders (who may be declared “wards” of the court). Media coverage can facilitate public scrutiny of the juvenile court system, thereby allowing the citizenry to evaluate the overall operations of the judicial system at large.

To maintain the confidentiality required by law, while at the same time ensuring the integrity of the courts through public monitoring, the Juvenile Court hereby adopts this *Juvenile Court Media Policy (Revised 2012)* [hereinafter “*Media Policy*”].

II. SCOPE, APPLICATION, AND EFFECTIVE DATE

This *Media Policy* encompasses confidentiality provisions governing dependency and delinquency matters with regard to the following: [1] access to Juvenile Court records; [2] admission to, or media coverage of, courtroom proceedings; [3] media requests for access outside the courtroom; and [4] sanctions for unauthorized disclosure or failure to comply with confidentiality provisions. (See Welfare & Institutions Code (“WIC”) sections 346, 676, 827; Cal. Rules of Court (“CRC”), rules 1.150, 5.552; San Diego Superior Court Rules (“Local Rules”), Division 6 - Juvenile, Chapter 6: Access to Confidential Information.)

This *Media Policy* is designed to protect the children who are or may come under the court’s jurisdiction, and is not intended to replace, nullify, or conflict with any existing policies of the San Diego County Health & Human Services Agency (“HHSA Child Welfare Services”), the San Diego County Juvenile Probation Department (“Probation”), or any other public agency. This *Media Policy* does not prohibit the release of general information on Juvenile Court procedures and policies. Effective immediately, this *Media Policy* supersedes all previously issued media policies.

III. ACCESS TO JUVENILE COURT RECORDS

DEFINITION — “Juvenile Court records” include:

- all documents filed in a Juvenile Court case, unless the file has been sealed;
- reports to the court by probation officers, social workers, and court-appointed special advocates (“CASAs”);
- documents made available to probation officers, social workers, and CASAs in preparing their reports;
- when a petition has been filed to bring a child under the jurisdiction of the court, documents relating to the child which are maintained in the office files of probation officers, social workers, and CASAs;
- even when no petition has been filed, documents relating to a child abuse investigation or a child’s arrest, detention, or other contact with law enforcement officers;
- transcripts, records, or reports relating to matters prepared or released by the court, HHSA Child Welfare Services, or Probation; and
- documents, films, videotapes, audiotapes, photographs, polygraph tapes, and exhibits admitted into evidence at Juvenile Court hearings.

“Juvenile Court records” do not include:

- records maintained by the Department of Motor Vehicles;
- records maintained by law enforcement agencies;
- records regarding offenses that were tried in the criminal division of the court; and
- adoption records.

GENERAL RULE —

All Juvenile Court records are **confidential** and may not be obtained or inspected by civil or criminal subpoena.

EXCEPTIONS (not applicable to records sealed under WIC sections 389 or 781 or Penal Code section 1203.45) —

- Juvenile Court records may be inspected and/or copies may be obtained by the persons and agencies listed in WIC sections 827 through 830.1, provided they meet the requirements specified therein.
- The public may inspect three types of documents in a delinquency case when a petition has been sustained for the commission of an offense listed in WIC section 676(a): [1] the charging petition, [2] the minutes of the proceeding, and [3] the orders of adjudication and disposition. However, the court may prohibit public inspection if the harm of disclosure — to the child, victim, witnesses, or the public — outweighs the benefit of public knowledge.

WIC section 676(c) permits the release of the name of a minor found to have committed an offense listed in section 676(a), unless the court, for good cause, orders the name to be kept confidential.

- Access to Juvenile Court records may be granted by an order of the Juvenile Court Presiding Judge or a designated judicial officer pursuant to WIC section 827 after a *Request for Disclosure of Juvenile Case File* (hereinafter “petition”) has been filed. (Use Judicial Council forms JV-569, JV-570, JV-571, and JV-572, which are available at the Juvenile Court Business Office, 2851 Meadow Lark Drive, Room 244, San Diego, CA 92123, phone: (858) 634-1600 or on-line at <http://www.courts.ca.gov/forms.htm> [select “Juvenile”].)

The petition must describe in detail the records requested and the reason(s) for the request. No petition will be granted without a showing of “good cause” and an agreement to abide by any accompanying protective order issued by the court.

At least 10 days before the petition is submitted to the court, copies of the required forms (JV-570, JV-571, and JV-572) must be served, personally or by first-class mail, on the child, the attorney of record for the child who remains a ward or dependent of the court, the child’s parent(s) or guardian(s) if the child is under 18 years of age or the child’s petition was filed in dependency court, and, if applicable, the Indian child’s tribe and the child’s CASA volunteer. The petitioner must complete *Proof of Service—Request for Disclosure* (Judicial Council form JV-569) and file it with the court. If the name and/or address of any of these parties is unknown to the petitioner, the court clerk will serve those parties with the required forms and notice of any hearing and will complete and file the proof of service.

In a dependency case, copies of the required forms also must be served on County Counsel, Juvenile Dependency Division, and HHSA Child Welfare Services. In a delinquency case,

copies of the required forms also must be served on the District Attorney and Probation. For good cause, the court may, on the motion of the petitioner or on its own motion, shorten the time (10 days) for service of the required forms.

The court may deny the petition without a hearing if the petitioner does not show good cause. If good cause is shown, the court may either grant the petition or set a hearing with notice to all parties. Regardless of whether the court sets a hearing, if the court determines that there may be information or documents in the records sought to which the petitioner may be entitled, it will review the juvenile case file and any objections *in camera* and assume that all legal claims of privilege are asserted to determine which records may be disclosed and make appropriate orders. Unless prohibited by the court, photocopies of records specified in the order may be obtained. A copying fee of 50 cents per side of each page will be charged. (San Diego Superior Court Schedule of Fees, effective January 1, 2012.)

- Information gathered and retained by a law enforcement agency regarding the taking of a child into custody may be disclosed [1] without court authorization to those persons and agencies listed in WIC section 828, or [2] upon order of the Juvenile Court Presiding Judge or a designated judicial officer pursuant to WIC section 828 after a *Petition to Obtain Report of Law Enforcement Agency* has been filed. (Use Judicial Council form JV-575, available at the Juvenile Court Business Office, 2851 Meadow Lark Drive, Room 244, San Diego, CA 92123, phone: (858) 634-1600 or on-line at <http://www.courts.ca.gov/forms.htm> [select “Juvenile”].)
- A law enforcement agency may release the name and description of a child who has escaped from a secure detention facility, as authorized under WIC section 828.
- Under WIC section 730.7, the victim of a crime committed by a ward has a right, upon request, to a certified copy of the court order requiring the ward to pay restitution to the victim.
- Juvenile case information which is privileged or confidential pursuant to any other state law or federal law or regulation may be released only [1] to those entitled to access under the other state law or federal law or regulation or [2] by order of the juvenile court upon the filing of a *Request for Disclosure of Juvenile Case File*. (Use Judicial Council forms JV-569, JV-570, JV-571, and JV-572, which are available at the Juvenile Court Business Office, 2851 Meadow Lark Drive, Room 244, San Diego, CA 92123, phone: (858) 634-1600 or on-line at <http://www.courts.ca.gov/forms.htm> [select “Juvenile”].)

IV. ADMISSION TO, OR MEDIA COVERAGE OF, COURTROOM PROCEEDINGS

GENERAL RULE —

All dependency proceedings and most delinquency proceedings are closed to the public pursuant to WIC sections 346 and 676. CRC rule 1.150 prohibits the court from allowing media coverage of “[p]roceedings closed to the public.” Only those persons listed in CRC rule 5.530 are entitled to be

present at Juvenile Court hearings. Further, Special Order Number 010312-03(entitled "Procedure Regulating Photography, Recording and Broadcasting in Courthouse") precludes the use of any device, including a cell phone, to record or photograph a judicial proceeding without prior written judicial approval.

EXCEPTIONS —

- *In all Juvenile Court cases:* Upon a request for permission, any person who is deemed by the judicial officer to have a direct and legitimate interest in the particular case or the work of the court may be admitted.
- *Dependency cases only:* When requested by a parent or guardian *and* consented to or requested by the child who is the subject of the petition, the public may be admitted -- unless the court finds that an open hearing would be detrimental to the child. (WIC section 346.)
- *Delinquency cases only:* When requested by the child who is the subject of the petition *and* any parent or guardian who is present, the public may be admitted. (WIC section 676.)
- *Delinquency cases only:* When the petition alleges the commission of an offense listed in WIC section 676(a), the public may be admitted -- unless [1] an exception described in section 676(b) or 676.5 applies or [2] the child establishes a reasonable likelihood that the presence of the public will substantially prejudice his or her right to receive a fair trial. If a media representative is admitted under this exception, any information lawfully obtained in the courtroom may be published.
- *Delinquency cases only:* Up to two family members may accompany a prosecution witness in the courtroom for support.
- *Delinquency cases only:* A victim of an offense alleged to have been committed by the child who is the subject of the petition, and up to two support persons chosen by the victim, are entitled to attend any hearing regarding the offense. However, any such person may be excluded pursuant to WIC section 676.5.
- *Adoption cases only:* All court hearings in an adoption proceeding are closed to the public. (Family Code section 8611.) The parties to the adoption will be allowed to bring cameras and other recording devices to a hearing to finalize an adoption unless a judge prohibits the use of such devices.

PROCEDURE & GUIDELINES FOR REQUESTING ADMISSION AND/OR COVERAGE —

1. To request admission to a Juvenile Court hearing, complete and submit a *Media Request and Agreement to Be Admitted to Juvenile Court Hearing* (SDSC JUV-029), available on-line at <http://www.sdcourt.ca.gov> [select Forms and then Juvenile]) to the judicial officer presiding over the matter. To request permission to photograph, record, or broadcast any portion of the hearing, you must also complete and submit a *Media Request to Photograph, Record, or Broadcast* and *Order on Media Request to Permit Coverage* (Judicial Council forms MC-

500 and MC-510, available on-line at <http://www.courts.ca.gov/forms.htm> [select Miscellaneous]). All three forms can also be obtained from Juvenile Court Administration at 2851 Meadow Lark Drive, Room 254, San Diego, CA 92123, phone: (858) 634-1668, or from the Business Offices of the following dependency branch courts:

- 500 Third Ave., Chula Vista, CA 91910, phone: (619) 746-6200.
 - 250 East Main St., El Cajon, CA 92020, phone: (619) 456-4118.
 - 325 S. Melrose Dr., Vista, CA 92083, phone: (760) 201-8239.
 - 220 West Broadway, San Diego, CA 92101, phone: (619) 450-5605.
2. Permission to attend detention hearings and detention rehearings must be sought as early as possible before the session is set to begin. Permission to attend all other types of hearings must be sought at least five court days before the session unless good cause for noncompliance is shown. (See CRC rule 1.150.)
 3. The court may rule on the request with or without a hearing, and may place any limits or conditions on coverage as allowed under CRC rule 1.150. The court may subsequently terminate or modify an order allowing media coverage without prior notice or hearing.
 4. If admitted by a written order of the court, the media representative must, upon entering the courtroom, present identification as a bona fide media representative to the bailiff or the courtroom clerk.
 5. “The judge may permit inconspicuous personal recording devices to be used by persons in a courtroom to make sound recordings as personal notes of the proceedings. A person proposing to use a recording device must obtain advance permission from the judge. The recordings must not be used for any purpose other than as personal notes.” (CRC rule 1.150.)
 6. Where the public and/or media are admitted at the request of the child and his or her parent or guardian, the consent of all parties thereto shall appear on the record. Unless disclosure is otherwise authorized by law, the court shall admonish all persons present to keep confidential the identities of the child(ren), members of the child(ren)’s family, and any witnesses in the proceedings.
 7. In a delinquency matter, the court may choose not to divulge the full name of a child until *after* the court has made a finding that the child committed an offense listed in WIC section 676. Even if such a finding is made, the court may continue to keep the name of the child confidential for good cause. In any event, the full name of any child who is a victim and/or witness in the proceeding should *not* be divulged.
 8. Once admitted, members of the public or media shall conduct themselves in a manner consistent with the decorum and dignity of the courtroom.
 9. The judicial officer shall advise all media representatives admitted to the courtroom that:

- Permission to attend the hearing is conditioned upon compliance with the confidentiality provisions of the Welfare and Institutions Code, the California Rules of Court, and this *Media Policy*, as well as the media's code of professional responsibility.
- Failure to comply with the above-mentioned confidentiality provisions may result in the issuance of a court order restricting or terminating coverage, a citation for contempt, or a court order imposing other sanctions authorized by law.

V. MEDIA REQUESTS FOR ACCESS OUTSIDE THE COURTROOM

DEFINITIONS —

For purposes of this section, “access” means the ability to observe, interview, film, photograph, videotape, or record the voices of children who are under the jurisdiction or supervision of the Juvenile Court, their caretakers, or members of their families, regardless of the location.

Alternatively, “access” may refer to permission to enter certain facilities which are not open to the public (e.g., Polinsky Children's Center or Juvenile Hall) and/or permission to observe, interview, film, photograph, videotape, or record the voices of children in such facilities.

PROCEDURE & GUIDELINES FOR REQUESTING ACCESS —

1. To request access for dependency matters, the media representative shall initiate contact with HHSA Child Welfare Services, Media Coordinator, 8965 Balboa Avenue, San Diego CA 92123, phone: (858) 616-5810, FAX: (858) 616-5908.

To request access for delinquency matters, the media representative shall initiate contact with the Public Safety Group Communications Officer. Contact information can be found at <http://www.sdcounty.ca.gov/dmpr/piolist.html>.

To request access at the Juvenile Court (in areas outside of courtrooms), the media representative may also contact the Juvenile Court Operations Manager, 2851 Meadow Lark Drive, San Diego CA 92123, phone: (858) 634-1668, FAX: (858) 634-1679.

2. In no event shall the media representative attempt to contact directly the child, the child's family members, the social worker, the probation officer, any detention facility, or any court-ordered placement facility (e.g., foster home, group home, temporary shelter) without prior court authorization. All contacts must be initiated with and pursued through the HHSA Child Welfare Services Media Coordinator or the Public Safety Group Communications Officer.
3. If access is allowed, the media representative shall comply with the applicable policies of HHSA Child Welfare Services and/or Probation.
4. HHSA Child Welfare Services and/or Probation shall act as the liaison between the media representative and the person(s) to whom access is allowed (the child, the child's family

members, or the staff of any detention facility or placement facility) and as the liaison between the media representative and the court.

5. If access is denied by HHSA Child Welfare Services or Probation, the media representative may seek review of the decision to deny access by the judicial officer presiding over the particular case involved. If the request is not specific to a particular case, a decision to deny access may be reviewed by the Juvenile Court Presiding Judge or a designated judicial officer. In all cases, the court retains the authority to issue a protective order specifying the terms and conditions upon which access is granted.
6. During any authorized contact(s), media representatives are expected to conduct themselves with tact and sensitivity to the particular needs of any dependent children or wards encountered. In any situation where there is uncertainty regarding the limits of an authorized contact or where the contact proves to be intrusive or upsetting to the child(ren) involved, the media representative shall consult with HHSA Child Welfare Services (for dependent children) or Probation (for wards).

OTHER APPLICATIONS —

The above procedure for requesting access also applies to:

1. Requests from members of the entertainment industry (television, film, cable, or other) to include dependent children or wards in productions intended for public dissemination.
2. Requests to include dependent children or wards in promotions or public service announcements for charitable, political, or public interest organizations or events.

OTHER PROCEDURES —

1. Requests from HHSA Child Welfare Services or Probation to include dependent children or wards in their own media-related or publicity-related programs and activities must be made to the Juvenile Court. Requests relating to a specific child or sibling group should be directed to the judicial officer presiding over the child(ren)'s case. Other requests should be directed to the Presiding Judge of the Juvenile Court.
2. Requests from HHSA Child Welfare Services to issue public announcements concerning abandoned infants or children freed for adoption must be made directly to the Juvenile Court.

VI. SANCTIONS FOR UNAUTHORIZED DISCLOSURE OR FAILURE TO COMPLY WITH CONFIDENTIALITY PROVISIONS

“Any violation of this rule or an order made under this rule is an unlawful interference with the proceedings of the court and may be the basis for an order terminating media coverage, a citation for contempt of court, or an order imposing monetary or other sanctions as provided by law.” (CRC rule 1.150.)

Likewise, any violation of this *Media Policy* or a protective order issued in a particular case is an unlawful interference with the proceedings of the court and may be the basis for an order terminating media coverage, a citation for contempt of court, or an order imposing monetary or other sanctions as provided by law. (See WIC section 213.)

CASE LAW REFERENCES:

Globe Newspaper Co. v. Superior Court (1982) 457 U.S. 596 [73 L. Ed. 2d 248, 102 S. Ct. 2613]

Brian W. v. Superior Court (1978) 20 Cal. 3d 618

In re Keisha T. (1995) 38 Cal. App. 4th 220

KGTV Channel 10 v. Superior Court (1994) 26 Cal. App. 4th 1673

San Bernardino County Dept. of Public Social Services v. Superior Court (1991) 232 Cal. App. 3d 188