

## 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 5.500 et seq.).

Definitions: Juvenile Court refers to Juvenile Dependency Court and Juvenile Justice Court. For Juvenile Dependency Court, these Rules refer to those under the age of 18 as “minors” or “child/children” to distinguish them from the “non-minor dependents,” who are ages 18-21. Dependency Court Rules that refer to “youth” apply to minors (those ages 0 to 17) and non-minor dependents (those ages 18-21). For Juvenile Justice Court matters, the term “youth” refers to all those involved in Juvenile Justice Court, no matter their age. Where Juvenile Justice Rules apply to those under the age of 18, the term “minor” is used.

There are four sections to these Local Rules. The first includes general provisions which apply to all Juvenile Court matters. The second applies to Juvenile Dependency proceedings (W & I Code Section 300, et cetera). The third applies to Juvenile Justice proceedings. The fourth applies to the different relationships of Divisions of the Superior Court.

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 5.501(c) and (d).  
(Effective 1/1/2022)

#### **RULE 1 GENERAL PROVISIONS OF THE JUVENILE COURT**

##### **A. JUDICIAL ADMINISTRATION**

(1) Presiding Judge of the Juvenile Court

A Presiding Judge of the Juvenile Court will be appointed. The Presiding Judge will be selected by the Presiding Judge of the Superior Court. To the extent possible, the Presiding Judge of the Juvenile Court will remain in that position for at least three (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 will now be referred to as Juvenile Justice Court, Juvenile Justice judicial officers, Juvenile Justice, and Juvenile Justice actions, cases, calendars, or matters.

(3) Supervising Judge in the Juvenile Court

A Supervising Judge of both the Dependency and Juvenile Justice actions in the Juvenile Court will be appointed. The Presiding Judge of the Juvenile Court in most cases will be the Supervising Judge of either the Dependency or the Juvenile Justice calendars.

##### **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 will be subject to assignment to a judicial officer for all purposes at the time of filing of the action who will thereafter handle all proceedings, if possible, involving the matter, including trial, except as otherwise provided or required by law.

(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 will 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.

(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 will transfer the case to another facility or Division.

##### **C. MOTIONS**

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

##### **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

(Effective 1/1/2022)

(Local Form CW-9024).

**(2) FORMAT OF DOCUMENTS SUBMITTED FOR FILING**

- a. Documents that exceed ten (10) pages must be submitted held by binder clips or two prong fasteners.
- b. Exhibit attachments to pleadings must be separated by a standard size sheet of paper with a title identifying the sequence of the exhibit. No tabs may be included in any documents submitted for filing.

**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.

**F. PRE-HEARING DISCOVERY**

**(1) Timely Disclosure of Informal Discovery**

Pre-hearing discovery will be conducted informally. Except as protected by privilege, all relevant material must be disclosed in a timely fashion to all parties to the litigation. (CRC 5.546).

**(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 must state the relevancy and materiality of the information sought and the reasons why informal discovery was not adequate to secure that information. The motion must be served on all parties at least five (5) Court days before the hearing date. The date for the hearing will be obtained from the Juvenile Division Court Clerk. A courtesy copy must be delivered to the Court before whom the matter is scheduled to be heard.

**b. Any responsive papers must be filed and served two (2) Court days prior to the hearing.**

**c. Civil Discovery**

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

**G. EX PARTE ORDERS**

- (1) Before submitting ex parte orders to a judicial officer for approval, the applicant must give notice of, and a copy of the application for ex parte orders, to all counsel, social workers, the Probation Department, and parents and/or legal guardians who are not represented by counsel or explain the reason notice has not been given.
- (2) The party requesting ex parte orders must inform the judicial officer that notice has been given by completing Declaration Re Notice of Ex Parte Application (Local Form JV-2000). 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 or eFiled in accordance with Rule 6.
- (3) An opposing party must present any written opposition to a request for ex parte orders to the courtroom clerk within forty eight (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. 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. The applicant must also notify all persons entitled to notice of any hearing date and time set by the Court.
- (4) Notice may be excused if the giving of such notice would frustrate the purpose of the order and cause the child/youth to suffer immediate and irreparable injury.
- (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.

**H. ATTENDANCE AT HEARINGS (CRC 5.530)**

Unless excused by the Court and except as indicated in Local Juvenile Rule 2 (E)(2), and subject to the conditions in Local Juvenile Rule 1(G)(1) regarding youth's attendance at Juvenile Justice hearings, each party and attorney must attend each scheduled Juvenile Court hearing.

**(1) Youth Attendance at Juvenile Justice Hearings**

- a. Youth must attend all Juvenile Justice hearings unless specifically excused by the Court. All parties may appear remotely by videoconference. If the parties are not available for videoconference, they may appear telephonically.
- b. Waiver of a youth's presence may be made only by the Court. A waiver of appearance will only be for good cause, requiring extraordinary reasons. If a request is made to excuse the youth's presence on the ground that it will inconvenience the youth, the Court will make every effort to continue the case to a time certain when the youth can appear without the inconvenience.

**I. SETTLEMENT CONFERENCES**

- (1) Settlement conferences will be held prior to every contested hearing, unless expressly deemed unnecessary by the judicial officer setting the contested hearing.
- (2) All represented parties must electronically send all briefs, motions in limine, and witness lists to all parties.
- (3) The trial attorneys and all parties must be present at the settlement conference, unless expressly excused by the Court.

*(Effective 1/1/2022)*

- (4) Prior to the calling of the case, the parties or their attorneys must meet in order to determine the issues to be tried and any areas of agreement.

**J. ACCESS TO COURTROOM BY NON-PARTIES (W & I CODE SECTIONS 345, 346, 676)**

- (1) Unless specifically permitted by statute, Juvenile Court proceedings are confidential and will not be open to the general public. Upon a sufficient showing, the Court may permit relatives and any-nonrelative extended family members of the youth as well as advocates, mentors, and members of the Court's partner agencies to be present at the hearing and address the Court. The Court will hear from all parties before granting such permission.
- (2) 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 will remain in the courtroom.
- (3) The Court or its agent will remind each such nonparty that the names of parties and/or identifying information from any case are confidential and may not be repeated to anyone outside Court. Any such person may be required by the Court to sign an acknowledgement and agreement relating to his/her observation of Court proceedings.

**K. RELEASE OF INFORMATION RELATING TO JUVENILES**

W & I Code Section 827, CRC 5.552, and Local Juvenile Rules control the review, copying, and use of Juvenile Court records. These statutes 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. Juvenile case files are not discoverable by subpoena (CRC 5.552(b)).

(1) Discovery of Juvenile Documents or Records

a. Inspection of Juvenile Case Files

- i. Except as indicated within this Rule, any Standing Orders, or as specified in W & I Code Sections 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 records maintained by the Juvenile Court Clerk, the Department of Family and Children's Services ("DFCS"), or the Probation Department, the person or agency must first inspect the Juvenile Court file if such person or agency is authorized by law to do so under W & I Code Section 827(a). However, should the child be adopted out through the Dependency Court, their counsel's right of access will be terminated.
- ii. If the person or agency is not statutorily or otherwise authorized to inspect the Juvenile Court file, the person or agency must petition the Juvenile Court for permission for such inspection by filing a Request for Disclosure of Juvenile Case File (Judicial Council Form JV-570 ). Such petition must make a prima facie showing of sufficient relevance and necessity for inspection and provide notice to the relevant parties. If the showing is made, the judicial officer may grant an Order of Inspection permitting the party to inspect the Juvenile Court file.
- iii. All parties, including those statutorily entitled to inspect, must file a Declaration for Juvenile Court Records (Local Form JV-2002 or JV-2002a) for the appropriate division prior to commencing the inspection.

b. Copies of Documents or Records

Persons or agencies specified in W & I Code Section 827(a)(1)(A), (B), (C), (D), (E), (F), (H), (I), (J), and (P), identified below, may copy documents or records without Court authorization. All other persons or agencies must obtain the approval of the Supervising Judge of the Juvenile Court pursuant to the filing of a W & I Code Section 827 Petition. Such permission may be granted through an Order of Inspection.

- i. District Attorney's Office, City Attorney's Office, or City Prosecutor authorized to prosecute criminal or juvenile cases under state law.
- ii. The child/youth who is the subject of the proceeding.
- iii. The child/youth's parent or guardian.
- iv. The attorneys for the parties, judges, referees, other hearing officers, probation officers, and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the child/youth.
- v. The county counsel, city attorney, or other attorney representing the petitioning agency in a dependency action.
- vi. Members of the child protective services agencies as described in Penal Code Section 11165.9.
- vii. Authorized staff who are employed by, or authorized staff of entities who are licensed by, the State Department of Social Services, as necessary to the performance of their duties related to resource family approval, and authorized staff who are employed by the State Department of Social Services as necessary to inspect, approve, or license, and monitor or investigate community care facilities or resource families, and to ensure that the standards of care and services provided in those facilities are adequate and appropriate, and to ascertain compliance with the rules and regulations to which the facilities are subject.
- viii. The Department of Justice, to carry out its duties pursuant to Penal Code Sections 290.008 and 290.08 as the repository for sex offender registration and notification in California.

c. Petition for Juvenile Case Files

- i. After inspection, the person or agency must file a Request for Disclosure of Juvenile Case File (Judicial Council Form JV-570). The Petition must be filed even if no action has been commenced in Juvenile Court under W & I Code Sections 300, 601, or 602. The person or agency seeking the documents or the records must give notice to all necessary parties (See W & I Code Section 827 and JV-570).

- ii. The Petition must 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 must be supported by a declaration of counsel and/or a Petitioner, and, if necessary, a memorandum of points and authorities.
- iii. The Petition must include two (2) 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 Section 827 Petition. Of the two (2) copies, one (1) set must be the unredacted version of the original documents selected from the Juvenile Court file, unaltered in any fashion. The second set must 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 must identify with particularity as to each document, the reasons that the document should be released pursuant to the requirements of CRC 5.552.

*(Effective 1/1/2023)*

- iv. The Petition must also include a Proposed Order After Judicial Review (Judicial Council Form JV-574), including the following language:  
 “The released documents are to be used only in the above captioned Santa Clara County Superior Case. Experts are permitted to use the documents for purposes of the pending proceeding, but must return them to counsel in a timely manner. Social workers are permitted to discuss the contents of the documents, and also to testify regarding the same if called as a witness. The documents may be disclosed to necessary persons in the pending court proceedings, as determined by the trial judge and subject to any additional orders made by that judge. Except as otherwise provided herein, the documents must not be published, disseminated, copied, or placed on the Internet. Upon completion of the pending proceedings, the petitioner is ordered to either return the documents to the Court or destroy and discard them.”
- v. In any request for Juvenile Court records where no record is found, that fact will be noted on the JV-570 Petition for Records Form and the Form will be returned to the petitioner.
- vi. Whenever a person is seeking a copy of his/her own Juvenile Court records for the purpose of providing required information to the Immigration and Naturalization Service for citizenship purposes, or to the United States Armed Forces, or to obtain employment as reflected on the Declaration for Juvenile Court Record, the petitioner will receive a redacted copy of the dismissal order or minute order bearing the youth’s name, date of birth, juvenile petition number, and date of dismissal.

d. Dissemination or Use of Documents or Records

*(Effective 1/1/2023)*

- i. A Petition pursuant to W & I Code Section 827 is required for dissemination or use of documents or records and dissemination or use of documents or records must be in compliance with the Court’s order on the W & I Code Section 827 Petition, except as otherwise specified in these Rules.

e. District Attorney

*(Effective 1/1/2023)*

- i. When submitting a Petition under W & I Code Section 827, the District Attorney must, in addition to the Proposed Order After Judicial Review (Judicial Council Form JV-574), include the following language:  
 “The release of the attached documents pursuant to Welfare and Institutions Code section 827 is subject to the conditions set forth below.  
 Welfare and Institutions Code section 827, subdivision (a)(4), provides in part that: “A juvenile case file, any portion thereof, and information relating to the content of the juvenile case file, may not be disseminated by the receiving agencies to any persons or agencies, other than those persons or agencies authorized to receive documents pursuant to this section. Further, a juvenile case file, any portion thereof, and information relating to the content of the juvenile case file, may not be made as an attachment to any other documents without the prior approval of the presiding judge of the juvenile court.” While this provision prohibiting dissemination speaks only of dissemination by receiving agencies, it has been held to prohibit the dissemination of juvenile court records by individuals as well as agencies.  
 The released documents are to be used only in the above captioned Santa Clara County Superior Court Case. Experts are permitted to use the documents for purposes of the pending proceeding, but shall return them to counsel in a timely manner. The District Attorney is also authorized to give to defense counsel properly redacted copies of any portions of these documents that are exculpatory in nature and as required by the Brady Rule or as required to be discovered pursuant to Penal Code Section 1054.1. When documents are released to defense counsel due to the Brady Rule, that document must be released with a copy of this protective order.  
 Social workers are permitted to discuss the contents of the documents, and also to testify regarding the same if called as a witness. The documents may be disclosed to necessary persons in the pending criminal proceeding, as determined by the trial judge and subject to any additional orders made by that judge. Except as otherwise provided herein, the documents shall not be published, disseminated, copied, or placed on the Internet. Upon completion of the pending proceeding, the petitioner is ordered to either return the documents to the court or destroy and discard them.  
 Any document from this juvenile file that must be lodged in adult court will be placed under seal and/or a confidential envelope within the court file.”

- ii. 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 Section 827 Petition filed by that party, then not later than ten (10) Court days after service of the Petition, the District Attorney must lodge two (2) 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)(c)(iii) above.

*(Effective 1/1/2023)*

- iii. A prosecuting attorney may, without separately filing a W & I Code Section 827 Petition, obtain and use a juvenile wardship petition charging an offense that qualifies as a strike prior and minute orders showing that the petition was sustained for the limited purpose of proving a prior strike allegation in adult Criminal Court. The right to disseminate these records is strictly limited to this purpose, and the prosecuting attorney must redact from the Juvenile Court records the name(s) of any youth co-participants and references to offenses other than the prior strike offense.

f. DFCS and Probation Department

*(Effective 1/1/2023)*

- i. When DFCS, the Probation Department, or County Counsel in Santa Clara County is served with notice of a W & I Code Section 827 Petition calling for Juvenile Court file records, and the Probation Department and DFCS still maintains records about the child/youth, the Probation Department must continue to maintain and preserve all such records (1) until five (5) years from the date on which the jurisdiction of the Juvenile Court over the child/youth has terminated, or (2) for a period of one hundred eighty (180) calendar days following entry of the Court's order on the Petition, or until all proceedings on the appeal of any Petition have concluded. The longest period of time, above described, will govern the preservation of probation and DFCS files.
- ii. DFCS is permitted to provide relevant documents to the attorney for a youth in a Juvenile Justice proceedings. The documents may include, but are not limited to, relevant portions of investigation notes or reports, progress notes, summaries, prior placements, medical and psychological evaluations, and court reports.

g. Law Enforcement

*(Effective 1/1/2023)*

In all cases in which a person or agency seeks records held by law enforcement, including police reports regarding youth who are the subject of Juvenile Court proceedings, the person or agency must follow W & I Section 827.9. W & I Code Section 827.9 governs the inspection, copying, and dissemination of law enforcement records. Anyone not specifically authorized by W & I Section 827.9, the Rules of Court, or other orders of the Court must submit a Petition pursuant to W & I Code Section 827. The Supervising Judge of Juvenile Justice Court or his or her designee may process these requests.

h. Criminal Cases

*(Effective 1/1/2023)*

- i. Attorneys or defendants who are involved in a criminal proceeding in Superior Court, Santa Clara County, who seek Juvenile Court documents or records for use in the pending criminal action must, in addition to filing a W & I Code Section 827 Petition in the Juvenile Court, concurrently file a Declaration of Filing of Juvenile Court 827 Petition (Local Form CR-6082) in the criminal case.
- ii. Where a defense attorney represents a client being criminally prosecuted by the District Attorney, or their designated agency pursuant to a conflict, and the Juvenile Division Court has in its possession W & I Code Section 602 Juvenile Justice records related to that client, the defense attorney may both inspect and copy that client's past Juvenile Justice records without a separate Order of the Juvenile Court.
- iii. For the sole purpose of preparing and filing of statements in mitigation for sentencing or for requests to strike priors, the defense attorney may attach copies and/or refer to such records in any court documents. If said documents are used for sentencing purposes by the defense attorney, the Juvenile Justice records may also be used by the District Attorney, or the designated agency pursuant to a conflict, to supplement the record without a separate Order of the Juvenile Court.
- iv. The defense attorney must seek Juvenile Justice records under this Rule only where the client is under prosecution by the Santa Clara County District Attorney or their designated agency pursuant to a conflict at the time the records are sought. This Rule does not apply to W & I Code Section 300 records.
- v. When any such Juvenile Justice records in the Juvenile Court file are inspected or copied by defense counsel, the District Attorney or their designated agency pursuant to a conflict, pursuant to the provisions of this Rule, the Court's Declaration for Juvenile Court Records (Juvenile Justice) (Local Form JV-2002 ) must be submitted and filed, and must be dated and contain the name and state bar number of the attorney filing the request. No further dissemination of these Juvenile Court records may be made by any such attorney without further express permission from the Juvenile Court.

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

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

*(Effective 1/1/2022)*

- b. The Sixth District Appellate Program must 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.
  - c. The Declaration for Juvenile Court Records (Juvenile Justice) (Local Form JV-2002) or Declaration for Juvenile Court Records (Dependency) (Local Form JV-2002a) must 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 must be provided a copy of all mental health evaluations of youth 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 must also be provided with a copy of that diagnostic report. Such reports and evaluations must be used exclusively by the medical personnel in Juvenile Hall and must not be released to any third parties without Court approval.
- (4) Access to Court Files by Santa Clara County Victim Witness Assistance Center
- a. The Santa Clara County Victim Witness Assistance Center staff are permitted to review any Juvenile Court file in which a youth has been committed to the Division of Juvenile Justice and when the youth has a restitution order as a condition of parole. The information gathered from any such review must 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.
  - b. The staff, party, counsel, or investigator must fill out and present a Declaration regarding the request for records. (Local Form JV-2002 or JV-2002a.) A copy of Local Form JV-2002 or JV-2002a will be filed in the Court file.
  - c. Pursuant to Government Code Section 13954(d) and (e), law enforcement agencies must provide to the State Victim Compensation and Government Claims Board or to the Santa Clara County Victim Witness Assistance Center, upon request, a complete copy of the report regarding the incident and any supplemental reports regarding the crime, public offense, or incident giving rise to a claim of a crime victim processed by the Santa Clara County Victim Witness Assistance Center and the State Victim Compensation and Government Claims Board. The law enforcement agency supplying the information may, at its discretion, withhold the names of witnesses or informants if the release of such names would be detrimental to the parties or to an investigation currently in progress.
  - d. The Probation Department and social services agencies are authorized to release any information necessary to submit, determine, or verify the claim of any child victim for compensation pursuant to Government Code Sections 13950 through 13974.2. This information includes Emergency Response Services reports, including investigative findings, Probation Department and DFCS reports on the crime committed, and any petition and social report, including Court Orders or Restitution Orders.
  - e. The Court Clerk is authorized to release the Juvenile Court Petition and Report, including findings, for the purpose of filing or verifying claims on behalf of victims.
  - f. The Santa Clara County Victim Witness Assistance Center and the State Victim Compensation and Government Claims Board may use the information provided to verify and process the claim of the victim and for no other purpose without further Order of the Court.
- (5) Defense Counsel Access to Juvenile Justice Case Files for Youthful Offender Parole ("YOP") Hearings
- Certain inmates serving lengthy state prison commitments are eligible for a Youthful Offender Parole ("YOP") Hearing. The law governing Youthful Offender Parole eligibility is set forth in Penal Code Sections 3051 and 3051.1. Many inmates who are eligible for YOP consideration have a Juvenile Case file with the Juvenile Justice Court. This Juvenile Case file may contain documents and/or information about the youth's diminished capacity and other factors that can be used by defense counsel on the youth's behalf to prepare a mitigation packet or mitigation hearing.
- a. Defense counsel (or their representative) representing a youth or young adult in Santa Clara County who, on the basis of their charges and their age will be eligible for YOP, have the right to inspect, copy, and use the youth's records for the mitigation packets that will be needed when the youth comes up for such a hearing, without separately filing a petition for disclosure under W & I Code Section 827.
  - b. Defense counsel must redact the names, addresses, phone numbers, social security numbers, or any other identifying information of any victim(s) contained in the Juvenile Case file. Defense counsel must also redact the names, addresses, phone numbers, social security numbers, or any other identifying information of any co-participants who were under the age of 18 at the time of the Juvenile proceedings. This does not waive the confidentiality of any other participant to the events in question.
  - c. The Juvenile Justice records may be used for YOP consideration in a criminal court of adult jurisdiction and/or the YOP hearings before the Parole Board.

#### **L. RELEASE OF INFORMATION RELATING TO YOUTH BY LAW ENFORCEMENT**

This Rule applies to all law enforcement agencies and officials in Santa Clara County:

(1) Identity of Youth

Arrest reports or other information in regard to the identity of individual youth under the age of 18 years who are the subject of Juvenile Court proceedings are not to be released to the press or other media or to any persons or public agency except as set forth in the Rules immediately below.

*(Effective 1/1/2022)*

## (2) Information Regarding the Incident

The police report or information in regard to the incident may be released, with exceptions noted, to:

- a. The youth, if he or she is self-represented in a Juvenile Court proceeding, or to his or her attorney consistent with W & I Code Section 827
- b. The District Attorney of Santa Clara County.
- c. The law enforcement agency of the youth'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 youth, unless there is a reference to another youth in the reports. In that situation, the request must be approved by the Juvenile Court.
- i. The school attended by the youth.
- j. Victims of juvenile crime may be given the names and addresses of the persons mentioned in the report, without reference to the status of any youth. 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 youth.
- l. The persons entitled thereto under Vehicle Code Sections 20008-20012.
- m. Any coroner or medical examiner.
- n. The name of a youth 14 years of age or older taken into custody for the commission of a serious felony as defined by Penal Code Section 1192.7(c), 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 youth is a person within the description of W & I Section 602. (W & I Code Section 827.5.)

## (3) Commission of Felony

After the law enforcement agency receives notice of the disposition of the case, if the youth was found by the Court to have committed a felony, the usual information may be transmitted to the CII, FBI, or other police agencies within California, but to no other persons or agencies except as otherwise authorized by law.

## (4) Contents of Reports

This Rule 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 youth subject of Juvenile Court proceedings.

## (5) Coroner's Reports

This Rule does not apply to Coroner's reports.

## (6) Coroner's Reports

This Rule does not apply to Coroner's reports.

**M. AUTHORIZATION FOR USE OF PSYCHOTROPIC DRUGS**

- (1) If a minor is adjudged a dependent child of the Court under W & I Code Section 300 and the minor has been removed from the physical custody of the parent under W & I Code Section 361, or if a minor is adjudged to be a ward of the Court on the basis that he or she is a person described in W & I Code Section 602 and is removed from the physical custody of the parent and placed in foster care as defined in W & I Code Section 727.4, only a Juvenile Court judicial officer has 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 will be based on a request from a physician in compliance with W & I Code Sections 369.5 and 739.5.
- (2) Pursuant to CRC 5.640(h), in all cases concerning the administration of psychotropic medications for a minor declared a ward of the Court under W & I Code Section 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 will 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 will be made by Juvenile Court judicial officers utilizing the procedures outlined in W & I Code Section 739.5 and Judicial Council Forms JV-219 through 223.
- (3) In all cases where a child is in custody in Santa Clara County before wardship, the parent or guardian will 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 child 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 will be made by the Juvenile Court judicial officers, utilizing the procedures outlined in W & I Code Section 739.5 and Judicial Council Forms JV-218 through 223. (See W & I Code Section 202 and Standards of Judicial Administration, Standard 24 (e)(3)).

*(Effective 1/1/2022)*

## a. INITIATION OR CHANGES IN MEDICATION

- i. The Court finds that immediate and special mental health intervention may be necessary for disturbed, psychotic,

depressed, or suicidal children who are impacted by the unusual life situations and the stress of institutional placements. Accordingly, the administering psychiatrist has 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 must approach the Court as soon as possible but never more than two (2) Court days after administering the psychotropic medication, utilizing the procedure to obtain authorization set forth in CRC 5.640(c).

- ii. If the parent, guardian, or attorney for the child objects to the utilization of such drugs, the matter will be set for hearing before a Juvenile Court judicial officer on an expedited basis.
- b. The psychotropic medication authorization by the Juvenile Court will be reviewed by the Juvenile Court at a regularly set review hearing or at a special hearing regarding psychotropic medications 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. 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 one hundred eighty (180) calendar days from the Order, whichever is earlier.
- c. **CONTINUATION OF MEDICATION UPON CHANGE IN PLACEMENT**  
Whenever a dependent child of the Court is moved to a new placement or to a facility pursuant to W & I Code Section 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, Section 853.)

#### **N. LINE-UPS**

No youth who is detained in any County facility (Juvenile Hall, Juvenile Rehabilitation Facility or DFCS-operated temporary shelter-like setting) in Santa Clara County or who has a pending Court hearing must participate in any line-up conducted by law enforcement or probation without Court authorization. Authorization must be sought by noticed motion before the Supervising Judge of the Juvenile Justice Court if the youth is pending a Juvenile Justice matter, or before the Supervising Judge of the Dependency Court if the child is pending a Dependency matter. All parties will receive notice of any such motion.

#### **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 child and whether the parent or guardian's educational rights should be limited, and whether the Court will reserve those rights, appoint a responsible adult, or appoint an educational representative.

#### **P. CHILD AND YOUTH ADVOCATES**

- (1) The Advocate Programs

The Juvenile Court may appoint advocates to represent the interests of dependent youth, Juvenile Justice youth, and youth with a parent, guardian, or other person having control or charge of a minor subject to proceedings under Education Code section 48293. In order to qualify for appointment, the advocate for dependent youth must be trained by and function under the auspices of a Court Appointed Special Advocate ("CASA") program, formed and operating under the guidelines established by the California Judicial Council (W & I Section 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 1/1/2024)*

The advocate programs must 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.

- (2) Youth Advocates

- a. Advocates' Functions

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:

- i. to support the youth throughout the Court proceedings;
- ii. to establish a relationship with the youth to better understand his or her particular needs and desires;
- iii. to communicate the 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 youth's situation to ensure that the Court's plans for the youth are being implemented;

*(Effective 1/1/2022)*

- 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 youth's attorneys; and
- viii. to investigate the interests of the 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 youth to such other courts or tribunals.

b. Sworn Officer of the Court

An advocate is an Officer of the Court and is bound by these Rules. Each advocate must be sworn in by a judicial officer before beginning his/her duties, and must subscribe to the written oath set forth in the Court Designated Child Advocate Oath (Local Form JV-2003) or Court Appointed Friend and Advocate Oath (Local Form JV-2030).

c. Specific Duties

The Court will, in its initial order of appointment, and thereafter in 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 youth and other appropriate individuals, reviewing appropriate records and reports, consideration of visitation rights for the child'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 must discharge his/her obligation to the youth and the Court in accordance with the general duties set forth in these Rules.

d. Procedures in Juvenile Justice Cases

- 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 dually involved youth who already has a CASA advocate who wants to continue in the Juvenile Justice Division, the Court will sign a new Order Appointing Court Designated Child Advocate (Local Form JV-2005). In all other cases, the Court will order the case to be referred to the CAFA program for screening.
- ii. When CAFA receives a referral, it must screen it, and, if it determines that the youth is a suitable subject for the appointment of a youth advocate and if there is a suitable CAFA available for appointment, the Court will swear in the CAFA using the Court Appointed Friend and Advocate Oath (Local Form JV-2030) and sign the Order Appointing the Court Appointed Friend and Advocate (Local Form JV-2031).
- iii. Any party to the proceeding may petition the Court for a hearing to reconsider the appointment.
- iv. A youth advocate may petition the Court to set the youth's case for a review hearing. (Local Form JV-2009).
- 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 such termination may petition the Court for a hearing. Such petition must 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 will be a hearing on such a petition.

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

- i. The term "child advocate" refers to the advocate trained and supervised by the CASA program, regardless of whether the child advocate is appointed for a minor or a non-minor dependent.
- ii. 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 will be forwarded to the child advocate office for screening and assignment.
- iii. When an appropriate child advocate has been identified, that person's name must be submitted to the Court for appointment (Local Form JV-2007).
- iv. Any party to the case may petition the Court for a hearing to reconsider the appointment.
- v. 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. (Local Form JV-2006).
- vi. Any child advocate with a grievance concerning the termination may petition the Court for a hearing. Such petition must 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 will 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 judicial officer making the appointment will 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 youth. The advocate has the same authority as any other officer appointed to investigate proceedings on behalf of the Court.

*(Effective 1/1/2022)*

- a. Access to Records  
An advocate has the same legal right to records relating to the youth he/she is appointed to represent as any case manager (social worker or probation officer) with regard to records pertaining to the 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 must 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 youth.
  - b. Report of Child Abuse  
An advocate is a mandated child abuse reporter with respect to the case to which he/she is appointed.
  - c. Communication  
Ongoing, regular communication concerning the youth's best interests, current status, and significant case developments maintained among the advocate, case manager, youth's attorney, attorneys for parents, relatives, foster parents and any therapist for the youth is required.
- (4) Right to Timely Notice  
In any motion concerning the youth for whom the advocate has been appointed, the moving party must provide the advocate timely notice.
- (5) Calendar Priority  
In light of the fact that advocates are rendering a volunteer service to youth and the Court, matters on which they appear should be granted priority on the Court's calendar, whenever possible.
- (6) Visitation Throughout Dependency  
Child advocates have the right to regular unsupervised contact with the child. A child advocate must visit the child regularly until the child is secure in a permanent placement. Thereafter, the child advocate must monitor the case as appropriate until Dependency is dismissed.
- (7) Advocacy in a Family Court Case  
Should the Juvenile Court dismiss Dependency and issue Family Law Orders pursuant to W & I Code Section 362.4, the child advocate's appointment may be continued in the Family Law proceeding, in which case the Juvenile Court order will set forth the nature, extent, and duration of the child advocate's duties in the Family Law proceeding.
- (8) Right to Appear  
A child advocate has the right to be present and be heard at all Court hearings, and will not be subject to exclusion by virtue of the fact that he/she may be called to testify at some point in the proceedings. A child advocate will 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, has the authority to grant the child advocate amicus curiae status, which includes the right to appear with counsel.

## **RULE 2 RULES RELATING TO JUVENILE DEPENDENCY PROCEEDINGS**

### **A. DE FACTO PARENTS/RELATIONS/INTERESTED PERSONS**

- (1) De Facto Parents
  - a. 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 must file a noticed motion before the Court setting out the reasons in support of the motion, unless the Court, for good cause, permits an oral motion to be made. (Judicial Council Forms JV-295-298).
  - b. The de facto parent has the rights outlined in CRC 5.534(a).

### **B. MOTION TO CHALLENGE LEGAL SUFFICIENCY OF PETITION**

- (1) 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.
- (2) 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.
- (3) 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 may fix the time within which the amendment or amended petition must be filed within the statutory time for the hearing on jurisdiction. (CCP 472(a)).

### **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 will have an opportunity to examine the witness after any offer of proof is made.

### **D. REPRESENTATION OF PARTIES (W & I Code Sections 317, 317.6; CRC 5.660)**

- (1) Experience, Training and Education of Attorneys  
*(Effective 1/1/2022)*

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 must complete the following minimum training and educational requirements. The attorney must have either:

1. Participated in at least thirty six (36) hours of training and education in Juvenile Dependency law and practice, which training includes comprehensive information on W & I Code Sections 202, 213.5, 214, 241.1, 281.5, 300 et seq.; Family Code Sections 7900 et seq. (Interstate Compact), and 7600 et seq. (Uniform Parentage Act); Education Code Sections 56000 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 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
2. At least six (6) months of experience within the last twelve (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 will consider whether the attorney's performance has substantially complied with the requirements of these Rules.

ii. Each Court-appointed attorney who practices before the Juvenile Dependency Court must complete within every one (1) year period at least twelve (12) hours of continuing education related to Dependency proceedings. Evidence of completion of the required number of hours of training or education must 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.

iii. The attorney's continuing training or education must 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 will 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 must 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 must interview all children four (4) years of age or older in person unless it is impracticable. Whenever possible, the child must 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 (4) years of age.
- iii. If the client is not the child, the attorney or attorney's agent must interview the client at least once prior to the jurisdictional hearing unless that client is unavailable. Thereafter, the attorney or the attorney's agent must contact the client at least once prior to each hearing unless that client is unavailable.

d. Pursuant to W & I Code Section 903.1, a parent/guardian or person responsible for support of a child is liable for the costs of appointed counsel for a parent/guardian and child in Dependency Court. For each matter before the Court, the parent/guardian must fill out the Advisement and Acknowledgement re Right to Counsel in Juvenile form (Local Form JV-2022). If applicable, the parent/guardian must also fill out the Advisement and Waiver of Right to Counsel (Local Form JV-2023). At a financial hearing, the judicial officer will assess the repayment amount after a review of the Financial Declaration/Subsequent Financial Declaration (Local Form JV-2020). An Order on Assessment and Repayment of Attorney Fees (Local Form JV-2021) will be prepared and served on the responsible party and appointed counsel at the conclusion of a financial hearing.

(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:

*(Effective 1/1/2022)*

- i. Complaints or questions will initially be referred to that attorney's supervisor within the agency, association, or law firm appointed to represent the client.

- ii. 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 will, 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 child, 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 child who is the subject of the proceeding may have an interest or right that needs to be protected or pursued.
- a. This may be done by filing a petition to modify a previous order, under W & I Code Section 388 (Judicial Council Form JV-180). The petition must 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 must 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. Appointing counsel for the child specializing in the practice before the agency or Court in which the proceeding will occur;
    - iii. Appointing a guardian ad litem for the child to initiate or pursue the proposed action;
    - iv. Joining an administrative agency to the Juvenile Court proceedings pursuant to W-& I Code Section 362; and
    - v. Taking any other action to protect the interests and rights of the child.
  - d. The person filing the W & I Code Section 388 petition or an Application for Order and Order re Interest of the Child must 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.

**E. ACCESS TO YOUTH PETITIONED PURSUANT TO WELFARE AND INSTITUTIONS SECTION 300**

- (1) No party or attorney (other than the social worker) in a Dependency proceeding may 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.
  - (2) No party or attorney in a Dependency proceeding may cause the minor to undergo a physical, medical, or mental health examination or evaluation except as authorized by law.
  - (3) The Court will make the selection of the person to perform any such examination. Each party has the right to notice and to be heard on the person to be selected.
  - (4) Interviewing Minors Who Are Alleged Victims of Child Abuse  
All Dependency investigators in 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, must attempt to minimize the number of interviews of the minor relating to the events surrounding the alleged abuse. To this end, anyone wishing to learn facts about the alleged incident must first review the comprehensive interview taken by the investigating officer.
  - (5) Presence of Youth in Court
    - a. All youth are entitled and encouraged to attend Court hearings. Every youth four (4) years or older must be told of his or her right to attend Court hearings by the investigating/supervising social worker and attorney for the youth.
    - b. Appearances may be excused for any of the following reasons:
      - i. the youth's attorney waives the youth's appearance;
      - ii. the youth chooses not to attend;
      - iii. the youth is excused by the Court; or
      - iv. the youth is hospitalized or physically unable to attend.
    - c. If the youth is present, the judicial officer hearing the case may view and speak with the youth.
  - (6) Notice Regarding 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, the following must occur:
    - a. In non-emergency situations, DFCS must give notice at least five (5) working days prior to the change in placement.
    - b. Prior to removal of a child from one county to another, DFCS must provide notice of at least fourteen (14) calendar days unless emergency circumstances prevent such notice (Judicial Council Form JV-555). Those objecting to the out-of-county placement must file an Objection to Out-of-County Placement and Notice of Hearing (Judicial Council Form JV-556).
- (Effective 1/1/2022)*
- c. In emergency circumstances, DFCS must give notice immediately following the child's change in placement.
  - d. Notice may be given in writing or orally and by telephone.

**F. CREATION OF A FAMILY COURT ORDER IN JUVENILE COURT****(1) Petition for Dismissal**

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

**(2) Juvenile Dependency Court Custody Order**

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

b. Requests to modify the Juvenile custody order within one (1) year of the dismissal of the Juvenile petition and the issuance of the custody order on Judicial Council Form JV-200, where possible, must be returned to the judge who presided over the Juvenile Dependency case for hearing to ensure there is a significant change in circumstances to warrant modification of that order as set forth in W & I Code Section 302(d). The Juvenile Dependency judge will sit as a Family Court 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 will be heard in the Family Court.

**(3) Maintenance of Juvenile Custody Orders (Judicial Council Form JV-200) in Court Files****a. Juvenile Court**

The original Court Juvenile Custody Order (Judicial Council Form JV-200) will be filed in the Family Court and endorsed copies will be filed in the Juvenile Dependency Court file. A copy of the endorsed-filed Order will 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 will create a file under the names of the child's parents. The file will contain the original Juvenile Court Order (Judicial Council Form JV-200). There will be no filing fee. (W & I Code Section 362.4).

**G. GUARDIANS AD LITEM****(1) General Provisions**

a. The Court may appoint a guardian ad litem to represent any incompetent parent, guardian, or non-minor dependent before the Juvenile Court pursuant to a Dependency petition (W & I Section 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. The parent or guardian must be present in Court for the informal closed proceeding, and the Court will 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 may appoint a guardian ad litem.

c. Where the Dependency Court has appointed a guardian ad litem to protect the interest of the minor under Rule 2(D)(3)(c)(iii), the guardian ad litem's role is to protect the rights of the minor. He or she has the right to control the litigation on behalf of the minor. 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 minor, provided they are not prejudicial to the minor'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 minor in mind. However, the guardian may not compromise fundamental rights, including the right to trial, without some countervailing and significant benefit.

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

a. The guardian ad litem must be given the same notice as any party in all proceedings.

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

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

**H. PARENTAL VISITATION****(1) Visitation Before Detention Hearing**

a. Any minor taken into temporary custody must 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 minor or his or her temporary custodian would be endangered by the disclosure of the minor's exact whereabouts or that the disclosure would cause the custody of the minor to be disturbed (W & I Section 308).

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

*(Effective 1/1/2022)*

c. Immediately after a minor is taken into temporary custody, the social worker must ensure that the minor has regular telephone contact with his or her parent pursuant to W & I 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 must note the reasons therefore in the papers prepared for the detention hearing.

- (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 must occur.
  - 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 W & I Code Section 388, by Application and Order, or by motion of a party at a regularly scheduled review hearing.
  - c. Visitation should be as frequent as possible, consistent with the well-being of the child.

#### **I. JUDICIALLY SUPERVISED SETTLEMENT CONFERENCES AND TRIALS**

- (1) Where the Court has set a date for a judicially supervised settlement conference or a trial, the youth's attorney must interview the youth, make an assessment of all relevant circumstances, and determine whether the youth will be called as a witness.
- (2) If the youth is ten (10) years of age or older, the youth's attorney must inform the youth of the date of the judicially supervised settlement conference or trial and of the youth'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, DFCS must provide the Court and the parties with notice of its revised recommendations no later than three (3) court days prior to the date of the judicially supervised settlement conference or 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 trial. The youth is encouraged to attend, but the youth's attendance is not required.

#### **J. DEPENDENCY MEDIATION**

- (1) The Court, pursuant to W & I 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.
- (2) Dependency Mediators must be either California Licensed Marriage and Family Therapists, Licensed Clinical Social Workers, or Licensed Psychologists employed by FCS who meet the training and experience requirements included within the current Santa Clara County Dependency Mediation Protocol and Dependency Mediation Domestic Violence Protocol, CRC 5.518, and the Court-connected Dependency Mediation.
- (3) Calendaring and Referral.
  - a. The Court will calendar appointments for cases ordered to mediation with the Dependency Mediation Program. 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 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.
- (4) The parties, assigned DFCS 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.
  - 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 Evidence Code Sections 1115 through 1128 with the following exceptions to confidentiality: 1) Santa Clara County Dependency Mediators are mandatory child abuse reporters as defined within Penal Code Section 11166.5 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 (the Tarasoff warning); 3) Mediators have the duty to disclose information as otherwise may be compelled by statute or case law.

*(Effective 1/1/2022)*

- (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 must involve, at a minimum, all the mandatory participants as defined in subdivision (4) above at various stages throughout the process.

- 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 facilitating the conducting of Court business in the most efficient manner possible.
- c. Dependency Mediators must make every reasonable attempt to ensure 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.
- d. 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 Appointed Special Advocate.
- e. The attorney from the Office of the County Counsel assigned to represent the assigned social worker from DFCS 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 will also approve/disapprove any request for an additional mediation appointment, and if approved, calendar the return appointment.
- g. The Court will review the proposed agreement and determine whether to approve any portion or all of it. The Court will make any orders and/or findings deemed appropriate. The Court will 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 must complete the Dependency Mediation Outcome Form (Local Form JV-2029) and return the form to the Mediator.

#### **K. COURT ORDERED MENTAL HEALTH EVALUATION**

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

### **RULE 3 RULES RELATING TO JUVENILE JUSTICE**

#### **A. WAIVER FORMS**

At every hearing in Juvenile Justice Court when the youth wishes to enter an admission or no contest plea to one (1) or more counts in a Petition, the youth and youth's attorney must use and present to the Court a Waiver Form (Local Form JV-2032) at the time of entering the admission.

#### **B. INSPECTION OF LAW ENFORCEMENT LOCK-UPS AND ACCESS TO RECORDS**

- (1) Pursuant to W & I Code Section 209, the Juvenile Justice Commission will 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 youth.
- (2) The results of each inspection must 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.
- (3) The Santa Clara County Juvenile Justice Commission may inspect the case files of the Santa Clara County Probation Department Placement Unit on the condition that no information in the files may be photocopied and no information on the identity of a particular youth or family is permitted to be directly or indirectly recorded. Further, no information may be disseminated to anyone other than the members of the Juvenile Justice Commission, the Probation Department, and the Court. All information received must remain confidential.

#### **C. YOUTH ELIGIBLE FOR DEFERRED ENTRY OF JUDGMENT (W & I CODE SECTION 790 ET SEQ.)**

- (1) In order to assist in determining suitability of youth for the Deferred Entry of Judgment ("DEJ") Program and to comply with CRC 5.800, the Probation Department must prepare a report with a recommendation on the suitability of the youth for DEJ utilizing the factors in CRC 5.800(d)(3)(A) once the District Attorney has determined DEJ eligibility, stamped the Petition, and filed the Determination of Eligibility – Deferred Entry of Judgment – Juvenile (Judicial Council Form JV-750) case with the Clerk's Office.

#### **D. REPRESENTATION OF PARTIES (W & I Code Section 634.3; CRC 5.664)**

- (1) Experience, Training and Education of Attorneys  
(Effective 1/1/2022)

##### **a. General Competency Requirement**

All Court-appointed attorneys appearing in Juvenile Justice proceedings must meet the minimum standards of competence set forth in these Rules. Such attorneys must:

- i. Provide effective, competent, diligent, and conscientious advocacy and make rational and informed decisions founded on adequate investigation and preparation;

- ii. Provide legal representation based on the client's expressed interests, and maintain a confidential relationship with the youth;
  - iii. Confer with the youth prior to each court hearing, and have sufficient contact with the youth to establish and maintain a meaningful and professional attorney-client relationship, including in the postdispositional phase;
  - iv. When appropriate, delinquency attorneys should consult with social workers, mental health professionals, educators, and other experts reasonably necessary for the preparation of the youth's case, and, when appropriate, seek appointment of those experts pursuant to Evidence Code Sections 730 and 952.
- b. Standards of Education and Training
- i. In order to be appointed to represent youth in Juvenile Justice Court, an attorney must have either 1) dedicated at least fifty percent (50%) of their practice to Juvenile Justice and demonstrate competence or 2) completed a minimum of twelve (12) hours of training during the most recent twelve (12) month period in the area of Juvenile Justice. Attorney training must include:
    - 1. An overview of Juvenile Justice law and related statutes and cases;
    - 2. Trial skills, including drafting and filing pretrial motions, introducing evidence at trial, preserving the record for appeal, filing writs, notices of appeal, and posttrial motions;
    - 3. Advocacy at the detention phase;
    - 4. Advocacy at the dispositional phase;
    - 5. Child and adolescent development, including training on interviewing and working with adolescent clients;
    - 6. Competence and mental health issues, including capacity to commit a crime and the effects of trauma, child abuse, and family violence, as well as crossover issues presented by youth involved in the Juvenile Justice system;
    - 7. Police interrogation methods, suggestibility of youth, and false confessions;
    - 8. Counsel's ethical duties, including racial, ethnic, and cultural understanding and addressing bias;
    - 9. Cultural competency and sensitivity relating to, and best practices for, providing adequate care to lesbian, gay, bisexual, and transgender youth;
    - 10. Understanding of the effects of and how to work with victims of human trafficking and commercial sexual exploitation of children and youth;
    - 11. Immigration consequences and the requirements of Special Immigrant Juvenile Status;
    - 12. General and special education, including information on school discipline;
    - 13. Extended foster care;
    - 14. Substance abuse;
    - 15. How to secure effective rehabilitative resources, including information on available community-based resources;
    - 16. Direct and collateral consequences of court involvement;
    - 17. Transfer of jurisdiction to Criminal court hearings and advocacy in adult court;
    - 18. Appellate advocacy; and
    - 19. Advocacy in the post dispositional phase.
  - ii. To remain eligible for appointment to represent youth, attorneys must engage in annual continuing education in the areas identified in Rule 3(D)(1)(b)(i), as follows:
    - 1. Attorneys must complete at least eight (8) hours per calendar year of continuing education, for a total of twenty four (24) hours, during each MCLE compliance period.
    - 2. An attorney who is eligible to represent youth for only a portion of the corresponding MCLE compliance period must complete training hours in proportion to the amount of time the attorney was eligible. An attorney who is eligible to represent youth for only a portion of a calendar year must complete two (2) hours of training for every three (3) months of eligibility.
    - 3. The twelve (12) hours of initial training may be applied toward the continuing training requirements for the first compliance period.
    - 4. Each individual attorney is responsible for complying with the training requirements in this Rule; however, offices of the public defender and other agencies that work with youth are encouraged to provide MCLE training that meets the training requirements in Rule 3(D)(1)(b)(i).
    - 5. Each individual attorney is encouraged to participate in policy meetings or workgroups convened by the juvenile court and to participate in local trainings designed to address county needs.
  - iii. The Court may require evidence of the competency of any attorney appointed to represent a youth in a Juvenile Justice proceeding, including requesting documentation of trainings attended. The Court may also require attorneys who represent youth in Juvenile Justice proceedings to complete Declaration of Eligibility for Appointment to Represent Youth in Delinquency Court (Judicial Council Form JV-700).

*(Effective 1/1/2022)*

**RULE 4 RELATIONSHIPS AMONG DIFFERENT DIVISIONS OF THE SUPERIOR COURT****A. JUVENILE DEPENDENCY, JUVENILE JUSTICE, FAMILY, AND PROBATE COURTS EXCHANGE OF INFORMATION**

(1) This Rule addresses the exchange of information between Family Court Services (FCS) staff, the 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.

(2) The Court hereby finds that the best interests of children, youth, 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, W & I Code Sections 827 and 10850, Family Code Section 1818, and Probate Code Section 1513, and therefore good cause exists for the following Rule:

a. Juvenile Dependency

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

- i. 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, APD, or JPD, the progress while under Court supervision including compliance with Court orders, and copies of any Court orders in existence with respect to the child, parents, guardians, or caretakers.
- ii. 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.
- iii. DFCS may include this information in Court reports and keep such information in their case files.
- iv. The following agencies may provide written documents to each other: JPD, PCI, APD, 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 (i) and (ii) 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 may not be exchanged between the agencies absent a Court order. Copies of DFCS or JPD documents used by PCI, APD, or FCS may not be made available to the public without a Court order.

b. Custody Disputes

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

- i. 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, APD, or JPD, the progress while under Court supervision including compliance with Court orders and copies of any Court orders in existence and probation conditions with respect to the child, parents, or caretakers.
- ii. 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.
- iii. FCS may include this information in Court reports and keep such information in their case files.
- iv. The following agencies may provide written documents to each other: JPD, PCI, APD, 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 (i) and (ii) 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 may not be exchanged between the agencies absent a Court order. Copies of DFCS and JPD documents used by PCI, APD, or FCS may not be made available to the public without a Court order.

c. Juvenile Justice

i. FCS, PCI, APD, or DFCS staff may orally disclose to JPD staff who are investigating or supervising a Juvenile Justice case the following information:

*(Effective 1/1/2022)*

- ii. Whether a youth 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, APD, or PCI staff, the progress while under Court supervision including compliance with Court orders, and copies of any Court orders in existence with respect to the youth, parents, guardians, or caretaker(s).
- iii. Any statements made by the youth or the youth's parents, guardians, or caretakers which might bear upon the youth's status or any disposition in the Juvenile Justice proceeding.
- iv. JPD may include this information in Court report and keep such information in their case files.
- v. The following agencies may provide written documents to each other: JPD, PCI, APD, 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 (i) and (ii) 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 may not be exchanged between the agencies absent a Court order. Copies of DFCS or JPD documents used by PCI, APD, or FCS may not be made available to the public without a Court order.

d. Probate

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

- i. 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, APD, and JPD staff; the progress while under Court supervision including compliance with Court orders, and copies of any Court orders including probation conditions in existence with respect to the child, parents, guardians, or caretakers.
- ii. 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.
- iii. PCI may include this information in Court reports and keep such information in their case files.
- iv. The following agencies may provide written documents to each other: JPD, PCI, APD, 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 (i) and (ii) 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 may not be exchanged between the agencies absent a Court order. Copies of DFCS or JPD documents used by PCI, APD, or FCS may not be made available to the public without a Court order.

f. Adult Probation

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

- i. 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. Copies of any Court orders including probation conditions in existence with respect to the child, parents, guardians, or caretakers.
- ii. 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.
- iii. APD may include this information in Court reports and keep such information in their case files.
- iv. The following agencies may provide written documents to each other: JPD, PCI, APD, 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 (i) and (ii) 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 may not be exchanged between the agencies absent a Court order. Copies of DFCS or JPD documents used by PCI, APD, or FCS may not be made available to the public without a Court order.

## **B. FOREIGN CONSULATES**

Whenever there is a reason to believe that a child appearing before the Juvenile Court is a foreign national, DFCS 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.

## **C. COURT COMMUNICATION REGARDING RESTRAINING ORDERS**

### **(1) Procedure in Juvenile Court**

*(Effective 1/1/2022)*

- a. Subject to available resources, the Family, Juvenile, Civil, and Probate Courts will 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 may be made of the parties before issuing permanent CLETS Civil Restraining Orders.
- 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, must 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 Family Code Section 3100. Safety of all parties is 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.

- c. In cases where the Court allows for property removal as an exception to the restraining order, the Other Orders-Property Removal form (Local Form FM-1102) 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).
- (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.
  - iv. 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.
  - 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. 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 will 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 will 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.
- (3) Modification of Family Court Domestic Violence Restraining Orders
- a. In any case in which a Family Court Domestic Violence Restraining Order (“DVRO”) (Judicial Council Forms DV-110 or DV-130) 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 (Judicial Council Form 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 must be made on a Temporary Restraining Order form (Judicial Council Form DV-110) or Restraining Order After Hearing form (Judicial Council Form DV-130) 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 will 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 will transmit a copy to Family Court for inclusion in the Family Court file.

*(Effective 1/1/2022)*

#### **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 will 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 must first determine whether the allegation must be reported to a child protection agency pursuant to Penal Code Section 11166. If that person determines the allegation does not fall within the description of Section 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 DFCS receives a report of suspected child abuse during the pendency of a Family Law proceeding, it must investigate the matter immediately or within three (3) or ten (10) days pursuant to DSS Regulations 30-132. DFCS must coordinate its investigation with the reporting police agency. DFCS must inform FCS of any decisions it makes concerning the child abuse investigation. If DFCS determines that further investigation is necessary, it must contact the investigating agency immediately so that all investigative efforts can be coordinated.

(3) W & I Code Section 329 Application

If DFCS decides not to intervene or fails to report to the reporting party within ten (10) days, any person may apply to the social worker pursuant to W & I Code Section 329. In that application, the affiant must give notice and identifying information of any pending Family Law proceeding. A copy of the application must be sent to FCS by the moving party. The social worker must respond to the application as soon as possible or within three (3) weeks after submission of the application. (W & I Code Section 329.) The social worker must orally notify FCS of the response. (See Judicial Council Forms JV-210 and JV-215 for application and order forms.)

(4) Suspension of Family Court Proceedings

a. DFCS 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 has the power to make temporary protective orders to ensure the safety of the child. The suspension will remain for eighteen (18) calendar days from the report or until DFCS 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 W & I 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 will be determined by the Juvenile Court. The Family Court will resume custody or visitation proceedings only after written authorization is received from the Juvenile Court.

(5) Review of Dependency Decision

If the DFCS social worker decides not to initiate Dependency proceedings, any person may apply to the Juvenile Court to review that decision pursuant to W & I Code Section 331. The application must include a copy of any application made pursuant to W & I Code Section 329 if one was made. The Juvenile Court will rule on the application as soon as possible and in no event later than thirty (30) days after receipt of the application. (See Judicial Council Forms JV-210 and JV-215 for application and order forms.)

(6) Informal Supervision Agreement

If during the DFCS social worker's investigation, one or both parents reach an informal supervision agreement pursuant to CRC 5.514, a copy of that agreement must be sent immediately to DFCS, to FCS, 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 Rule.

(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 1/1/2022)*

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

(1) The Juvenile Dependency and Juvenile Justice Courts will follow the Santa Clara County Dually Involved Youth Protocol. Before any hearing conducted pursuant to W & I Code Section 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 will 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 child, the judicial officer must confer and agree to move forward with the new W & I Code-Section 300 petition.

(2) In any case where judicial supervision of a child under the jurisdiction of the Juvenile Court is transferred from the Juvenile Justice Court to the Juvenile Dependency Court, the Juvenile Probation Department must serve, within ten (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 child's case file:

- a. Applications and Orders related to the administration of psychotropic medications, which include Judicial Council Forms JV-220, JV-220(A), and JV-223;
- b. 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;

- c. Order for Restitution and Abstract of Judgment (Judicial Council Form JV-790);
- d. Individualized Educational Plans for the child; and
- e. Unsealed psychological evaluations of the child conducted within twelve (12) months prior to the Court's order modifying the Juvenile Court's jurisdiction.

*(Effective 1/1/2022)*