

JUVENILE RULES

INTRODUCTION

These local rules are intended to supplement state statutes which are principally found in the Welfare and Institutions Code. In addition they supplement the California Rules of Court relating to Juvenile Court matters (see CRC 1400 et seq.).

There are two sections to these local rules. The first includes general provisions which apply to all Juvenile Court matters. The second applies to dependency proceedings (Welfare and Institutions Code Section 300, et cetera).

To the extent that any of these rules conflicts with either state statute or Rule of Court, the local rule is of no legal effect.

These rules cover Juvenile Court law, but not Juvenile traffic hearings or traffic hearing appeals.

These rules adopt the rules of construction and the severability clause in CRC 1400 (c) and (d).

(Effective 7/1/1995)

RULE 1 GENERAL PROVISIONS

A. JUDICIAL ADMINISTRATION

(1) Presiding Judge of the Juvenile Court

There shall be one Presiding Judge of the Juvenile Court. The Presiding Judge shall be selected by the Presiding Judge of the Superior Court. To the extent possible the Presiding Judge of the Juvenile Court shall remain in that position for at least 3 years.

(2) Juvenile Court Actions

The Juvenile Court hears both dependency and juvenile justice actions. Juvenile justice actions were formerly called "delinquency" actions. All references to Juvenile Delinquency Court, Delinquency judicial officers, delinquency, juvenile delinquency, and delinquency actions, cases, calendars, or matters shall now be referred to as Juvenile Justice Court, Juvenile Justice judicial officers, juvenile justice, and juvenile justice actions, cases, calendars, or matters.

(Effective 1/1/2010)

(3) Supervising Judge in the Juvenile Court

There shall be a Supervising Judge of both the dependency and juvenile justice actions in the Juvenile Court. The Presiding Judge of the Juvenile Court in most cases will be the Supervising Judge of either the dependency or the juvenile justice calendars.

(Effective 1/1/2010)

(4) Juvenile Court Committee

There shall be a Juvenile Court Committee of the Superior Court. That committee shall consist of all judicial officers sitting in Juvenile Court and any other judges the Presiding Judge of the Superior Court or the Presiding Judge of the Juvenile Court may designate.

(Effective 1/1/1995)

B. RELATIONSHIP OF THE JUVENILE COURT TO OTHER CALENDARS

(1) Assignment of Juvenile Court Cases

It is the policy of the Juvenile Court to have all matters heard by a judicial officer assigned to the Juvenile Court. All cases in Juvenile Court shall be subject to assignment to a judicial officer for all purposes at the time of filing of the action who shall thereafter handle all proceedings involving the matter, including trial, except as otherwise provided or required by law.

(Effective 1/1/2009)

(2) Master Calendar Referrals (Long Cause Cases)

Only the Presiding Judge of the Juvenile Court, the Supervising Judge of the dependency/juvenile justice calendar or some judicial officer acting in one of those capacities shall assign any case to the Supervising Judge of the Civil Division in all dependency cases, and to the Supervising Judge of the Criminal Division in all juvenile justice cases.

(Effective 1/1/2010)

(3) Cases Involving Employees

If a court employee or deputy sheriff working at Juvenile Court, or a member of his or her family, is a party to a case, the clerk or Presiding Judge of the Juvenile Court shall transfer the case to another facility or Division.

(Effective 1/1/2010)

(4) Meetings with Other Supervisors

The Presiding Judge of the Juvenile Court shall take steps to ensure that there are regular meetings with the Presiding Judge of the Court and with supervising judges in the family, probate, mental health, civil and criminal calendars, so that communication among these different calendars is maximized.

(Effective 7/1/1995)

C. NOTICED MOTIONS

No noticed motion shall be accepted by the Court Clerk unless it is accompanied by a proof of service.

(Effective 1/1/2004)

D. FORMAT OF DOCUMENTS SUBMITTED FOR FILING REQUIREMENTS

(1) MANDATORY ELECTRONIC FILING AND SERVICE

- a. Refer to Rule 6 of the General Court and Administration Rules.
- b. Represented Parties Entitled to Service

Represented parties in Juvenile Dependency cases who are entitled to service are not required to receive documents electronically, but may agree to receive electronic service by filing with the Clerk of the Court and serving on all parties, either electronically or by non-electronic means, a Consent to Electronic Filing and Service and Notice of Electronic Service Address Form CW-9024.

(Effective 6/20/2016)

(2) FORMAT OF DOCUMENTS SUBMITTED FOR FILING

Documents that exceed 10 pages shall be submitted held by binder clips or two prong fasteners.

Exhibit Attachments to pleadings shall be separated by a standard size sheet of paper with a title identifying the sequence of the exhibit. No tabs shall be included in any documents submitted for filing.

(Effective 7/1/2015)

E. PROPOSED ORDERS

Any proposed order submitted to the Court for signature must contain a footer with the title of the order on every page, including the signature page, unless it is a Judicial Council form. In addition, the Court signature and date lines must not be on a page by themselves; the signature page must contain some text of the order.

(Effective 1/1/2010)

F. PRE-HEARING DISCOVERY

(1) Timely Disclosure of Informal Discovery

Pre-hearing discovery shall be conducted informally. Except as protected by privilege, all relevant material shall be disclosed in a timely fashion to all parties to the litigation. In re Joe Z. (1970) 3 Cal.3d 797, CRC 1420.

(2) Formal Motions

a. Formal Discovery

Only after all informal means have been exhausted may a party petition the Court for discovery. Any noticed motion shall state the relevancy and materiality of the information sought and the reasons why informal discovery was not adequate to secure that information. The motion shall be served on all parties at least five 5 judicial days before the hearing date. The date for the hearing shall be obtained from the Court Clerk, Juvenile Division. A copy shall be served on the Court before whom the matter is scheduled to be heard.

(Effective 1/1/2004)

Any responsive papers shall be filed and served two 2 judicial days prior to the hearing.

b. Civil Discovery

In order to coordinate the logistics of any such discovery, there shall be no depositions, requests for production of documents, interrogatories, requests for admissions or other similar types of civil discovery without approval of a judge of the Juvenile Court upon noticed motion.

(Effective 1/1/2005)

G. EX PARTE ORDERS

(1) Before submitting ex parte orders to a judge or commissioner for approval, the applicant must give notice of, and a copy of the application for ex parte orders, to all counsel, social workers, and parents and/or legal guardians who are not represented by counsel or explain the reason notice has not been given.

(Effective 1/1/2018)

(2) The party requesting ex parte orders must inform the judge or commissioner that notice has been given by completing Local form JV-2000 Declaration Re Notice of Ex Parte Application or by providing an equivalent declaration. The original Declaration and accompanying Application for Order must be submitted to the courtroom clerk in the juvenile department where the pending action would normally be heard.

(Effective 1/1/2018)

(3) An opposing party must present any written opposition to a request for ex parte orders to the courtroom clerk within 48 hours of receipt of notice or may have their opposition noted on the Application form. The Court may render its decision on the ex parte application or set the matter for hearing, unless an opposition is filed in which case the matter will be set for a hearing. The applicant is responsible for serving all noticed parties with copies of the Court's decision or notice that the Court has calendared the matter, and the applicant shall notify all persons entitled to notice of any hearing date and time set by the Court.

(Effective 1/1/2018)

(4) Notice may be excused if the giving of such notice would frustrate the purpose of the order and cause the child to suffer immediate and irreparable injury.

(Effective 1/1/2005)

(5) Notice may also be excused if, following a good faith attempt, the giving of notice is not possible, or if the opposing parties do not object to the requested ex parte orders.

(Effective 1/1/2005)

H. ATTENDANCE AT HEARINGS (CRC 5.530)

Unless excused by the Court and except as indicated in Rule 2 subdivision (E)(2) of these rules, and subject to the conditions in Rule 1 subdivision (G)(1) regarding minors' attendance at juvenile justice hearings, each party and attorney shall attend each scheduled Juvenile Court hearing.

(1) Minors' Attendance at Juvenile Justice Hearings

Minors shall attend all juvenile justice hearings unless specifically excused by the Court.

Waiver of a minor's presence shall be made only by the Court. A waiver of appearance shall only be for good cause, which shall require extraordinary reasons. If a request is made to excuse the minor's presence on the ground that it shall inconvenience the minor, the Court will make every effort to continue the case to a time certain when the minor can appear without the inconvenience. If a minor is in foster care out of county or out of state, the physical presence of the minor can be excused if the minor appears by videoconference. Failure to appear by videoconference will require the hearing to be continued until either the minor physically appears or appearance by videoconference can be arranged.

(Effective 1/1/2013)

I. SETTLEMENT CONFERENCES

(No Statute) (No Court Rule)

Settlement conferences shall be held prior to every contested hearing, unless expressly deemed unnecessary by the judicial officer setting the contested hearing.

The trial attorneys and all parties shall be present at the settlement conference, unless expressly excused by the Court.

Prior to the calling of the case the parties or their attorneys shall meet in order to determine the issues to be tried and any areas of agreement.

(Effective 7/1/1995)

J. ACCESS TO COURTROOM BY NON-PARTIES (W & I CODES §§ 345, 346, 676)

Unless specifically permitted by statute, Juvenile Court proceedings are confidential and shall not be open to the general public.

Upon a sufficient showing the Court may permit relatives and any-nonrelative extended family members of the child to be present at the hearing and address the Court. The Court shall hear from all parties before granting such permission.

(Effective 1/1/2009)

The Court encourages interested persons including trainees and students to attend juvenile proceedings in order to better understand the workings of the Juvenile Court. The Court retains the discretion to determine in each case whether any such interested party shall remain in the courtroom.

The Court or its agent shall remind each such nonparty that the names of parties and/or identifying information from any case are confidential and shall not be repeated to anyone outside court. Any such person may be required by the Court to sign an acknowledgment and agreement relating to his/her observation of court proceedings.

(Effective 1/1/2008)

K. RELEASE OF INFORMATION RELATING TO JUVENILES

Local Rules related to the review, copying, and use of Juvenile Records are designed to balance the right to access which may be provided by law to a specific individual, with the Court's obligation to protect and apply all applicable privileges and protections to be afforded as determined by the nature of the documents at issue.

(Effective 7/1/2012)

(1) Discovery of Juvenile Documents or Records – Juvenile Justice

Except as indicated within this Rule, any Standing Orders, or as specified in W & I Code §§ 827 and 828 and CRC 5.552, in all cases in which a person or agency seeks access to Juvenile Court documents or records, including documents or records maintained by the Juvenile Court Clerk or the Probation Department, the person or agency shall file a Petition for Disclosure (JV-570) with the Supervising Judge of Juvenile Justice Court. This Rule applies even if no action has been commenced in Juvenile Court under W & I Code §§ 601, or 602. The person or agency seeking the documents or the records shall give notice to all necessary parties (See W&I Code § 827 and JV – 570). The Petition shall set forth with specificity the materials sought and the relevance of the materials to the underlying action. The Petition shall state with specificity the information sought and the relevance to any related legal action, including the specific details of the related legal action. The Petition shall be supported by a declaration of counsel and/or a Petitioner, and if necessary a memorandum of points and authorities.

(Effective 7/1/2012)

Exceptions are as follows:

- a. Persons or Agencies specified in W&I Code § 827(a)(1)(A), (C), (E), (F), (H), (I), (J), (L), (M), (N), (O) [generally the minor, court personnel and select governmental agency personnel], or intervening tribal representatives.

(Effective 7/1/2012)

- i. Inspection of Documents or Records. Documents or records may be inspected without Court authorization.
- ii. Copies of Documents or Records.
 - (a) Persons or Agencies specified in W&I Code § 827(a)(1)(A), (C), (E), (F), (H), and (I): Documents or records may be copied without Court authorization. (b) Persons or Agencies specified in W&I Code §827(a)(1)(J), (L), (M), (N), (O), or intervening tribal representatives: Copies of documents or records may be obtained subject to the approval of the Supervising Judge of the Juvenile Justice Court pursuant to the filing of a W&I Code § 827 Petition (JV-570).
- iii. Dissemination or Use of Documents or Records. A Petition pursuant to W&I Code § 827 is required for dissemination or use of documents or records (JV – 570), and dissemination or use of documents or records shall be in compliance with the Court's order on the W&I Code § 827 Petition. Petitioner shall inspect the Juvenile Court documents or records and temporarily affix a removable tag to each page of the document(s) for which Petitioner seeks a Court order permitting dissemination or use. The W&I Code § 827 Petition (JV – 570) shall include a copy of each document which is the subject of the petition seeking release for dissemination or use, and shall identify with particularity, the content of each page which

is relevant to the petition and the reasons that the content should be released for dissemination or use pursuant to the requirements of CRC 5.552(c) and (e)(6).

(Effective 7/1/2012)

b. District Attorney

i. Inspection of Documents. Documents may be inspected without Court authorization.

(Effective 7/1/2012)

ii. Copies of Documents or Records. Documents or records may be copied without Court authorization.

iii. Dissemination or Use of Documents or Records. A Petition pursuant to W&I Code § 827 is required for dissemination or use of documents or records (JV – 570), and dissemination or use of documents or records shall be in compliance with the Court’s order on the W&I Code § 827 Petition. If the District Attorney is seeking copies of Juvenile Court documents or records for dissemination or use, it shall lodge, at the time of the filing of the W&I Code § 827 Petition (JV – 570), two copies of the Juvenile Court documents or records requested for release in a sealed envelope marked “confidential” with a notation that the copies are lodged for review by the Court in connection with the W&I Code § 827 Petition. Of the two copies, one set shall be the unredacted version of the original documents selected from the Juvenile Court file, unaltered in any fashion. The second set shall be submitted with redaction of all content that is not relevant to the underlying action for which any document is sought, and redaction of all content that may be inappropriate for release. The Petition shall identify with particularity as to each document, the reasons that the document should be released pursuant to the requirements of CRC 5.552(c) and (e)(6).

(Effective 7/1/2012)

iv. District Attorney Obligation Where Petition is Filed by a Party to a Criminal Case. If the District Attorney has informed a party in a criminal case that information relevant to that case may be found in a Juvenile Court record, and the District Attorney is served with a copy of a W&I Code § 827 Petition filed by that party, then not later than ten Court days after service of the petition the District Attorney shall lodge two sets of copies of the relevant documents from the Juvenile Court file with the Court, in the same manner as specified in Rule 1.J(1)(b)(iii) above.

c. Parents/Guardians or School Superintendent, or Minor’s Multi-Disciplinary Team.

(Effective 7/1/2012)

i. Inspection of Non-Confidential Documents or Records. Declaration for Juvenile Court Documents is required (JV-2002). These Petitioners as listed in W&I Code § 827(a)(1)(D),(G), or (K), shall have the right to inspect non-confidential Juvenile Court documents or records after the filing of a Declaration for Juvenile Court Records (Juvenile Justice) (see attached form JV-2002), and Court review.

(a) Copies of Non-Confidential Documents or Records. Copies of non-confidential documents or records may be obtained pursuant to the filing of the JV-2002 for inspection, and after Court review.

(b) Dissemination or Use of Non-Confidential Documents or Records. Dissemination or use of non-confidential Juvenile Court documents or records is subject to the approval of the Supervising Judge of the Juvenile Justice Court pursuant to the filing of a W&I Code § 827 Petition (JV-570), and dissemination or use of documents or records shall be in compliance with the Court’s order on the W&I Code § 827 Petition.

ii. Inspection of Confidential Documents or Records. With respect to documents or records which are maintained as confidential, inspection requires the filing of a W&I Code § 827 Petition (JV – 570) with notice to all parties required. Such confidential documents include, but are not limited to, (1) psychological evaluations; (2) drug treatment assessments and reports; (3) records and reports pertaining to developmental disability and mental health; (4) restraining orders; (5) police reports; (6) medical records; (7) education records; (8) juvenile probation department sexual offender guides; and (9) applications, objections, and/or orders for psychotropic medications.

(a) Copies of Confidential Documents or Records. Copies of confidential documents or records may be obtained subject to the approval of the Supervising Judge of the Juvenile Justice Court pursuant to the filing of a W&I Code § 827 Petition (JV-570).

(Effective 7/1/2012)

(b) Dissemination or Use of Confidential Documents or Records. Dissemination or use of confidential Juvenile Court documents or records is subject to the approval of the Supervising Judge of the Juvenile Justice Court pursuant to the filing of a W&I Code § 827 Petition (JV-570) and shall be in compliance with the Court’s order on the W&I Code § 827 Petition.

d.

(Effective 7/1/2011)

When the Probation Department or County Counsel in Santa Clara County is served with notice of a W&I Code § 827 Petition (JV-570) calling for juvenile case file records, and the Probation Department still maintains records about the juvenile, the Probation Department shall continue to maintain and preserve all such records (1) until five years from the date on which the jurisdiction of the Juvenile Court over the juvenile has terminated, or (2) for a period of 180 calendar days following entry of the Court’s order on the § 827 petition, or until all proceedings on the appeal of any § 827 petition have concluded. The longest period of time, above described, shall govern the preservation of probation files.

- e. In all cases in which a person or agency seeks records held by law enforcement, including police reports regarding children who are the subject of Juvenile Court proceedings, the person or agency shall submit a Petition to obtain report of Law Enforcement Agency/Juvenile (JV – 575) to the Court Clerk’s office.

(Effective 1/1/2011)

- f. Any dissemination of Juvenile Court documents or records is subject to the approval of the Supervising Judge of the Juvenile Justice Court pursuant to the filing of a W&I Code § 827 Petition (JV-570) unless there is previous authorization to release pursuant to a Standing Order or a Local Rule of Court.

(Effective 7/1/2012)

- g. Attorneys or defendants who are involved in a criminal proceeding in Superior Court, Santa Clara County, who seek juvenile documents or records for use in the pending criminal action shall, in addition to filing a W&I Code §827 Petition in the Juvenile Court, concurrently file a Declaration of Filing of Juvenile Court 827 Petition in the criminal case (CR-1000).

(Effective 7/1/2012)

(2) Access to Juvenile Court Legal Files by Sixth District Appellate Program

Attorneys and legal assistants from the Sixth District Appellate Program are hereby granted a right to inspect and copy Juvenile Court files in which an appeal or writ may be taken. The attorneys and legal assistants shall identify themselves to the staff in the Court Clerk’s office, and shall present a Declaration regarding their request using Local Form JV-2002. Any records copied and all information obtained shall be held in strict confidence and shall not be disseminated to anyone not necessary to the litigation without further order of the Juvenile Court.

(Effective 11/5/2015)

The Sixth District Appellate Program shall use the information gained from such files for all legitimate purposes consistent with the services they provide to the Sixth District Court of Appeal, including determining whether a notice of appeal or writ should be filed, determining the selection and recruitment of appointed appellate counsel, and assistance in perfecting appeals and writs.

(Effective 11/5/2015)

A copy of the Declaration shall be filed in the Court file.

(3) Access to Psychological Records By Juvenile Hall Medical Director

The Medical Director of Juvenile Hall or his/her designee shall be provided a copy of all mental health evaluations of minors housed in Juvenile Hall. If the Probation Officer or Supervising Probation Officer finds that the contents of a diagnostic report rendered by the Division of Juvenile Justice are relevant to the duties of the Medical Director, the Medical Director shall also be provided with a copy of that diagnostic report. Such reports and evaluations shall be used exclusively by the medical personnel in Juvenile Hall and shall not be released to any third parties without Court approval.

(Effective 7/1/2008)

(4) Discovery of Juvenile Documents or Records – Juvenile Dependency

(Effective 7/1/2012)

Except as indicated within this Rule, any Standing Orders, or as specified in W&I Code §§ 827 and 828 and CRC 5.552, in all cases in which a person or agency seeks access to Juvenile Court documents or records, including records maintained by the Juvenile Court Clerk or the Department of Family and Children’s Services (“DFCS”), the person or agency shall file a Petition for Disclosure (JV-570) with the Supervising Judge of Juvenile Dependency Court. The person or agency seeking the documents or records shall give notice to all necessary parties (See W&I Code § 827 and JV – 570). The Petition shall set forth with specificity the materials sought and the relevance of the materials to the underlying action. The Petition shall state with specificity the information sought and the relevance to any related legal action, including the specific details of the related legal action. The Petition shall be supported by a declaration of counsel and/or a Petitioner, and if necessary a memorandum of points and authorities.

Exceptions are as follows:

- a. Persons or Agencies specified in W&I Code § 827(a)(1)(A), (E), (F), (H), (I), (J), (L), (M), (N), or (O) [generally court personnel and select governmental agency personnel], or intervening tribal representatives.
- i. Inspection of Documents or Records.
Documents or records may be inspected without Court authorization.
 - ii. Copies of Documents or Records.
 - (a) Persons or Agencies specified in W&I Code § 827(a)(1)(A), (E), (F), (H), (I), and (O): documents or records may be copied without Court authorization.
 - (b) Persons or Agencies specified in W&I Code § 827(a)(1)(J), (L), (M), (N), or intervening tribal representatives: Copies of documents or records may be obtained subject to the approval of the Supervising Judge of the Juvenile Dependency Court pursuant to the filing of a W&I Code §827 Petition (JV-570)
 - iii. Dissemination or Use of Documents or Records. A Petition pursuant to W&I Code §827 is required for dissemination or use of documents or records (JV – 570), and dissemination or use of documents or records shall be in compliance with the Court’s order on the W&I Code § 827 Petition. Petitioner shall inspect the Juvenile Court documents or records and temporarily affix a removable tag to each page of the document(s) for which Petitioner seeks a Court order permitting release. The W&I Code § 827 Petition (JV570) shall identify with particularity, the content of each page which is relevant to the petition and the reasons that the content should be released pursuant to the requirements of CRC 5.552(c) and (e)(6).
- b. District Attorney.

- i. Inspection of Documents or Records. Documents may be inspected without Court authorization.
 - ii. Copies of Documents or Records. Documents or records may be copied without Court authorization.
 - iii. Dissemination or Use of Documents or Records. A Petition pursuant to W&I Code § 827 is required for the dissemination or use of documents or records (JV – 570), and dissemination or use of documents or records shall be in compliance with the Court’s order on the W&I Code § 827 Petition. If the District Attorney is seeking copies of Juvenile Court documents or records for dissemination or use, it shall lodge, at the time of the filing of the W&I Code §827 Petition (JV – 570), two copies of the Juvenile Court documents or records requested for release in a sealed envelope marked “confidential” with a notation that the copies are lodged for review by the Court in connection with the W&I Code § 827 Petition. Of the two copies, one set shall be the unredacted version of the original documents selected from the Juvenile Court file, unaltered in any fashion. The second set shall be submitted with redaction of all content that is not relevant to the underlying action for which any document is sought, and redaction of all content that may be inappropriate for release. The Petition shall identify with particularity as to each document, the reasons that the document should be released pursuant to the requirements of CRC 5.552(c) and (e)(6).
 - iv. District Attorney Obligation Where Petition is Filed by a Party to a Criminal Case. If the District Attorney has informed a party in a criminal case that information relevant to that case may be found in a Juvenile Court record, and the District Attorney is served with a copy of a W&I Code § 827 Petition filed by that party, then not later than ten Court days after service of the petition the District Attorney shall lodge two sets of copies of the relevant documents from the Juvenile Court file with the Court, in the same manner as specified in Rule 1.J(4)(b)(iii) above.
- c. Minor, or Parents/Guardians or School Superintendent, or Minor’s Multi-Disciplinary Team.
- i. Inspection of Non-Confidential Documents or Records. Declaration for Juvenile Court Records required (JV-2002). These Petitioners as listed in W&I Code § 827(a)(1)(C),(D),(G), or (K), shall have the right to inspect non-confidential Juvenile Court documents or records after the filing of a Declaration for Juvenile Court Records (Juvenile Dependency) (see attached form JV-2002), and Court review.
 - (a) Copies of Non-Confidential Documents or Records. Copies of non-confidential documents or records may be obtained pursuant to the filing of the JV-2002 for inspection, and after Court review.
 - (b) Dissemination or Use of Non-Confidential Documents or Records. Dissemination or use of non-confidential Juvenile Court documents or records is subject to the approval of the Supervising Judge of the Juvenile Dependency Court pursuant to the filing of a W&I Code § 827 Petition (JV-570) and shall be in compliance with the Court’s order on the W&I Code §827 Petition (JV – 570).
 - ii. Inspection of Confidential Documents or Records. With respect to documents or records which are maintained as confidential, inspection requires the filing of a W&I Code § 827 Petition (JV – 570) with notice to all parties required. Such confidential documents include, but are not limited to, (1) psychological evaluations; (2) drug treatment assessments and reports; (3) records and reports pertaining to developmental disability and mental health; (4) police reports; (5) medical records; (6) education records; (7) juvenile probation department sexual offender guides; (8) applications, objections, and/or orders for psychotropic medications; (9) criminal records background checks; (10) suspected child abuse reports; and (11) adoption records and/or documents after termination of parental rights.
 - (a) Copies of Confidential Documents or Records. Copies of confidential documents or records may be obtained subject to the approval of the Supervising Judge of the Juvenile Dependency Court pursuant to the filing of a W&I Code § 827 Petition (JV-570).
 - (b) Dissemination or Use of Confidential Documents or Records. Dissemination or use of confidential Juvenile Court documents or records is subject to the approval of the Supervising Judge of the Juvenile Dependency Court pursuant to the filing of a W&I Code § 827 Petition (JV-570) and shall be in compliance with the Court’s order on the W&I Code §827 Petition.
- d. When the DFCS or County Counsel in Santa Clara County is served with notice of a W&I Code §827 Petition (JV-570) calling for juvenile case file records, and the DFCS still maintains records about the juvenile, the DFCS shall continue to maintain and preserve all such records (1) until five years from the date on which the jurisdiction of the Juvenile Court over the juvenile has terminated, or (2) for a period of 180 calendar days following entry of the Court’s order on the § 827 petition, or until all proceedings on the appeal of any § 827 petition have concluded. The longest period of time, above described, shall govern the preservation of files.
- e. In all cases in which a person or agency seeks records held by law enforcement, including police reports regarding children who are the subject of Juvenile Court proceedings, the person or agency shall submit a Petition to Obtain Report of Law Enforcement Agency/Juvenile (JV – 575) to the Court Clerk’s office.
- f. Any dissemination of Juvenile Court documents or records is subject to the approval of the Supervising Judge of the Juvenile Dependency Court pursuant to the filing of a W&I Code § 827 Petition (JV-570) unless there is previous authorization to release pursuant to a Standing Order or a Local Rule of Court.
- g. Attorneys or defendants who are involved in a criminal proceeding in Superior Court, Santa Clara County, who seek juvenile documents or records for use in the pending criminal action shall, in addition to filing a W&I Code § 827 Petition in the Juvenile Court, concurrently file a Declaration of Filing of Juvenile Court 827 Petition in the criminal case (Attachment CR-6082).

(Effective 7/1/2012)

(5) Access to Court Files by Santa Clara County Victim Witness Assistance Center Staff

The Santa Clara County Victim Witness Assistance Center staff shall be permitted to review any Juvenile Court file in which a minor has been committed to the Division of Juvenile Justice and when the minor has a restitution order as a condition of parole. The information gathered from any such review shall be used only with respect to the Victim Witness Assistance Center carrying out its duties with regard to restitution to victims or the State Restitution Fund.

(Effective 7/1/2008)

The staff member asking to review the file shall fill out and present a Declaration regarding his/her request. A copy of the Declaration shall be filed in the Court file.

The party, counsel or investigator shall fill out and present a Declaration regarding the request for records. (See attached form JV-2002.) A copy of the Declaration shall be filed in the Court file.

(Effective 7/1/2008)

L. RELEASE OF INFORMATION RELATING TO JUVENILES BY LAW ENFORCEMENT

Pursuant to the cases of T.N.G. v. Superior Court, 4 Cal.3d 767, and Westcott v. County of Yuba, 104 C.A.3d 103, this rule applies to all law enforcement agencies and officials in Santa Clara County:

(1) Identity of Juvenile

Do not release your arrest reports or other information in regard to the identity of individual juveniles under the age of 18 years who are the subject of Juvenile Court proceedings to the press or other media or to any persons or public agency except as set forth in Rule 1 subdivision (L)(2) of these rules (immediately below).

(Effective 7/1/2015)

(2) Information Re Incident

You may release the police report or information in regard to the incident, with exceptions noted, to:

- a. The minor, if he is representing himself in a Juvenile Court proceeding, or to his attorney pursuant to the standing Juvenile Court discovery order.
- b. The District Attorney of Santa Clara County.
- c. The law enforcement agency of minor's residence.
- d. Other law enforcement agencies who require it for crime investigation or reporting purposes.
- e. The Santa Clara County Probation Department.
- f. Court personnel.
- g. The Santa Clara County Department of Family and Children's Services.
- h. The parents or legal guardian of the minor, unless there is a reference to another minor in the reports. In that situation, the request must be approved by the Juvenile Court.
- i. The school attended by the minor.
- j. Victims of juvenile crime. They may be given the names and addresses of the persons mentioned in the report, without reference to the status of any minors. The release of further information must be approved by the Juvenile Court.
- k. Hospitals, schools, camps, Job Corps or placement agencies which require the information for the placement, treatment or rehabilitation of the minor.
- l. The persons entitled thereto under Vehicle Code Sections 20008-20012.
- m. Any coroner or medical examiner.
- n. The name of a minor 14 years of age or older taken into custody for the commission of a serious felony as defined by subdivision (c) of Section 1192.7 of the Penal Code, and the offenses allegedly committed may be released at the request of any interested party if a hearing has commenced that is based upon a petition that alleges that the minor is a person within the description of Section 602. (Welfare and Institutions Code section 827.5.)

(3) Commission of Felony

After your department received notice of the disposition of the case, if the minor was found by the Court to have committed a felony, you may send the usual information to the CII, FBI or other police agencies within California, but to no other persons or agencies (except as otherwise authorized herein).

(4) Contents of Reports

Note that the order does not prohibit release of information by law enforcement agencies about crimes or the contents of arrest reports, except insofar as they disclose the identity of the juvenile subject of Juvenile Court proceedings.

(5) Coroner's Reports

This order does not apply to Coroner's reports.

(Effective 7/1/1995)

M. AUTHORIZATION FOR USE OF PSYCHOTROPIC DRUGS

If a child is adjudged a dependent child of the Court under W & I Code § 300 and the child has been removed from the physical custody of the parent under W & I Code § 361, or if a child is adjudged to be a ward of the Court on the basis that he or she is a person described in W & I Code § 602 and is removed from the physical custody of the parent and placed in foster care as defined in W & I Code § 727.4, only a Juvenile Court judicial officer shall have the authority to make orders regarding the administration of psychotropic medications for the minor. The Juvenile Court judicial officer may issue a specific order delegating this authority to a parent upon appropriate

findings. Court authorization for the administration of psychotropic medication shall be based on a request from a physician in compliance with W & I Codes §§ 369.5 and 739.5.

(Effective 7/1/2010)

Pursuant to CRC 5.640(h), in all cases concerning the administration of psychotropic medications for a child declared a ward of the Court under W & I Code § 602 and removed from the custody of the parent or guardian for placement in a facility that is not considered a foster care placement, the parent or guardian shall continue to have the authority to authorize the administration of psychotropic medications. However, if the parent or guardian is unwilling or unable to make decisions concerning the administration of psychotropic medications, the decision shall be made by Juvenile Court judicial officers and the procedures outlined in W & I Code § 739.5 and Judicial Council forms JV 219 through 223 shall be utilized.

(Effective 1/1/2010)

In all cases where a minor is in custody in Santa Clara County before wardship, the parent or guardian shall continue to have the authority to authorize the administration of psychotropic medications. However, if the parent or guardian is unwilling or unable to make decisions concerning the administration of psychotropic medications, in accordance with the Juvenile Court judicial officer's duty to review, order, and enforce the delivery of services and to secure for the minor the care and discipline as nearly as possible equivalent to that which should have been given by his or her parents consistent with his or her best interest, the decision shall be made by the Juvenile Court judicial officers. See W&I Code § 202 and Standards of Judicial Administration, Standard 24 (e)(3). The procedures outlined in W & I Code § 739.5 and Judicial Council forms JV 219 through 223 shall be utilized.

(Effective 1/1/2010)

a. **INITIATION OR CHANGES IN MEDICATION**

The Court finds that immediate and special mental health intervention may be necessary for disturbed, psychotic, depressed or suicidal minors who are impacted by the unusual life situations and the stress of institutional placements. Accordingly, the administering psychiatrist shall have the discretion to initiate the use of psychotropic drugs as provided by CRC 5.640(g) while attempting to obtain parental or guardian consent or Court authorization if, after weighing the risks and benefits of such medication, the psychiatrist concludes there is no significant risk of irreversible side effects. However, in all cases where consent from a parent or guardian has not been obtained or the Court has retained the right to make the decision, the administering psychiatrist shall approach the Court as soon as possible but never more than two court days after administering the psychotropic medication, utilizing the procedure to obtain authorization set forth in CRC 5.640 (c).

(Effective 1/1/2010)

If the administering psychiatrist learns that the parent, guardian or attorney for the child objects to the utilization of such drugs, the matter shall be set for hearing before a Juvenile Court judicial officer on an expedited basis.

(Effective 1/1/2010)

b. The psychotropic medication authorization by the Juvenile Court shall be reviewed by the Juvenile Court judicial officer to determine that it is still necessary and proper unless the Court has previously delegated authority to the parents for the administration of psychotropic medications. If any party objects to the continued use of the medication, the Juvenile Court judicial officer shall set it for a hearing on an expedited basis. Further, pursuant to CRC 5.640(f), any order for authorization by the Court is effective until terminated or modified by the Court, or until 180 calendar days from the order, whichever is earlier.

(Effective 1/1/2009)

c. **CONTINUATION OF MEDICATION UPON CHANGE IN PLACEMENT**

Whenever a dependent child of the Court, or minor in placement at the Children's Shelter, is moved to a new placement or to a facility pursuant to W & I Code § 5000, et seq., and the child is receiving prescribed medication, the medical or other supervisor at the new placement may continue to administer that medication under supervision of the medical staff or the child's physician. No further order of the Court is required and the child's medication is not to be abruptly discontinued for lack of such an order.

d. This rule does not override any inherent authority a physician may have to provide treatment and care in emergency situations. (Cal. Code Regs., Title 9, § 853.)

N. LINE-UPS

No minor who is detained in any County facility (Juvenile Hall, Juvenile Rehabilitation Facility or Children's Shelter) in Santa Clara County or who has a pending court hearing shall participate in any line-up conducted by law enforcement or probation without Court authorization. Authorization shall be sought by noticed motion before the Supervising Judge of the Juvenile Justice calendar if the minor is pending a juvenile justice matter, or before the Supervising Judge of the dependency calendar if the minor is pending a dependency matter. All parties shall receive notice of any such motion.

(Effective 1/1/2010)

O. EDUCATIONAL RIGHTS IN JUVENILE COURT

(1) At every hearing in Dependency and Juvenile Justice Court, including detention, jurisdiction, and disposition hearings, as well as all review hearings, the Court, to the extent that information is available, must consider who holds the educational rights of the minor and whether the parent or guardian's educational rights should be limited, and whether the Court shall reserve those rights, appoint a responsible adult, or appoint an educational representative.

(Effective 1/1/2010)

P. INSPECTION OF LAW ENFORCEMENT LOCK-UPS

Pursuant to Welfare and Institutions Code section 209 the Juvenile Justice Commission shall conduct an annual inspection of all law enforcement facilities in Santa Clara County which contain a lockup for adults which, in the preceding year, was used for the secure detention of any minor.

The results of each inspection shall be presented in writing to the Presiding Judge of the Juvenile Court or the Supervising Judge of the Juvenile Justice Court during the calendar year.

(Effective 1/1/2010)

Q. LOCAL RULES RELATING TO CHILD AND YOUTH ADVOCATES

(Effective 7/1/2014)

(1) The Advocate Programs

The Juvenile Court may appoint child and youth advocates to represent the interests of dependent and juvenile justice youth. In order to qualify for appointment the child advocate for dependent youth must be trained by and function under the auspices of a Court appointed special advocate program, formed and operating under the guidelines established by the California Judicial Council (W & I 356.5), and to qualify for appointment for Juvenile Justice youth, the advocate must be trained by and function under the Court Appointed Friends and Advocates Program (CAFA), pursuant to a Memorandum of Understanding between the CAFA organization and the Juvenile Court.

(Effective 7/1/2014)

The advocate programs shall report regularly to the Presiding Judge of the Juvenile Court with evidence that they are operating under the guidelines established by the National Court Appointed Special Advocate Association and the California State Guidelines for Child Advocates or the Memorandum of Understanding with the CAFA program.

(Effective 7/1/2014)

(2) Child or Youth Advocates**a. Advocates' Functions**

(Effective 7/1/2014)

Advocates serve at the pleasure of the Court having jurisdiction over the proceeding in which the advocate has been appointed.

In general, an advocate's functions are as follows:

(Effective 7/1/2014)

- i. to support the child or youth throughout the Court proceedings;
- ii. to establish a relationship with the child or youth to better understand his or her particular needs and desires;
- iii. to communicate the child's or youth's needs and desires to the Court in written reports and recommendations;
- iv. to identify and explore potential resources which will facilitate early family reunification or alternative permanency planning;
- v. to provide continuous attention to the child's or youth's situation to ensure that the Court's plans for the child or youth are being implemented;
- vi. to the fullest extent possible, to communicate and coordinate efforts with the case manager (probation officer/social worker);
- vii. to the fullest extent possible, to communicate and coordinate efforts with the child's or youth's attorneys; and

(Effective 7/1/2014)

- viii. to investigate the interests of the child or youth in other judicial or administrative proceedings outside Juvenile Court; report to the Juvenile Court concerning same; and, with the approval of the Court, offer his/her services on behalf of the child or youth to such other courts or tribunals.

(Effective 7/1/2014)

b. Sworn Officer of the Court

An advocate is an officer of the Court and is bound by these rules. Each advocate shall be sworn in by a Superior Court Judge/Referee/Commissioner before beginning his/her duties, and shall subscribe to the written oath set forth in attached form JV-2003 or JV2030.

(Effective 7/1/2014)

c. Specific Duties

The Court shall, in its initial order of appointment, and thereafter subsequent order as appropriate, specifically delineate the advocate's duties in each case, which may include independent investigation of the circumstances of the case, interviewing and observing the child/youth and other appropriate individuals, reviewing appropriate records and reports, consideration of visitation rights for the child's or youth's grandparents and other relatives, and reporting back directly to the Court as indicated. If no specific duties are outlined by Court order, the advocate shall discharge his/her obligation to the child or youth and the Court in accordance with the general duties set forth in these rules.

(Effective 7/1/2014)

d. Procedures in Juvenile Justice Cases

(Effective 1/1/2010)

- i. A request for appointment of a youth advocate in a juvenile justice case may be made orally or in writing in open court or ex parte by the probation officer or any party to the case, or by the Court on its own motion. In the case of a dual status,

youth who already has a CASA advocate who wants to continue in Juvenile Justice, the Court will sign a new JV-2005. In all other cases, the Court will order the case to be referred to the CAFA program for screening.

(Effective 7/1/2014)

- ii. When CAFA receives a referral, it shall screen it, and if it determines that the minor is a suitable subject for the appointment of a youth advocate and if there is a suitable CAFA available for appointment, the Court shall swear in the CAFA, (see attached form JV-2030) and sign the Order Appointing the Court Appointed Friend and Advocate (see attached form JV-2031).

(Effective 7/1/2014)

- iii. Any party to the proceeding may petition the Court for a hearing to reconsider the appointment.

(Effective 7/1/2014)

- iv. A youth advocate may petition the Court to set the minor's case for a review hearing. (See attached form JV-2009.)

(Effective 7/1/2014)

- v. The youth advocate serves at the pleasure of the Court, and the appointment of the youth advocate may be terminated by the Court. Any party or the Director of the Youth Advocate Program may file a motion for termination of a youth advocate. The Court will determine whether there will be a hearing on such a motion.
- vi. Any youth advocate with a grievance concerning termination may petition the Court for a hearing. Such petition shall include facts indicating that the youth advocate has exhausted all remedies available to him or her within the youth advocate program. The Court will determine whether there shall be a hearing on such a petition.

(Effective 7/1/2014)

e. Procedures in Dependency Cases (W & I Code § 300)

- i. A request for appointment of a child advocate in a dependency case may be made orally or in writing in open court or ex parte by the social worker, any party to the case or by the Court on its own motion. Unless there is opposition, the referral shall be forwarded to the child advocate office for screening and assignment.

(Effective 7/1/2008)

- ii. When an appropriate child advocate has been identified, that person's name shall be submitted to the Court for appointment. (See attached form JV-2007.)
- iii. Any party to the case may petition the court for a hearing to reconsider the appointment.
- iv. The child advocate serves at the pleasure of the Court, and the appointment of the child advocate may be terminated by the Court. Any party or the Director of the Child Advocate Program may file a motion for termination of a child advocate. The Court will determine whether there will be a hearing on such a motion. (See attached form JV2006.)

(Effective 7/1/2008)

- v. Any child advocate with a grievance concerning termination may petition the Court for a hearing. Such petition shall include facts indicating that the child advocate has exhausted all remedies available to him or her within the Child Advocate program. The Court will determine whether there shall be a hearing on such a petition.

(3) Release of Information to Advocate

a. To Accomplish Appointment

To accomplish the appointment of an advocate, the Judge/Referee/Commissioner making the appointment shall sign an order granting the advocate the authority to review specific relevant documents. In addition, the advocate will have the authority to interview parties involved in the case, and other persons having significant information relating to the child or youth. The advocate shall have the same authority as any other officer appointed to investigate proceedings on behalf of the Court.

(Effective 7/1/2014)

b. Access to Records

An advocate shall have the same legal right to records relating to the child or youth he/she is appointed to represent as any case manager (social worker or probation officer) with regard to records pertaining to the child or youth held by any agency, school, organization, division or department of the State, physician, surgeon, nurse, other health care provider, psychologist, psychiatrist, mental health provider or law enforcement agency. The advocate shall present his or her identification as a Court-appointed advocate to any such record holder in support of his/her request for access to specific records. No consent from the parent or guardian is necessary for the advocate to have access to any records relating to the child or youth.

(Effective 7/1/2014)

c. Report of Child Abuse

An advocate is a mandated child abuse reporter with respect to the case to which he/she is appointed.

(Effective 7/1/2014)

d. Communication

There shall be ongoing, regular communication concerning the child's or youth's best interests, current status, and significant case developments maintained among the advocate, case manager, child's or youth's attorney, attorneys for parents, relatives, foster parents and any therapist for the child or youth.

(Effective 7/1/2014)

(4) Right to Timely Notice

In any motion concerning the child or youth for whom the advocate has been appointed, the moving party shall provide the advocate timely notice.

(Effective 7/1/2014)

(5) Calendar Priority

In light of the fact that advocates are rendering a volunteer service to children, youth and the Court, matters on which they appear should be granted priority on the Court's calendar, whenever possible.

(Effective 7/1/2014)

(6) Visitation Throughout Dependency

Child Advocates shall have the right to regular unsupervised contact with the child. An advocate shall visit the child regularly until the child is secure in a permanent placement. Thereafter, the advocate shall monitor the case as appropriate until dependency is dismissed.

(Effective 1/1/2005)

(7) Family Law Advocacy

Should the Juvenile Court dismiss dependency and create family law orders pursuant to W & I Code Section 362.4, the advocate's appointment may be continued in the family law proceeding, in which case the Juvenile Court order shall set forth the nature, extent and duration of the advocate's duties in the family law proceeding.

(8) Right to Appear

An advocate shall have the right to be present and be heard at all Court hearings, and shall not be subject to exclusion by virtue of the fact that he/she may be called to testify at some point in the proceedings. An advocate shall not be deemed to be a "party", as described in Title 3 of Part II of the Code of Civil Procedure. However, the Court, in its discretion, shall have the authority to grant the advocate amicus curiae status, which includes the right to appear with counsel.

(Effective 7/1/1996)

R. LOCAL RULES RELATING TO THE USE OF WAIVER FORM IN JUVENILE JUSTICE COURT

At every hearing in Juvenile Justice Court when the minor wishes to enter an admission or no contest plea to one or more counts in a Petition, the minor and minor's attorney shall use and present to the Court Juvenile Attachment JV-2032 at the time of entering the admission.

(Effective 7/1/2015)

RULE 2 RULES RELATING TO DEPENDENCY

A. DE FACTO PARENTS/RELATIONS/INTERESTED PERSONS

(1) De Facto Parents

Upon a sufficient showing the Court may recognize the child's present or previous custodians as de facto parents and grant standing to participate as parties in dispositional hearings and any hearings thereafter at which the status of the dependent child is at issue. The person seeking de facto parent status shall file a noticed motion before the Court setting out the reasons in support of the motion, unless the Court shall for good cause permit an oral motion to be made. (Judicial Council Form JV-295-298).

(Effective 1/1/2005)

The de facto parent shall have the rights outlined in CRC 5.534(e). The de facto parent shall be able to have access to and inspect and copy only those juvenile Court records authorized by the Court.

(Effective 7/1/2008)

B. MOTION TO CHALLENGE LEGAL SUFFICIENCY OF PETITION

In any dependency proceeding the Court may entertain a pre-hearing challenge to the petition's sufficiency by a motion akin to a demurrer. Such a motion may be made in writing or orally, but must be made as early in the proceedings as possible.

The Court may rule on the motion at the hearing at which it is made, or may continue the hearing on the motion to another date in order to receive points and authorities from counsel.

If the Court sustains the motion, the Court may grant leave to amend the pleading in the petition upon any terms as may be just and shall fix the time within which the amendment or amended petition shall be filed within the statutory time for the hearing on jurisdiction.

In re Fred J. (1979) 89 Cal.App.3d 168 CCP 472(a).

(Effective 1/1/1995)

C. PRESENTATION OF EVIDENCE

(1) Offers of Proof

The party presenting evidence may utilize an offer of proof with regard to any witness. Other parties shall have an opportunity to examine the witness after any offer of proof is made.

D. REPRESENTATION OF PARTIES (W&IC Codes §§ 317, 317.6, CRC 5.660)

(Effective 7/1/2008)

(1) Experience, Training and Education of Attorneys

a. General Competency Requirement

All court-appointed attorneys appearing in juvenile dependency proceedings must meet the minimum standards of competence set forth in these rules.

b. Standards of Education and Training

i. Each court-appointed attorney appearing in a dependency matter before the Juvenile Court shall complete the following minimum training and educational requirements.

- The attorney shall have either:

Participated in at least 36 hours of training and education in juvenile dependency law and practice, which training shall have included comprehensive information on sections 202, 213.5, 214, 241.1, 281.5, 300 et seq.; Family Code sections 7900 et seq. (Interstate Compact), and sections 7600 et seq. (Uniform Parentage Act); Education Code sections 5000 et seq. (Special Education Programs); 8 United States Code (USC) section 1101 (Special Immigrant Status for Undocumented Dependent Children), 25 USC sections 1901 et seq. (Indian Child Welfare Act), 28 USC section 1738 (Parental Kidnapping Prevention Act), and 42 USC section 620 et seq. and 670 et seq. (Adoption and Safe Families Act); the California Rules of Court, the rules of evidence as set forth in the California Evidence Code, and the applicable case law as well as practical training on Judicial Council forms, motions, writs and mediation, family group conferencing, team decision making, the Family to Family initiative, domestic violence projects (the Greenbook Project, for example), child development, child abuse and neglect, family reunification and preservation, restraining orders, rights of de facto parents, reasonable efforts, or

(Effective 1/1/2005)

At least six months of experience within the last 12 months in dependency proceedings in another county in which the attorney has had primary responsibility for representation of his or her clients in said proceedings. In determining whether the attorney has demonstrated competence, the Court shall consider whether the attorney's performance has substantially complied with the requirements of these rules.

(Effective 1/1/2005)

- ii. Each court-appointed attorney who practices before the Juvenile Dependency Court shall complete within every 1 year period at least 12 hours of continuing education related to dependency proceedings. Evidence of completion of the required number of hours of training or education shall be retained by the attorney and may include a copy of a certificate of attendance issued by a California MCLE provider or a certificate of attendance issued by a professional organization which provides training and/or education for its members, whether or not it is a MCLE provider. Attendance at a Court sponsored or approved program will also fulfill this requirement.

(Effective 1/1/2005)

- iii. The attorney's continuing training or education shall be in the areas set forth in subdivision i of this rule (immediately above).
- iv. To enhance the practice of law before the Juvenile Dependency Court of this County, and to recognize the unique qualities of juvenile dependency law, a standing committee of the Juvenile Court shall review and recommend modifications to these rules in the areas of training, education and standards of representation.

c. Standards of Representation

All court-appointed attorneys appearing in dependency proceedings shall meet the following minimum standards of representation:

- i. Attorneys are expected to meet regularly with clients, including clients who are children, to contact social workers and other professionals associated with the client's case, to work with other counsel and the Court to resolve disputed aspects of a case without hearing, and to adhere to the mandated time lines.
- ii. If the client is a child, the attorney or attorney's agent should have contact with the client prior to each hearing. The attorney or attorney's agent shall interview all children 4 years of age or older in person unless it is impracticable. Whenever possible, the child shall be interviewed at the child's placement. The attorney or attorney's agent should also interview the child's caretaker, particularly when the child is under four years of age.
- iii. If the client is not the child, the attorney or attorney's agent shall interview the client at least once prior to the jurisdictional hearing unless that client is unavailable. Thereafter, the attorney or the attorney's agent shall contact the client at least once prior to each hearing unless that client is unavailable.

- d. Pursuant to WIC 903.l, a parent/guardian or person responsible for support of a minor is liable for the costs of appointed counsel for a parent/guardian and minor in Dependency Court. For each matter before the Court the parent/guardian shall fill out the Acknowledgement re Right to Counsel form (JV-2022). If applicable, the parent/guardian shall also fill out the Advisement and Waiver of Right to Counsel (JV-2023). At a financial hearing, the judge shall assess the repayment amount after a review of the Financial Declaration (JV-2020). An Order on Assessment and Repayment of Attorney Fees (JV-2021) shall be prepared and served on the responsible party and appointed counsel at the conclusion of a financial hearing.

(Effective 7/1/2012)

(2) Complaints

- a. Any party to a juvenile proceeding may lodge a written complaint with the Court concerning the performance of his/her appointed attorney in a Juvenile Court proceeding as follows:
 - i. Complaints or questions shall initially be referred to that attorney's supervisor within the agency, association or law firm appointed to represent the client.

If the issue remains unresolved or if there is no designated agency, association or law firm, the party may submit a written complaint to the Court in which the matter is pending. The Court shall within ten (10) days conduct its own review of the complaint or question. That review may include a hearing in chambers. The Court may take any appropriate action required, including relieving counsel and appointing new counsel and/or holding a formal hearing on the matter.

- b. In the case of a complaint concerning the performance of an attorney appointed to represent a minor, the complaint may be lodged by the child or on the child's behalf by the social worker, a caretaker, a relative, a foster parent, or a child advocate.

(3) Informing the Court of the Interest of the Child

At any time during the pendency of a dependency proceeding, any interested person may notify the Court that the minor who is the subject of the proceeding may have an interest or right that needs to be protected or pursued.

a.

(Effective 7/1/2008)

This may be done by filing a petition to modify a previous order, under W & I Code § 388 (JV-180). The petition shall set forth the nature of the interest or right to be protected and the action on the child's behalf that is being requested.

- b. If counsel for the child becomes aware that the child may have a right or interest that needs to be protected or pursued in another judicial or administrative forum, counsel for the child shall notify the Court in the manner indicated above as soon as it is reasonably possible to do so.
- c. The Court upon receiving such notification may make any orders that are appropriate to protect the rights of the child, including, but not limited to:
 - i. Determining if the child's attorney is willing and able to pursue the matter on the child's behalf. If the Court finds that the child's attorney is willing and qualified to initiate and pursue appropriate action, it may make any orders necessary to facilitate this representation;
 - ii. Appoint counsel for the child specializing in the practice before the agency or Court in which the proceeding will occur;
 - iii. Appoint a guardian ad litem for the child to initiate or pursue the proposed action;
 - iv. Join an administrative agency to the Juvenile Court proceedings pursuant to Welfare and Institutions Code section 362;
 - v. Take any other action to protect the interests and rights of the child.
- d. The person filing the Welfare and Institutions Code section 388 petition or an Application for Order and Order re Interest of the Child shall serve a copy of the notice on each of the parties or their attorneys, the child advocate and others as prescribed by law. Notice may be dispensed with upon Order of the Court.

(Effective 7/1/1996)

E. ACCESS TO MINORS PETITIONED PURSUANT TO WELFARE AND INSTITUTIONS SECTION 300

No party or attorney (other than the social worker) in a dependency proceeding shall interview the minor about the events relating to the allegations in the petition(s) on file without permission of the minor's attorney or Court order.

(Effective 1/1/2005)

No party or attorney in a dependency proceeding shall cause the minor to undergo a physical, medical or mental health examination or evaluation except as authorized by law.

(Effective 1/1/2005)

The Court shall make the selection of the person to perform any such examination. Each party shall have the right to notice and to be heard on the person to be selected.

(1) Interviewing Minors Who Are Alleged Victims Of Child Abuse

All dependency investigators in the Probation Department and the Department of Family and Children's Services, all attorneys representing parties in a dependency case in which child abuse has been alleged and other participants in the case, including a child advocate, shall attempt to minimize the number of interviews they take of the minor relating to the events surrounding the alleged abuse. To this end anyone wishing to learn facts about the alleged incident shall first review the comprehensive interview taken by the investigating officer.

(2) Presence of Child in Court

All children are entitled to attend Court hearings. Every child 4 years or older shall be told of his or her right to attend Court hearings by the investigating/supervising social worker and attorney for the child.

(Effective 1/1/2005)

All children are entitled and encouraged to come to Court. However, their appearance may be excused for any of the following reasons:

- a. the minor's attorney waives the minor's appearance;
- b. the minor chooses not to attend;
- c. the minor is excused by the Court;
- d. the child is hospitalized or physically unable to attend.

If the child is present, the judicial officer hearing the case may view and speak with the child.

(Effective 1/1/2005)

(3) Notice re Change in Placement

In order to ensure that proper notice is received by attorneys for parents and children of any change in a child's placement after the original dispositional hearing:

- a. In non-emergency situations, the Department shall give notice at least 5 working days prior to the change in placement.
- b.

(Effective 1/1/2005)

Prior to removal of a child from one county to another, the Department shall provide notice at least 14 calendar days unless emergency circumstances prevent such notice.

c.

(Effective 1/1/2005)

In emergency circumstances the Department shall give notice immediately following the child's change in placement.

d. Notice may be given in writing or orally and by telephone.

(Effective 1/1/1995)

F. CREATION OF A FAMILY COURT ORDER IN JUVENILE COURT

(1) Petition for Dismissal

Whenever any interested party believes that Juvenile Court intervention on behalf of a child is no longer necessary, application may be made to the Juvenile Court pursuant to Welfare and Institutions Code Section 388 or at any regularly scheduled hearing to have the case dismissed.

(Effective 7/1/2012)

(2) Juvenile Court Custodial Order

If the Juvenile Court determines that jurisdiction of the Juvenile Court is no longer necessary for the protection of the child, the Court may create a custodial order on Judicial Council Form JV-200 consistent with the needs of the child and thereafter dismiss the juvenile petition and case (Welfare & Institutions Code Section 361.2, 362.4). Any party may object to the proposed dismissal and be heard on the issues.

(Effective 1/1/2005)

Requests to modify the juvenile custody order within one year of the dismissal of the juvenile petition and the issuance of the custodial order on Judicial Council Form JV-200, shall be returned to the issuing juvenile judge for hearing to ensure there is a significant change in circumstances to warrant modification of that order as set forth in Welfare and Institutions Code § 302(d). The juvenile judge shall sit as a family judge for purposes of hearing the motions regarding modification of custody and/or visitation. Thereafter, any future litigation relating to the custody, visitation and control of the child shall be heard in the Family Court.

(Effective 7/1/2012)

(3) Maintenance of Orders in Court Files

a. Juvenile Court

The original Court order shall be filed in the Family Court or civil file and endorsed copies shall be filed in the Juvenile Court file. A copy of the endorsed-filed order shall be mailed to the attorneys and parties.

b. Superior Court

If no Court file exists in the Family Court or other Superior Court division or in any other jurisdiction, the Court Clerk shall create a file under the names of the child's parents. The file shall contain a copy of the Juvenile Court order. There shall be no filing fee.

Welfare and Institutions Code section 362.4.

(Effective 1/1/2004)

G. GUARDIANS AD LITEM

(1) For Parents

a. The Court shall appoint a guardian ad litem to represent any incompetent parent or guardian whose child is before the Juvenile Court pursuant to a dependency petition (W & I 300 et seq.). The determination of incompetency may be made by the Court at any time in the proceeding based upon evidence received from any interested party.

b.

(Effective 1/1/2005)

The parent or guardian must be present in Court for the informal closed proceeding, and the Court must explain the proceeding to the parent or guardian in plain language. If the Court finds by a preponderance of the evidence that the parent or guardian does not understand the nature of consequences of the proceeding, or that the parent or guardian cannot assist their attorney in the preparation of their case, then the Court shall appoint a guardian ad litem.

c. The guardian ad litem's role is to protect the rights of the ward. He or she has the right to control the litigation on behalf of the ward. Among the guardian's powers are the right to compromise or settle the action, to control the procedural steps incident to the conduct of the litigation, and, with the approval of the Court, to make stipulations or concessions that are binding on the ward, provided they are not prejudicial to the ward's interests. The guardian ad litem's role is more than an attorney's but less than a party's. The guardian ad litem may make tactical and even fundamental decisions affecting the litigation, but always with the interest of the ward in mind. However, the guardian may not compromise fundamental rights, including the right to trial, without some countervailing and significant benefit.

(Effective 7/1/2008)

(2) Notice to Guardians ad Litem, Access to Records, Right to Appear

a. In all proceedings the guardian ad litem shall be given the same notice as any party.

b. The guardian ad litem shall have the same access to all records relating to the case as would any party.

c. The guardian ad litem shall have the right to appear at all hearings.

(Effective 7/1/1996)

H. PARENTAL VISITATION

(1) Visitation Before Detention Hearing

- a. Any child taken into temporary custody shall have supervised visitation with one or both parents or guardians before the detention hearing takes place unless the social worker has a reasonable belief that the child or his or her temporary custodian would be endangered by the disclosure of the child's exact whereabouts or that the disclosure would cause the custody of the child to be disturbed (W & I 308).

b.

(Effective 1/1/2005)

Whenever a child is taken into temporary custody, the social worker shall inform the parent or guardian of the child's condition and his or her general location and offer supervised visitation pursuant to subdivision a. (immediately above).

- c. Immediately after a child is taken into temporary custody the social worker shall ensure that the child has regular telephone contact with his or her parent pursuant to Welfare and Institutions Code section 308, unless that contact would be detrimental to the child.
- d. If the social worker fails to follow the procedures listed in subdivision a. (immediately above), he or she shall note the reasons therefore in the papers prepared for the detention hearing.

(Effective 1/1/2005)

(2) Visitation After Detention Hearing

- a. The determination of the right to visitation, the length of any visitation, whether any visitation will be supervised, and the frequency of visitation are a part of the judicial function and must be made by the Court. The implementation and administration of the Court's order, however may be delegated to the social worker. These ministerial tasks that may be delegated to the social worker include the time, place and manner of visitation. The Court may also delegate discretion to the social worker to increase the frequency and duration of the visits, and to permit unsupervised visits (sometimes with the explicit condition that the attorney for the minor be given notice). The Court's order cannot, however, delegate to the social worker, the child's therapist, or other person unlimited discretion to determine whether visitation shall occur.

(Effective 1/1/2005)

- b. Absent exigent circumstances indicating detriment to the child, only the Court may reduce visits for a parent. Juvenile Court visitation orders may be modified by an application for modification pursuant to Welfare and Institutions Code section 388 or by Application and Order, or by motion of a party at a regularly scheduled review hearing.

(Effective 1/1/2005)

- c. Visitation should be as frequent as possible, consistent with the well-being of the child.

(Effective 1/1/2005)

I. JUDICIALLY SUPERVISED SETTLEMENT CONFERENCES AND LONG CAUSE TRIALS

- (1) Where the Court has set a date for a judicially supervised settlement conference or a long cause trial, the child's attorney shall interview the child, make an assessment of all relevant circumstances and determine whether the child will be called as a witness. The child's attorney must advise the Court and the parties whether the child will be a witness no later than 2 court days before the date of the judicially supervised settlement conference or long cause trial.
- (2) If the child is 10 years of age or older, the child's attorney must inform the child of the date of the judicially supervised settlement conference or long cause trial and of the child's right to attend the proceedings.
- (3) If DFCS has changed any of its recommendations since it last provided the Court and parties with its recommendations, the DFCS must provide the Court and the parties with notice of its revised recommendations no later than 3 court days prior to the date of the judicially supervised settlement conference or long cause trial. The Court may waive this notice requirement upon a showing of good cause or agreement of the parties.
- (4) Counsel, parties and persons with full authority to settle the case must personally attend the judicially supervised settlement conference and long cause trial. The child is encouraged to attend, but the child's attendance is not required.

(Effective 7/1/2010)

J. DEPENDENCY MEDIATION

- (1) The Court, pursuant to Welfare and Institutions Code section 350 and at any stage of the dependency court process, upon the request of any person who the Court deems to have a direct and legitimate interest in the particular case or on the Court's own motion, will order all parties and counsel to participate in confidential mediation in an attempt to resolve jurisdictional and/or dispositional issues in dispute, or case related problems, and to develop a related plan that is in the best interests of the child.

(Effective 1/1/2013)

- (2) Dependency Mediators shall be either California Licensed Marriage and Family Therapists, Licensed Clinical Social Workers, or Licensed Psychologists employed by Santa Clara County Family Court Services who meet the training and experience requirements included within the current Santa Clara County Dependency Mediation Protocol & Dependency Mediation Domestic Violence Protocol, CRC 5.518, Court-connected dependency mediation.

(Effective 7/1/2008)

- (3) Calendaring and Referral.

- a. The Court will calendar appointments for cases ordered to mediation with the Dependency Mediation Program, whenever possible scheduling cases expected to require extensive attorney participation for afternoon appointments and cases expected to require less attorney participation for morning appointments. The Court will, at the time of Calendaring, attempt to identify all the individuals whose participation in mediation may be helpful in resolving the case so that their participation may be either ordered or invited as appropriate.

b. The Court, will distribute Juvenile Dependency Court Mediation brochures to the parties at the time of referral.

c.

(Effective 1/1/2013)

The Court will complete the Dependency Mediation Referral form at the time of calendaring and referral, identifying the participants and issues referred to mediation. The Court will also indicate on that form whether domestic violence has ever been an issue in the case. The Court will also determine whether a Domestic Violence Protective Order is in effect, and if so, forward a copy of said order to the Dependency Mediation Program along with the referral. The Dependency Mediation brochure will include the procedural rights of domestic violence victims.

d. The Court will review the Court file and forward to the Dependency Mediation Program background information on the case in the form of copies of reports and documents related to child abuse and/or neglect and any history of domestic violence to assist the mediators in preparing for the case.

(4) The parties, assigned Department of Family and Children's Services social workers, all assigned counsel, and any Court Appointed Special Advocates must attend all scheduled mediation appointments. The subject child has a right to participate in the dependency mediation process accompanied by his or her attorney unless the child makes an informed choice not to participate.

(Effective 1/1/2005)

a. Failure to attend mediation by the mandated participants may result in the imposition of sanctions pursuant to Code of Civil Procedure section 177.5.

(5) Upon the concurrence of the mediator(s) and counsel, other individuals will be permitted to participate in the mediation on a voluntary basis.

(6) Dependency Mediation in Santa Clara County is a confidential and non-recommending process operating in compliance with Chapter 2, sections 1115 through 1128, of the Evidence Code of the State of California with the following exceptions to confidentiality: 1) Santa Clara County Dependency Mediators are mandatory child abuse reporters as defined within section 11166.5 of the Penal Code and have a duty to report in the event they develop a reasonable suspicion of child abuse not formerly reported; 2) Santa Clara County Dependency Mediators have a duty when confronted with serious threats of violence against reasonably identifiable victims to make reasonable efforts to communicate such threats to the victim or victims and to a law enforcement agency (*Tarasoff v. Regents of University of California*, supra, 17 Cal. 3d at pp.431, 438, 131 Cal. Rptr. 14, 551 P.2d 334); 3) It is the duty of mediators to disclose information otherwise as may be compelled by statute or case law.

(7) Dependency Mediation must be conducted in accordance with the Santa Clara County Dependency Mediation Protocol and Dependency Mediation Domestic Violence Protocol and CRC 5.518. Court connected dependency mediation, and must involve, at a minimum, all the mandatory participants as defined in subdivision (4) above at various stages throughout the process.

(Effective 7/1/2008)

a. All mandatory mediation participants and the mediators must appear on time for all scheduled mediation appointments.

b. Dependency Mediators must make every reasonable effort to release the attorneys involved in mediation during the middle stages of the process, consistent with their clients' need to consult with them during the course of mediations, so that the attorneys may make themselves available to the court and facilitate the conducting of court business in the most efficient manner possible.

c. Dependency Mediators must make every reasonable attempt to insure that morning mediation appointments are completed no later than 11:30 a.m., and that afternoon mediation appointments are completed no later than 4:30 p.m., so that the parties and attorneys may report back to the court in a timely manner.

Each area of agreement resulting from mediation must be approved by all the mandatory participants including the family members who are parties, the assigned DFCS Social Worker, all the involved attorneys, and any participating Court Appointment Special Advocate.

(Effective 7/1/2008)

e. The attorney from the Office of the County Counsel assigned to represent the assigned social worker from the Department of Family and Children's Services will be responsible for recording all aspects of any partial or complete agreement, and for recording any areas of remaining disagreement.

f. Immediately upon completion of the mediation appointment, all the mandatory participants may proceed to Court. The attorney from the Office of the County Counsel will report to the Court the exact nature of any areas of agreement and/or disagreement, and/or any request for an additional mediation appointment. The Court will take whatever action is deemed necessary to confirm the nature of agreement/disagreement with the parties and attorneys, and to assure itself that all parties and attorneys understand the nature of any agreement. The Court must also approve/disapprove any request for an additional mediation appointment, and if approved, calendar the return appointment.

g. The Court must review the proposed agreement and determine whether to approve any portion or all of it. The Court must make any orders and/or findings deemed appropriate. The Court must determine any necessary subsequent action including trial setting.

h. The attorney representing the Office of the County Counsel will be responsible for preparing any orders made by the Court related to the mediated agreement. The attorney from the Office of the County Counsel shall complete the Dependency Mediation Outcome Form (JV-2029) and return the form to the mediator.

(Effective 1/1/2013)

K. COURT ORDERED MENTAL HEALTH EVALUATION

Where the Court has ordered a mental health or psychological evaluation, the Court shall determine what Court reports and other information shall be released to the evaluator.

(Effective 1/1/2009)

RULE 3 RELATIONSHIPS AMONG DIFFERENT DIVISIONS OF THE SUPERIOR COURT**A. JUVENILE DEPENDENCY, JUVENILE JUSTICE, FAMILY, AND PROBATE COURTS EXCHANGE OF INFORMATION**

(Effective 1/1/2010)

This rule addresses the exchange of information between Family Court Services staff (FCS), Juvenile Probation Department (JPD), the Department of Family and Children's Services (DFCS), the Adult Probation Department (APD), and the Probate Court Investigator's (PCI) staff.

The Court hereby finds that the best interests of children and victims appearing before the Juvenile, Family, Criminal and Probate Courts, the public interest in avoiding duplication of effort by the Courts and by the investigative and supervisory agencies serving the Juvenile, Court or Court serving agency outweighs the confidentiality interests reflected in Penal Code Sections 11167 and 11167.5, Welfare and Institutions Code Section 827 and 10850, Family Code Section 1818, and Probate Code Section 1513, and therefore good cause exists for the following rule:

(1) Juvenile Dependency

FCS, PCI, APO, and JPD staff may orally disclose to DFCS staff who are investigating or supervising a child abuse or neglect case the following information:

a.

(Effective 1/1/2010)

Whether the child, his/her parents, guardians, or caretakers are or have been the subject of a custody, juvenile justice, criminal or probate investigation, the findings and status of that investigation, the recommendations made or anticipated to be made to the Court by FCS, PCI, APO, or JPD, the progress while under Court supervision including compliance with Court orders, and a copy of any Court orders in existence with respect to the child, parents, guardians, or caretakers.

b. Any statement made by the child of the child's parents, guardians, or caretakers which might bear upon the issue of the child's best interests in the pending child abuse or neglect case.

c. DFCS may include this information in Court reports and keep such information in their case files.

d. The following agencies may provide written documents to each other; JPD, PCI, APO, FCS and DFCS. These documents may include but are not limited to relevant portions of investigation notes, progress notes and summaries, and Court reports containing information described in (a) and (b) above. However, child abuse and neglect reports described by Penal Code Section 11167.5 (Suspected Child Abuse Report form S-8572), information disclosing the identity of a reporting party, or Court-ordered psychological evaluations will not be exchanged between the agencies absent a Court order. Copies of DFCS or JPD documents used by PCI, APO or FCS will not be made available to the public without a Court order.

(Effective 1/01/2005)

(2) Custody Disputes

JPD, PCI, APO or DFCS may orally disclose to FCS staff who are mediating, evaluating, or investigating a child custody or visitation dispute the following information:

a.

(Effective 1/01/2010)

Whether the child or his/her parents or caretaker are or have been the subject of a child abuse, neglect, probate, criminal or juvenile justice investigation, the findings and status of that investigation, the recommendations made or-anticipated to be made to the Court by DFCS, PCI, APO or JPD, the progress while under Court supervision including compliance with Court orders, and a copy of any Court orders in existence and probation conditions with respect to the child, parents or caretakers.

b. Any statements made by the child or the child's parents, guardians or caretakers which might bear upon the issue of the child's best interests in the pending Family Court matter.

c. FCS may include this information in Court reports and keep such information in their case files.

d. The following agencies may provide written documents to each other; JPD, PCI, APO, FCS and DFCS. These documents may include but are not limited to relevant portions of investigation notes, progress notes and summaries, and Court reports containing information described in (a) and (b) above. However, child abuse and neglect reports described by Penal Code Section 11167.5 (Suspected Child Abuse Report form #S-8572), information disclosing the identity of a reporting party, or Court-ordered psychological evaluations will not be exchanged between the agencies absent a Court order. Copies of DFCS and JPD documents used by PCI, APO or FCS will not be made available to the public without a Court order.

(Effective 1/1/2005)

(3) Juvenile Justice

(Effective 1/01/2010)

FCS, PCI, APO, or DFCS staff may orally disclose to JPD staff who are investigating or supervising a juvenile justice case the following information:

(Effective 7/01/2013)

- a. Whether a child or his/her parents, guardian, or caretakers have been the subject of a child abuse, neglect, custody, criminal or probate investigation, the findings and status of that investigation, the recommendations made or anticipated to be made to the Court by DFCS, FCS, APO or PCI staff, the progress while under Court supervision including compliance with Court orders, and a copy of any Court orders in existence with respect to the child, parents, guardians or caretaker(s).

b.

(Effective 1/01/2010)

Any statements made by the child or the child's parents, guardians, or caretakers which might bear upon the child's status or any disposition in the juvenile justice proceeding.

- c. JPD may include this information in Court report and keep such information in their case files.
- d. The following agencies may provide written documents to each other: JPD, PCI, APO, FCS and DFCS. These documents may include but are not limited to relevant portions of investigation notes, progress notes and summaries, and Court reports containing formation described in (a) and (b) above. However, child abuse and neglect reports described by Penal Code Section 1116(Suspected Child Abuse Report form #S-8572), information disclosing the identity of a reporting party, or Court-ordered psychological evaluations will not be exchanged between the agencies absent a Court order. Copies of DFCS or JPD documents used by PCI, APO or FCS will not be made available to the public without a Court order.

(Effective 1/01/2005)

(4) Probate

FCS, DFCS, APO and JPD staff may orally disclose to PCI staff who are investigating or supervising a probate guardianship or conservatorship matter the following information:

a.

(Effective 1/01/2010)

Whether the child or his/her parents, guardians, or caretakers have been the subject of a child abuse, neglect, custody, criminal or juvenile justice investigation; the findings and status of that investigation; the recommendations made or anticipated to be made to the Court by DFCS, FCS, APO and JPD staff; the progress while under Court supervision including compliance with Court orders, and a copy of any Court orders including probation conditions in existence with respect to the child, parents, guardians or caretakers.

- b. Any statement made by the child or the child's parents, guardians, or caretakers which might bear upon the issue of the child's best interest in the probation matter.
- c. PCI may include this information in Court reports and keep such information in their case files.
- d. The following agencies may provide written documents to each other: JPD, PCI, APO, FCS and DFCS. These documents may include but are not limited to relevant portions of investigation notes, progress notes and summaries, and Court reports containing information described in (a) and (b) above. However, child abuse and neglect reports described by Penal Code Section 11167.5 (Suspected Child Abuse Report form #S-572), information disclosing the identity of a reporting party, or Court-ordered psychological evaluations will not be exchanged between the agencies absent a Court order. Copies of DFCS or JPD documents used by PCI, APO or FCS will not be made available to the public without a Court order.

(Effective 1/1/2005)

(5) Adult Probation

FCS, DFCS, JPD and PCI staff may orally disclose to APO staff who are investigating a criminal case or who are supervising a criminal defendant the following information:

a.

(Effective 1/1/2010)

Whether the child, his/her parents, guardians, or caretakers are or have been the subject of a custody, child abuse or neglect, juvenile justice, or probate investigation, the findings and status of that investigation, the recommendations made or anticipated to be to the Court by FCS, DFCS, JPD or PCI staff, the progress while under Court supervision including compliance with Court orders and a copy of any Court orders including probation conditions in existence with respect to the child, parents, guardians, or caretakers.

- b. Any statement made by the child or the child's parents, guardians, or caretakers which might bear upon the issue of the child's or victim's best interest in the pending criminal action.
- c. APO may include this information in Court reports and keep such information in their case files.
- d. The following agencies may provide written documents to each other: HPD, PCI, APO, FCS and DFCS. These documents may include but are not limited to relevant portions of investigation notes, progress notes and summaries, and Court reports containing information described in (a) and (b) above. However, child abuse and neglect reports described by Penal Code Section 11167.5 (Suspected Child Abuse Report form #S-8572), information disclosing the identity of a reporting party, or Court-ordered psychological evaluations will not be exchanged between the agencies absent a Court order. Copies of DFCS or JPD documents used by PCI, APO or FCS will not be made available to the public without a Court order.

(Effective 1/1/2005)

B. FOREIGN CONSULATES

Whenever there is a reason to believe that a child appearing before the Juvenile Court is a foreign national, the Department of Family and Children's Services may orally disclose to the foreign consulate the following information about each child and parent: address, phone number, date of birth and the reason the child was brought into protective custody.

(Effective 1/1/2005)

C. COURT COMMUNICATION REGARDING RESTRAINING ORDERS

(1) Procedure in Juvenile Court

- a. Subject to available resources, the Family, Juvenile, Civil, and Probate Courts shall examine appropriate available databases for existing restraining or protective orders involving the same restrained and protected parties before issuing permanent CLETS Civil Restraining Orders. In the event that this information is not available to the judicial officer, inquiry shall be made of the parties before issuing permanent CLETS Civil Restraining Orders.

(Effective 7/1/2014)

- b. Any order of the Family, Juvenile, or Probate Court that permits contact between a defendant/restrained person subject to either CLETS Civil Restraining Orders or Criminal Protective Orders and his or her children, shall contain specific language setting forth the time, day, place, and manner of the transfer of the children, including the safe exchange of the children, in accordance with §3100 of the Family Code. Safety of all parties shall be the Court's paramount concern. The Court or a Court-related agency may recommend safe and specific contact with the children and direct the defendant/restrained person and/or the victim/protected person to the process for modification of protective orders.

(Effective 7/1/2014)

- c. In cases where the Court allows for property removal as an exception to the restraining order, Family Attachment FM-1102 (Other Order-Property Removal) may be used as an Attachment to the Temporary Restraining Order (Judicial Council form JV-250) and Restraining Order After Hearing (Judicial Council form JV-255).

(Effective 7/1/2014)

(2) Modification of Criminal Protective Orders

- a. Any Court responsible for issuing custody or visitation orders involving minor children of a defendant/restrained person subject to a Criminal Protective Order may modify the Criminal Protective Order if all of the following circumstances are satisfied:
 - i. Both the defendant/restrained person and the victim/protected person are subject to the jurisdiction of the Family, Juvenile, or Probate Court, and both parties are present before the Court.
 - ii. The defendant/restrained person has been convicted of or is currently charged with a domestic violence related offense in Santa Clara County and a Criminal Protective Order has issued and is still in effect.

(Effective 1/1/2016)

- iii. The Family, Juvenile, or Probate Court identifies a Criminal Protective Order issued against the defendant, which is inconsistent with a proposed Family, Juvenile, or Probate Court Order, such that the Family, Juvenile or Probate Order is/will be more restrictive than the Criminal Protective Order or there is a proposed custody or visitation order which requires recognition in the Criminal Protective Order (item 16 or both on the Criminal Protective Order form).
- iv. The defendant signs an appropriate waiver of rights form or enters a waiver of rights on the record.

(Effective 1/1/2016)

- v. Both the victim/protected person and the defendant/restrained person agree that the Criminal Protective Order may be modified to a more restrictive order or to check item 16 on the Criminal Protective Order.

b.

(Effective 1/1/2016)

The Family, Juvenile, or Probate Court may not modify existing Criminal Protective Orders to be less restrictive. Only if children are not listed as protected persons, a modification of the Criminal Protective Order to check item 16 shall not be considered less restrictive.

- c. The Family, Juvenile, or Probate Court may on its own motion or at the request of defendant, protected person or other interested party, calendar a hearing before the Criminal Court on the issue of whether a Criminal Protective Order should be modified. The Family, Juvenile, or Probate Court shall provide the Criminal Court with copies of existing or proposed Orders relating to the matter. Notice of the hearing will be provided to all counsel and parties.

(Effective 1/1/2007)

(3) Modification of Family Court Domestic Violence Restraining Orders

- a. In any case in which a Family Court Domestic Violence Restraining Order (Judicial Council form DV-110 or DV-130) ("DVRO") includes protections for or custody orders related to a minor child subject to the jurisdiction of the Juvenile Dependency or Juvenile Justice Court, and after notice to or with the consent of the parties to the DVRO and all other interested parties, the Juvenile Dependency or Juvenile Justice Court may modify the Family Court DVRO in any of the following ways:
 - i. To remove a minor child who is the subject of a proceeding under Juvenile Court Law as a protected person on the DVRO and/or modify or terminate any visitation or custody orders set forth in the DVRO which pertain to the child;
 - ii. To provide in the DVRO for brief and peaceful contact with any protected person as required for court-ordered placement of or visitation with the child;
 - iii. To vacate the DVRO and issue a Restraining Order- Juvenile (JV-250) in lieu of the DVRO, but only if all the protected persons listed in the DVRO are parties to the Juvenile Court case; or
 - iv. To modify or terminate any provision of the DVRO to allow the Juvenile Court to issue placement, custody, visitation, or reunification orders as determined to be appropriate by the Court.

- b. Any modifications to a DVRO shall be made on a Judicial Council form DV-110 Temporary Restraining Order or DV-130 Restraining Order After Hearing, and filed both under the Family Court case number and the Juvenile Court case number. Any request to modify or terminate provisions of the DVRO for protected persons not subject to the jurisdiction of the Juvenile Court shall be referred to the Family Court for consideration and hearing. The Juvenile Clerk's Office will transmit a copy of the amended restraining order to law enforcement for entry into the required state data systems unless otherwise arranged, and also shall transmit a copy to Family Court for inclusion in the Family Court file.

(Effective 7/1/2015)

D. FAMILY AND JUVENILE COURT MANAGEMENT OF CHILD ABUSE CASES

It is the policy of the Superior Court to identify and coordinate custody proceedings involving the same child which may appear in multiple legal settings. It is further the policy of the Superior Court to coordinate the efforts of the different court systems so that the child's needs are served and the resources of the family and the Court are not wasted. To these ends the Superior Court and the agencies serving the Court shall cooperate to increase the exchange of information and to determine the most appropriate forum for the issues relating to the child.

(1) Report Pursuant to Penal Code Section 11166

If during the pendency of a family law proceeding a child abuse allegation against one of the child's parents comes to the attention of a FCS staff member or other mediator or evaluator, that person shall first determine whether the allegation must be reported to a child protection agency pursuant to Penal Code §11166. If that person determines the allegation does not fall within the description of §11166, he/she need not make a report. However, any other person may report the allegation to a child protection agency.

(2) Child Abuse Investigation

When the DFCS receives a report of suspected child abuse during the pendency of a family law proceeding, it shall investigate the matter immediately or within three or ten days pursuant to DSS Regulations 30-132. The DFCS shall coordinate its investigation with the reporting police agency. The DFCS shall inform FCS of any decisions it makes concerning the child abuse investigation. If the DFCS determines that further investigation is necessary, it shall contact the investigating agency immediately so that all investigative efforts can be coordinated.

(3) W & I Code §329 Application

If the DFCS decides not to intervene or fails to report to the reporting party within 10 days, any person may apply to the social worker pursuant to W & I Code §329. In that application the affiant shall give notice and identifying information of any pending family law proceeding. A copy of the application shall be sent to FCS by the moving party. The social worker shall respond to the application as soon as possible or within three weeks after submission of the application. (W & I Code §329.) The social worker shall orally notify FCS of the response.

(See Judicial Council Form JV-210 and JV-215 for application and order forms.)

(Effective 1/1/2005)

(4) Suspension of Family Court Proceedings

a. Department of Family and Children's Services Report

After a report of suspected child abuse has been made to a child protection agency, custody and visitation proceedings in the Family Court are suspended, except that the Family Court shall have the power to make temporary protective orders to ensure the safety of the child. The suspension shall remain for 18 calendar days from the report or until the Department of Family and Children's Services indicates in writing that it will take no action in the matter, whichever occurs first.

b. W & I Section 300 Petition, Juvenile Court

If a petition pursuant to Welfare and Institutions Code Section 300 is filed in the Juvenile Court, all custody and visitation proceedings in the Family Court are suspended. Thereafter custody and visitation issues shall be determined by the Juvenile Court. The Family Court shall resume custody or visitation litigation only after written authorization is received from the Juvenile Court.

(5) Review of Dependency Decision

If the Department of Family and Children's Services worker decides not to initiate dependency proceedings, any person may apply to the Juvenile Court to review that decision pursuant to Welfare and Institutions Code Section 331. The application shall include a copy of any application made pursuant to Welfare and Institutions Code Section 329 if one was made. The Juvenile Court shall rule on the application as soon as possible and in no event later than 30 days after receipt of the application. (See Judicial Council Form JV-210 and JV-215 for application and order forms.)

(Effective 1/1/2005)

(6) Informal Supervision Agreement

If during the Department of Family and Children's Services worker's investigation one or both parents reach an informal supervision agreement pursuant to Welfare and Institutions Code Section 330, a copy of that agreement shall be sent immediately to the Department of Family and Children's Services, to Family Court Services and to each parent.

(7) Family Code Section 3150 Appointment of Counsel

During family law proceedings in which allegations of child abuse have been made, the Family Court Judge may appoint counsel for the child (Family Code Section 3150) to protect the child's interests and/or expedite the policy stated herein and carry out the terms of this protocol.

(8) Coordination of Cases

At any time during the process described herein, the supervising judges of the Family and Juvenile Courts are encouraged to discuss problems relating to the coordination of cases involving child abuse allegations.

(Effective 1/1/2005)

E. DUALY INVOLVED YOUTH HEARINGS (W & I Code Section 241.1)

The juvenile dependency and juvenile justice courts shall follow the Santa Clara County Dually Involved Youth Protocol. Before any hearing conducted pursuant to W & I Code § 241.1 at which the judicial officer in Juvenile Justice Court makes a finding or order affecting the legal status of the child in Dependency Court, the judicial officer making the finding or order or his/her designee shall confer with the judicial officer in the other juvenile court proceeding by telephone or email of his or her intended finding or order. This rule is intended to promote the best interests of children before the juvenile Court by better communication between the juvenile justice and dependency judicial officers in cases in which a child is the subject of proceedings in both Courts. Similarly, before the Juvenile Justice Court judicial officer sends the matter to the Dependency Court judge for the filing of a new Dependency Court case on behalf of the minor, the judge must confer and agree to move forward with the new W & I Code § 300 petition.

(Effective 1/1/2010)

In any case where judicial supervision of a minor under the jurisdiction of the Juvenile Court is transferred from the Juvenile Justice Court to the Juvenile Dependency Court, the Juvenile Probation Department shall, within 10 court days of the order modifying the Juvenile Children's Services and minor's counsel in the dependency matter with copies of the following documents, should they exist in the minor's case file:

- (1) Applications and Orders related to the administration of psychotropic medications, which include Judicial Council forms JV-220, JV-220(A) and JV-223
- (2) Findings and Orders related to limitations on a parent's right to make educational decisions, which include Judicial Council forms JV-535, JV-536 and JV-537
- (3) Order for Restitution and Abstract of Judgment – Judicial Council form JV-790
- (4) Individualized Educational Plans for the minor
- (5) Unsealed psychological evaluations of the minor conducted within 12 months prior to the court's order modifying the Juvenile Court's jurisdiction.

(Effective 1/1/2013)