



**SUPERIOR COURT OF CALIFORNIA
COUNTY OF EL DORADO
Sitting as the Juvenile Court
295 Fair Lane
Placerville, California 95667**

DATE: March 22, 2017
JUDGE: Hon. Dylan Sullivan
CLERK: Tara Young/Jennifer Bristow

**STANDING ORDER RE: Disclosure of Juvenile Case Files
Welf. & Inst. Code § 827; Cal. Rules of Court rule 5.552**

Juvenile case file records, including documents and information maintained by the Department of Health and Human Services and the Probation Department, even where nothing is filed with the Court, may not be obtained or inspected by civil or criminal subpoena. Welfare and Institutions Code sections 827 and 828, and California Rules of Court rules 5.552 and 5.553 govern access to juvenile records.

Except for sealed records, information gathered and obtained by law enforcement agencies regarding taking a juvenile into custody, may only be disclosed without a court order to other law enforcement, including school police or security departments, or to other agencies with a legitimate need for the purpose of official disposition of a case. (Welf. & Inst. Code §828 and Cal. Rules of Court rule 5.552 subd. (f).) Law enforcement agencies can release the juvenile's name and description when the juvenile has escaped a secure detention. Otherwise, Welfare and Institutions Code section 828 requires a petition to the juvenile court using *Petition to Obtain Report of Law Enforcement Agency* (form JV-575).

All forms referenced herein are available at: www.courts.ca.gov/forms.htm?filter=JV. All references to statute are to the Welfare and Institutions Code, unless otherwise stated.

1. Access to Juvenile Case File: Court Order Required

A. JV-570 Petition

Except as provide below in paragraph 2, any person or agency seeking access to juvenile case file records must file a *Request for Disclosure of Juvenile Case File* ("Petition") using Judicial Council form JV-570.

At least 10 calendar days before the filing the Petition with the court, the petitioner must serve, in accordance with California Rule of Court rule 5.552 subdivision (d), the Petition (a copy of the JV-570), a *Notice of Request for Disclosure of Juvenile Case File* ("Notice", form JV-571), and a blank copy of *Objection to Release of Juvenile Case File* ("Objection", form JV-572), to the following:

- 1) The child, and the child's parent or guardian, if the child remains under the age of 18, and the child's attorney, if the child remains a ward or dependent;
- 2) County Counsel;
- 3) the Department of Health and Human Services or the Probation Department or both, if

- 4) applicable, or any other entity in possession of juvenile records;
- 5) the District Attorney, if the child's petition was filed pursuant to Welfare and Institutions Code section 601 or 602;
- 6) a federally recognized tribal representative, if applicable; and,
- 7) the child's Court Appointed Child Advocate ("CASA"), if applicable.

When filing the Petition with the court, the petitioner must also complete and file the original and one copy of *Proof of Service – Request for Disclosure*, form JV-569.

B. Filing the Petition

All Petitions shall be filed with the juvenile court. For the West Slope, file Petitions in Department 8 (295 Fair Lane, Placerville, CA 95667). For the Tahoe Basin, file Petitions at the main counter of the Courthouse (1354 Johnson Ave., South Lake Tahoe, CA 96150).

Petitioner shall submit the original and one copy of the Petition for filing to the court. The filing can be in-person or by mail.

C. Judge Assigned to Hear the Motion:

The Presiding Juvenile Judge hereby appoints the judge assigned by the Presiding Judge to hear juvenile matters on the West Slope to hear the Welfare and Institutions Code section 827 petitions. Likewise, the Presiding Juvenile Judge hereby appoints the Superior Court Commissioner assigned to the Tahoe Basin, as long as the Presiding Judge has appointed the Commissioner to hear any type of juvenile cases; and if not, then the judge assigned by the Presiding Judge to any type of juvenile case for the Tahoe Basin.

Also, there may be instances, where there is active litigation in another courtroom. The Presiding Juvenile Judge may assign the Welfare and Institutions Code section 827 petition to the judge presiding over the litigation. A judge not regularly assigned to hear juvenile matters, who is assigned to determine a Welfare and Institutions Code section 827 petition, would sit as a judge of the juvenile court and apply the applicable juvenile law, for the purpose of deciding the disclosure issue.

D. Objections

Any objection to the petitioner's request for access to juvenile case file records must be submitted on *Objection to Release of Juvenile Case File*, form JV-572. The original plus one copy of the Objection must be filed, either in-person or by mail, to the same court location where the Petition was filed (*See* 1B above). The Objection must file no later than 15 calendar days after the date of service of the Petition.

Any time the Petitioner can notice the parties, the notice should occur 10 days prior to filing the Petition. In the event the Petitioner does not know the interested persons and/or addresses (see list in section 1A. above), then the Custodian of Records will notice the interested parties or the clerk of the court. (Welf. & Inst. Code §827 subd. (2)(E), Cal. Rules of Court rule 5.552 subd. (d)(3).)

E. Other Applicable Law

Where another state or federal law or regulation makes the records privileged or

confidential, the juvenile court can only release those records if disclosure is not detrimental to the safety, protection, or physical or emotional well-being of the child who is directly or indirectly connected to the juvenile case that is the subject of the petition to disclose records. (Welf. & Inst. Code §827 subd. (a)(3)(A).)

Where the Court orders the minor's records sealed, only the minor can agree to allow access to sealed records. (*In re James H.* (2007) 154 Cal. App. 4th 1078.)

F. Ruling on the Petition

The court will summarily deny all Petitions that lack complete information, are not properly served, do not comply with the filing and other requirements set forth in Welfare and Institutions Code section 827 and California Rules of Court rule 5.552, or do not provide a factual basis to support a good cause finding to release the records in light of the minor's presumed right to confidentiality, even without objections. (Cal. Rules of Court rule 5.552 subd. (c) and (e).)

If the person whose juvenile records are sought is deceased, then the presumption is to release the records after notice and the opportunity to object. (Welf. & Inst. Code §827 subd. (a)(2)(A).)

After reviewing the Petition and any supporting or opposing documents, the court may grant the petition, deny the petition or set the matter for a hearing. If a hearing is scheduled, the court will notify the petitioner and all interested persons and entities. When the Court sets a hearing, it will occur within 60 days from the date the petition is served on the custodian of record, and the Court will render its decision within 30 days of the hearing. If there are no objections to the petition, the Court must render its decision within 10 days of the last day to file an objection. (Welf. & Inst. Code §827 subd. (2)(F).)

Irrespective of holding a hearing, if the juvenile court determines there may be information to which the petitioner is entitled, the court must conduct an in camera review of the juvenile file and consider any objections, in determining whether to release juvenile records. (Cal. Rules of Court rule 5.552 subd. (e).)

G. Limited Use of the Records

Being authorized to access, inspect and copy the records does not allow the use of the records in another court proceedings unless the Juvenile Court specifically authorizes use of the records in another court proceeding. (Welf. & Inst. Code §827 subd. (a)(4).) When the Juvenile Court authorizes the disclosure of juvenile records in another proceeding, the court will also craft a protective order preventing dissemination and limiting the use of the records. Also, even if the juvenile court allows disclosure of the records in pending litigation, the trial judge will ultimately decide admissibility.

2. Access to Juvenile Case File: Court Order Not Required

A. Declaration for Access to Juvenile Case File

The Legislature authorizes persons and agencies identified in Welfare and Institutions Code section 827 subdivision (a)(1) to inspect the juvenile case files without having to file a petition. To obtain access to case files in the possession of the juvenile court, the authorized person or

agency representative must file with the juvenile court a *Declaration for Access to Juvenile Case File in Possession of Juvenile Court*, local form J-16. The form is available on the court's website at: www.eldoradocourt.org.

If the documents sought are in the possession of an agency, the person seeking access to the juvenile case file must contact the agency for instructions on the agency's disclosure policies and procedures. The Court expects the agencies to have a policy and procedure in place to track who accesses juvenile files, to ensure the person or agency comes within Welfare and Institutions Code section 827 subdivision (a)(1),(5) and to ensure the person or agency is who they purport to be.

B. Filing the Declaration and Establishing Identity

For documents in the possession of the Court, or an agency on the West Slope, file the *Declaration* (local form J-16) in Department 8 (295 Fair Lane, Placerville, CA 95667). For documents in the possession of the Court or an agency in the Tahoe Basin, file Petitions at the main counter of the courthouse (1354 Johnson Ave., South Lake Tahoe, CA 96150).

The original declaration may be submitted to the court for filing either in person or by mail.

The petitioner must provide proper identification to the court before any person will be given access to the records. All persons seeking to access juvenile records must appear in person at the appropriate Juvenile Court and provide adequate identification. A parent, guardian or child seeking to inspect records must provide a valid government issued photo identification, a notarized declaration which establishes the person's identity or identification sufficient to satisfy the Court. All other persons must provide the Court with adequate identification to establish she or he is the person requesting the records, or is a designated agent of an agency, identified in the declaration.

C. Inspection and Copying of Records

The right to **inspect** juvenile case file records does not automatically mean the person has the right to a **copy** those records. Only person identified in Welfare and Institutions Code section 827 subdivision (a)(5) are authorized to receive copies of the case file records without further order of the court. (The persons identified are named in Welf. & Inst. Code §827 subd. (a)(1)(A)-(F), (H), (I)(1).)

If the person filing the declaration (form J-16) is identified in Welfare and Institutions Code section 827 subdivision (a)(5) shows adequate identification (see 2.B. above) and pays for the copies, the Court or the agency will provide the requested copies.

Persons filing the declaration who seek copies of the case file, but are not authorized to receive copies of the case file records pursuant to Welfare and Institutions Code section 827 subdivision (a)(5), might consider filing a *JV-570 Petition* as described in paragraph 1 above.

Dylan Sullivan, Presiding Juvenile Judge
Superior Court of California, County of El Dorado