

THE ETHICS OF WIC § 827: WHAT CAN YOU TELL AND TO WHOM?

By Alyssa Skolnick,
Los Angeles Deputy County
Counsel

and

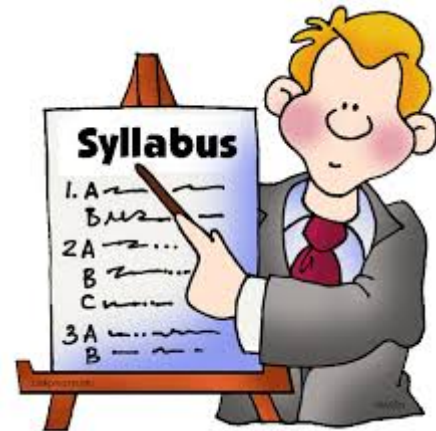
Zepur Simonian,
Research Attorney
Los Angeles Superior Court

Disclaimer

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Overview

- **How does Welfare and Institutions Code section 827 protect juvenile records?**
 - Who
 - How
 - From Whom
 - What Info
 - Use
- **FAQs**



WIC § 827 Background

- What is a Juvenile Case File?
- How does WIC § 827 Protect the Confidentiality of a Juvenile Case File?

What is a Juvenile Case File?

CRC 5.552(a)(1)-(6) defines it as:

- ❑ **All documents filed** in a juvenile court case;
- ❑ **Reports to the court by probation officers, social workers of child welfare services programs, and CASA volunteers;**
- ❑ **Documents made available** to probation officers, social workers of child welfare services programs, and CASA volunteers **in preparation of reports to the court;**
- ❑ **Documents relating to a child concerning whom a petition** has been filed in juvenile court that are **maintained in the office files of probation officers, social workers of child welfare services programs, and CASA volunteers;**
- ❑ **Transcripts, records, or reports** relating to matter **prepared or released by the court, probation department, or child welfare services program;** and
- ❑ **Documents, video or audio tapes, photographs, and exhibits** admitted into evidence at juvenile court hearings.

What Information Is Part of a Juvenile Case File?

Child Welfare Services File

- Information does **NOT** need to be from a **juvenile case file** to be protected.
 - **Every document** contained in a CWS file is protected.
 - Even if the case did not go to Court.
 - **Testimony** and/or **statements** of a social worker if **based upon information** relating to the contents of a CWS file are protected.
 - **Every document** in the court case file is protected.
- Generally, all documents in the possession of CWS which **relate to child abuse/neglect investigations** are confidential.
- Protected Information maintained by CWS includes:
 - Child abuse **referrals** and **investigations**
 - (unfounded, inconclusive or substantiated)
 - **Suspected Child Abuse Reports** submitted to DOJ (CANRA)
 - **Voluntary Cases**
 - **Juvenile Court Records**

Child's and Parent's Counsel Files

- Child's and parent's counsel files are protected by WIC § 827 and attorney client confidentiality.
- Other information in the file may be protected by other state and federal statutes.



WIC § 827 Protects a Juvenile Case File?

- It **restricts access** to juvenile case files, documents contained therein, and information relating to those documents.
- It **restricts the type of information** released.
- It **restricts the use** of the information relating to those files and documents.



The Who Under WIC § 827

- Who is entitled to the records without a court order?
- Who is not entitled to the records without a court order?

Who is Entitled to Inspect and Receive Copies of Juvenile Case Files Without a Court Order? (WIC §827)



- Court personnel (includes CASA)
- District attorneys, city attorneys & city prosecutors prosecuting criminal or juvenile cases under state law
- The minor who is the subject of the proceeding
- The minor's parent or guardian
- Attorneys for the parties, hearing officers, probation officers & law enforcement officers actively participating in criminal or juvenile proceedings involving the child
- The County Counsel, City Attorney, or any other attorney representing the petitioning agency in a dependency action.
- Other child protective agencies
- State Department of Social Services & licensing agencies (including investigators with the State and local police)

Who is Entitled to Inspect of Juvenile Case Files Without a Court Order? (WIC § 827)

- Superintendent of a school district (or his or her designee) where the minor is enrolled
- Authorized peace officers of CDSS who investigate community care facilities
- Members of the multidisciplinary team
- Persons or agencies providing treatment or supervision to the child
- Juvenile justice commissioner
- Family Law Judges
- Family court mediators
- Court appointed child custody evaluators
- Court appointed child's attorney in a family law matter
- Probate court investigators
- Any other person designated by the court



Who is Entitled to Inspect and Receive Copies of CWS Files? (WIC § 827.10)

WIC § 827.10 authorizes certain persons involved in family law or probate matters to inspect and receive copies of CWS files if these persons are actively participating in a family law or probate case.

- Persons who may be permitted access and obtain copies include:
 - Judge, commissioner, other hearing officer
 - Parent of legal guardian of the minor
 - An attorney for a party to the family law or probate case
 - A family court mediator
 - A court-appointed investigator
 - Counsel appointed for the minor in family law case



The How Under WIC § 827

- How does an entitled party receive records?
- How does a non-entitled party receive records?

Juvenile Case Files May Not Be Obtained By A Subpoena

- Juvenile case records “cannot be obtained by a subpoena.” (*Lorenzo P. v. Superior Court* (1988) 197 Cal.App.3d 607, 611.)
- *California Rules of Court*, Rule 5.552 (b)(4) states that “juvenile case files may not be obtained or inspected by civil or criminal subpoena.”



How Entitled Parties Access Records: File Declaration in Support of Access to Juvenile Records

NAME, ADDRESS, AND TELEPHONE NUMBER OF ATTORNEY OR PARTY WITHOUT ATTORNEY:		Reserved for Clerk's File Stamp
ATTORNEY FOR (Name):		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES		
COURTHOUSE ADDRESS:		
PETITIONER:		
CHILD'S NAME:	DOB:	CASE NUMBER: Dependency _____ Delinquency _____
DECLARATION IN SUPPORT OF ACCESS TO JUVENILE RECORDS (WIC §827, CRC Rule 5.552; Local Rule 7.2)		

- A. Are you one of the entitled parties or agencies listed under Welfare & Institutions Code (WIC) §827, California Rules of Court, Rule 5.552, and Los Angeles Superior Court (LASC) Local Rules (LR), Rule 7.2? (Check 1 box only):
1. Court Personnel
 2. Child/Non-Minor Dependent who is the subject of a juvenile proceeding
 3. Attorney for subject child or his or her agent with proper proof of affiliation (including appellate attorney) [continue to Section B below]
 4. Subject child's parent who still has parental rights or child's legal guardian
 5. The attorney for subject child's parent who still has parental rights or child's legal guardian, or his or her agent with proper proof of affiliation (including appellate attorney) [continue to Section B below]
 6. The County Counsel, City Attorney, or any other attorney representing the petitioning agency in a dependency action, or his or her agent with proper proof of affiliation [continue to Section B below]
 7. Attorney authorized to prosecute adult criminal or juvenile matters under California state law (district attorney, city attorney, city prosecutor), or his or her agent with proper proof of affiliation [continue to Section B below]
 8. Judge, referee, hearing officer, probation officer, or law enforcement officer actively participating in adult criminal or juvenile proceedings involving the minor
 - a. Criminal case number: _____
 - b. Juvenile case number: _____
 9. State Department of Social Services staff for the purposes delineated in WIC section 827(a)(1)(I), CRC 5.552(b)(1)(J), LR 7.2(a)(2)(h)
 10. State Department of Social Services staff for purposes delineated in WIC section 827(a)(1)(J), LR 7.2(a)(2)(i)
 11. Member of child protective agencies per Penal Code section 11165.9 (police, sheriff, county probation, county child welfare)
 12. Superintendent or designee of school district where child attends or is enrolled
 13. Member of child's multi-disciplinary team as provided in WIC section 830, 830.1, and 18951(d)
 14. Person or agency currently providing supervision or treatment of child (physician, surgeon, other health care providers, psychotherapist, sexual assault or domestic violence counselor, group home or foster family agency social worker/case managers, regional center consumer service coordinator)
 - a. Title & relationship to child: _____
 15. Family law judicial officer, or clerk acting on behalf of judicial officers
 - a. Family law case number: _____
 16. Family law mediator or court appointed evaluator actively participating in a family law case involving the subject minor (including person performing investigation or assessment)
 - a. Family law case number: _____
 17. Court-appointed counsel for minor in family law case under Family Code section 3150. **Counsel for the minor on related matters is required to provide a copy of the court order appointing him/her as minor's counsel.**
 - a. Family law case number: _____
 18. Court-appointed probate guardianship investigator
 - a. Probate case number: _____
 19. Local child support agency for establishing paternity and establishing or enforcing child support orders
 20. Juvenile Justice Commission as established under WIC section 225

LAJUV 010 (Rev. 11/16)

LASC 11/16

For Optional Use

DECLARATION IN SUPPORT OF ACCESS
TO JUVENILE RECORDS

Codes(s) Welfare and Institutions
Code §§ 827 and 362.5
California Rules of Court, Rule 5.552
Local Rule 7.2

<http://www.lacourt.org/forms/juvenile>

SHORT TITLE	CASE NUMBER
-------------	-------------

21. Person from an Indian tribe, reservation, or tribal court serving in a similar capacity as those listed in Section A, numbers 1, 3, 5, 6, 11, 13, 15, 16, 17, or 18
- a. If so, what tribe? _____
- b. Please specify your role: _____
22. Other (including pursuant to court order; please attach copy of order)

B. Attorney

Name: _____	State Bar #: _____	Case No: _____
Court (criminal, juvenile, etc.) _____	Client Name: _____	
Client's relationship to subject of juvenile records: _____		

C. What type of records are you requesting to access? Please explain below.

- | | |
|--------------------------------------|------------------------------------|
| <input type="checkbox"/> Dependency | <input type="checkbox"/> DCFS |
| <input type="checkbox"/> Delinquency | <input type="checkbox"/> Probation |

If you are entitled and wish to access records from the Department of Children and Family Services (DCFS), please submit this form to DCFS Records Unit/Office of County Counsel – address: 201 Centre Plaza Dr. Ste. 1, Monterey Park, CA 91754 – phone number: (323) 526-6100 – email: Dependencyrecords@counsel.lacounty.gov. If you are entitled and wish to access records from the Probation Department, please contact the Custodian of Records at (562) 940-2876, or send an email to civillitigationoffice@probation.lacounty.gov.

D. Why are you requesting the records?

- For personal use
- Other reasons (please specify):

- Will you share the records with anyone else? If so, with whom? (Please provide name and title)

WARNING: Any records, reports, or information obtained from the juvenile record(s) shall not be further released or disseminated to persons or agencies not otherwise entitled to access to juvenile records pursuant to WIC section 827, CRC 5.552, and LR 7.2 (i.e. agencies/individuals listed above). Further, juvenile records shall not be attached to any documents without prior approval of the Juvenile Court Presiding Judge, unless they are used in connection with a criminal investigation or juvenile court proceeding to declare a minor a dependent or ward of the Court.

I declare under penalty of perjury that the foregoing is true and correct and that I am aware of the above warning regarding dissemination of juvenile records.

Date: _____ Signature: _____

Clear

Declaration submitted by: Name: Street Address: City, State, Zip: Telephone Number:	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE Lamoreaux Justice Center – Juvenile Court 341 The City Drive South, Ste. 207 Orange, CA 92668	
NAME OF CHILD:	
DATE OF BIRTH:	
DECLARATION IN SUPPORT OF REQUEST TO INSPECT AND/OR COPY JUVENILE COURT RECORDS WITHOUT A COURT ORDER (Welfare and Institutions Code § 827)	CASE NUMBER:

- A Court Appointed Special Advocate, or CASA Administrative Personnel;
- The California Department of Social Services in order to carry out its duty to oversee and monitor county child welfare agencies, children in foster care or receiving foster-care assistance, and out-of-state placements, or authorized legal staff or special investigators who are peace officers employed by, or who are authorized representatives of the State Department of Social Services, as necessary for the performance of their duties to inspect, license, and investigate community care facilities, 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 regulation to which the facilities are subject;
- The Juvenile Justice Commission;
- A judge, commissioner or other hearing officer assigned to a family law or probate case involving the minor, or the following person, if actively participating in the family law or probate case: A court-appointed mediator or evaluator conducting a court-connected child custody evaluation, investigation or assessment pursuant to Family Code §§ 3111 or 3118, and counsel appointed for the minor in the family law case pursuant to Family Code § 3150. **Counsel for the minor on related matters is required to provide a copy of the court order appointing him/her as minor's counsel.**
- An Indian child's tribe, if the tribe has intervened in the child's case;

NOTE: A Request for Release of Juvenile Case File (JV-570) **must** be submitted to the Presiding Judge of the Juvenile Court for review if copies of sealed records are being requested under number one (1) above.

(2) I understand I am not authorized to receive copies of Juvenile Court record without a prior court order. I am or represent one of the following individuals and entities that may inspect Juvenile Court records.

- A member of the child's multidisciplinary teams, person or agency providing treatment or supervision of the child;
- A court-appointed investigator who is actively participating in a guardianship case involving a child pursuant to Section 7663, 7851, or 9001 of the Family Code or Part 2 (commencing with Section 1500) of Division 4 of the Probate Code, and acting within the scope of his/her duties in that case;
- A local child support agency for the purposes of establishing paternity and establishing and enforcing child support orders;
- A child welfare agency of a county responsible for the supervision and placement of a minor or nonminor dependent for the purpose of determining an appropriate placement or service that has been ordered for the minor or nonminor dependent by the court;

NOTE: A Request for Release of Juvenile Case File (JV-570) **must** be filed if copies of records are requested under number two (2) above. Authorization may be ordered only by the Presiding Judge of the Juvenile Court.

(3) I have read and agree to the following terms for inspection:

- The inspector shall not disclose or disseminate any information contained in the records to any person, unless otherwise ordered by the court.
- The inspector may receive the documents in an electronic format for inspection on site at Juvenile Court.
- The inspector shall not alter, delete, transmit, copy, or photograph, by any means, anything contained in the case file (the inspector may take notes regarding the contents of the documents).
- If these, or any other document(s) placed in a confidential or sealed envelope is provided, said envelope shall NOT be opened or viewed by the inspector.
- The inspector acknowledges that the Court may monitor his or her inspection of the records for compliance with the court's order.

CONFIDENTIALITY REQUIREMENTS / WARNING: <i>No person or entity may copy or inspect confidential psychological, medical or educational information absent an order from the Presiding Judge of the Juvenile Court.</i> For records you are provided today, all records, reports or information obtained from Juvenile Court shall not be further released or disseminated to persons or agencies not otherwise entitled pursuant to Welf. & Inst. Code §§ 827 or 362.5. Said information shall not be attached to any document without prior approval of the Presiding Judge of the Juvenile Court, unless they are used in connection with adult criminal or juvenile court proceedings to declare a minor a dependent or ward of the court. <i>Pursuant to the amendment of Labor Code section 432.7, an employer, whether a public agency or private individual or corporation, may not inspect an applicant's juvenile record to utilize as a factor in determining any condition of employment.</i>
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DECLARATION REGARDING YOUR ROLE: (Sections 1 and 2 below)

(1) I am or represent one of the following individuals and entities that may inspect, receive, and copy the juvenile case file without an order of the juvenile court pursuant to Welf. & Inst. Code § 827, Welf & Inst. Code § 362.5, Orange County Superior Court Local Rule 903, and Administrative Order 12/003-903 of the Orange County Juvenile Court:

- The district attorney, a city attorney, or a city prosecutor authorized to prosecute criminal or juvenile cases under the law;
- The child or non-minor dependent who is the subject of the proceeding;
- The child's parent(s) or guardian(s) for a child who is less than 17 years and 6 months of age and my parental rights have not been terminated. If the subject is older than 17 years and 6 months of age, I am currently receiving reunification services from the social services agency;
- An attorney for a party, including any trial court or appellate attorney representing a party in the juvenile proceeding or related appellate proceeding;
- A judge, referee, other hearing officer, probation officer, and law enforcement officer who is actively participating in criminal or juvenile proceedings involving the child or non-minor dependent, including the district attorney if the non-minor is also a ward of the Juvenile Court;
- The county counsel, city attorney, or any other attorney representing the petitioning agency in a dependency action;
- A member of a child protective agency as defined in Penal Code §11165.9;
- An assigned Social Worker or Probation Officer charged with review of court records for purpose of making a written recommendation to the court in a social study report pursuant to Welf. & Inst. Code § 241.1 for determination of dual status suitability of a current dependent or ward of the court;

RECORD LOCATION:

(4) The records I am requesting are held by:

- Juvenile Court Records Custodian Juvenile Probation Department Social Services Agency
 Court Reporter Transcript reported by: (Name) _____, Dept. _____, for
Date(s): _____ Other: _____

NOTE: Requesting Party to pay for transcript.

(5) ATTORNEY/AGENCY INFORMATION

State Bar # _____, Client (minor, parents, etc.) _____ Court _____

Client's relationship to subject of juvenile records: _____

(6) I am aware of the above warning regarding dissemination of juvenile records. I understand and will abide with the terms set forth inspection of the juvenile records provided.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct

Date: _____

Type or print your name

Signature

<http://www.occourts.org/forms/local/10673.pdf>

Declaration submitted by: Name: Office/Agency/Court: Street Address: City, State: Telephone Number:	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO Sitting as the Juvenile Court	
Street Address: <input type="checkbox"/> 9605 Kiefer Blvd. <input type="checkbox"/> 3341 Power Inn Road City and Zip Code: Sacramento, CA 95827 Sacramento, CA 95826	
Name of Minor: Date of Birth:	
DECLARATION FOR ACCESS TO JUVENILE CASE FILE IN POSSESSION OF JUVENILE COURT (Welfare & Institutions Code § 827, California Rules of Court, rule 5.552)	CASE NUMBER:

I, _____, do hereby declare that I am a person described in Welfare and Institutions Code section 827(a)(1)(A)-(O), to wit:

A. Persons entitled to inspect and receive copies of juvenile case files

- | | |
|---|---|
| <input type="checkbox"/> 1. Juvenile court personnel. [WIC § 827(a)(1)(A)]
<input type="checkbox"/> 2. A district attorney, city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases under state law. [WIC § 827(a)(1)(B)]
<input type="checkbox"/> 3. The minor who is the subject of the juvenile proceeding. [WIC § 827(a)(1)(C)]
<input type="checkbox"/> 4. A parent or guardian of the minor. [WIC § 827(a)(1)(D)]
<input type="checkbox"/> 5. An attorney for the minor who is actively participating in criminal or juvenile proceedings involving the minor. [WIC § 827(a)(1)(E)]
<input type="checkbox"/> 6. An attorney for the parent or guardian of the minor who is actively participating in criminal or juvenile proceedings involving the minor. [WIC § 827(a)(1)(E)]
<input type="checkbox"/> 7. An attorney representing the petitioning agency in a dependency action. [WIC § 827(a)(1)(E) & (F)]
<input type="checkbox"/> 8. A judge, referee, or hearing officer who is actively participating in criminal or juvenile proceedings involving the minor. [WIC § 827(a)(1)(E)] | <input type="checkbox"/> 9. A probation officer actively participating in criminal or juvenile proceedings involving the minor. [WIC § 827(a)(1)(E)]
<input type="checkbox"/> 10. A social worker or investigator employed by a child protective agency. [WIC §§ 272(a)(1) & 827(a)(1)(E) & (H)]
<input type="checkbox"/> 11. A law enforcement officer, other than a deputy sheriff or city police officer, who is actively participating in criminal or juvenile proceedings involving the minor. [WIC § 827(a)(1)(E)]
<input type="checkbox"/> 12. A deputy sheriff or city police officer. [WIC § 827(a)(1)(H) & PC § 11165.9]
<input type="checkbox"/> 13. A probation officer who receives mandated reports of suspected child abuse or neglect pursuant to county designation. [WIC § 827(a)(1)(H) & PC § 11165.9]
<input type="checkbox"/> 14. A State Department of Social Services employee engaged in the oversight and monitoring of county child welfare agencies, children in foster care or receiving foster care assistance, and/or out-of-state placements. [WIC § 827(a)(1)(I)]
<input type="checkbox"/> 15. Court Appointed Special Advocate (CASA) [WIC §§ 827(a)(1)(A) & 103(h)] |
|---|---|

Your Name: _____

Case Number: _____

B. Persons entitled to inspect juvenile case files (no copies)

- 1. A superintendent or designee of the school district where the minor is enrolled or attending school. [WIC § 827(a)(1)(G)]
- 2. A State Department of Social Services legal staff or special investigator peace officer engaged in the inspection, licensing and investigation of community care facilities. [WIC § 827(a)(1)(J)]
- 3. A person, agency, or member of a multidisciplinary team providing treatment or supervision of the minor. [WIC § 827(a)(1)(K)]
- 4. A judge, commissioner, or hearing officer assigned to a family law case involving the custody and/or visitation of the minor. [WIC § 827(a)(1)(L)]
- 5. A family court mediator actively participating in a family law case involving the minor. [WIC § 827(a)(1)(L)]
- 6. A child custody evaluator actively participating in a family law case involving the minor. [WIC § 827(a)(1)(L)]
- 7. An attorney appointed for the minor in a family law case. [WIC § 827(a)(1)(L)]
- 8. A probate court investigator actively participating in a guardianship case involving the minor. [WIC § 827(a)(1)(M)]
- 9. A local child support agency employee engaged in establishing paternity and/or establishing and enforcing child support orders. [WIC § 827(a)(1)(N)]
- 10. A juvenile justice commissioner appointed pursuant to Welfare and Institutions Code § 225. [WIC § 827(a)(1)(O)]

I further declare:

- C. I am requesting to view and/or receive copies of the juvenile case file concerning the above-named minor for use in my capacity described above, and will not share any portion of the records released to me or information relating to their contents, other than as provided by law. _____[Initial]
- D. I will not attach any portion of the juvenile case file or any information relating to the contents of the juvenile case file to any other document without the prior approval of the Presiding Judge of the Juvenile Court, unless they are used in connection with and in the course of a criminal investigation or prosecution, a proceeding to declare a person a dependent child or ward of the Juvenile Court, or a proceeding described in Welfare and Institutions Code section 827(a)(1)(l) by the State Department of Social Services. _____[Initial]
- E. Designation of Authorized Agent: I authorize _____ as my agent to view and/or receive copies of the requested records.

I declare under penalty of perjury that the above is true and correct.

Executed this _____ day of _____, 20 _____ in Sacramento, California

Signature _____ Print Title _____

If applicable, indicate the following:

State Bar No. (Attorneys): _____

Badge No. (Law Enforcement): _____

Agency Case No.: _____

Related (non-juvenile) Case No.: _____

For Office Use Only	
<input type="checkbox"/> GRANTED	<input type="checkbox"/> DENIED
Date: _____ By Clerk: _____	

Check Local Rules of Court

- Los Angeles County Superior Court Local Rule 7.2(a)(3) Confidentiality of Juvenile Case Files
 - Allows those who are entitled to inspect to also receive copies. This eliminates the need to file a petition to obtain copies of the records.





Judicial Authority

- The Juvenile Court has **exclusive authority** to determine whether the records may be released AND the extent to which juvenile case records can be disclosed. (*In re Elijah S.* (2005) 125 Cal.App.4th 1532.)
- Only the Juvenile Court may order the dissemination of juvenile case information through a petition filed through the Juvenile Court.
- Therefore, any person not listed in WIC § 827 **must file a petition** with the Juvenile Court in order to gain access (JV- 570).

How Non-Entitled Parties Access Records: File form JV-570

JV-570 Request for Disclosure of Juvenile Case File

If you are requesting a court order to obtain the juvenile case file of a child who is alive, fill out all items on this form, and file it with the court. You must also fill out and file Proof of Service—Request for Disclosure (form JV-569).

If you are a member of the public requesting the juvenile case file of a child who is deceased, you can:

a. Fill out items 1–4 and 7 on this form and file it with the court. You must then provide a copy of this form to the Custodian of Records of the county child welfare agency, who will then provide notice of this request.

Or

b. Do not complete the form and request the juvenile case file from the child welfare agency under Welfare and Institutions Code section 19850.4.

1 Your name: _____
 Relationship to child (if any): _____
 Street address: _____
 City: _____ State: _____ Zip: _____
 Telephone number: _____
 Lawyer (if any) (name, address, telephone numbers, and State Bar number): _____

2 Name of child (if known): _____

3 Child's date of birth (if known): _____

4 a. A petition regarding the child in 2 has been filed under
 Welfare and Institutions Code section 300
 Welfare and Institutions Code section 601
 Welfare and Institutions Code section 602 or

b. I believe the child in 2 died as a result of abuse or neglect. Approximate date of death: _____
 If you checked box b, you may skip items 5 and 6.

Clerk stamps date here when form is filed.

Fill in court name and street address:

Superior Court of California, County of _____

Fill in name and address of the court to whom you are making the request.

Fill in case number if known:

Case Number: _____
 Provide the case number or write "do not know"

Item 1 REQUIRED - Provide the name, address and telephone number of the person requesting records.

Attorneys must provide bar number

Item 2 REQUIRED - Full name of child(ren) whose records are being sought.

Provide date of birth or state "do not know"

State known cases or state "do not know"

Note: You must provide a copy of this form to all interested parties if you know their names and addresses.

Your name: _____ **Must be completed** Case Number: _____

5 The records I want are: (Describe in detail. Attach more pages if you need more space.)

Item 5 REQUIRED - State in detail the exact records you are requesting and the reason you believe these records exist. If you do not know exactly the records you want, state the type of records you are requesting (e.g. psychiatric, medical, or education records). State whether you want to a) look at the records or b) receive copies of the records or c) want to disclose them to other persons. If you need more space to write, please attach form MC-25 (see attached).

If you need these records for another court case, include the court, case number and future hearing date.

Continued on Attachment 5.

6 The reasons for this request are:

a. Civil court case pending in (name of county): _____
 Case number: _____ Hearing date: _____
 b. Criminal court case pending in (name of county): _____
 Case number: _____ Hearing date: _____
 c. Juvenile court case pending in (name of county): _____
 Case number: _____ Hearing date: _____
 d. Other (specify): _____
 Case number: _____ Hearing date: _____

7 I need the records because: (Describe in detail. Attach more pages if you need more space.)

Item 7 REQUIRED - State in detail the reasons you are requesting the records and why the records are relevant to your request. If you need these records for another court case, you must complete item 6 and 7, stating the issues, allegations or dispute in the other case that the child's records will be used to address.

Continued on Attachment 7.

8 I declare under penalty of perjury under the laws of the State of California that the information in this form is true and correct. This means that if I lie on this form, I am guilty of a crime.

Date: _____ **REQUIRED: Completed form must be signed and dated.**

 Type or print your name Sign your name

Recap: How to Access Records

Attorney assigned to the case

- Discovery request to opposing counsel

Entitled to access

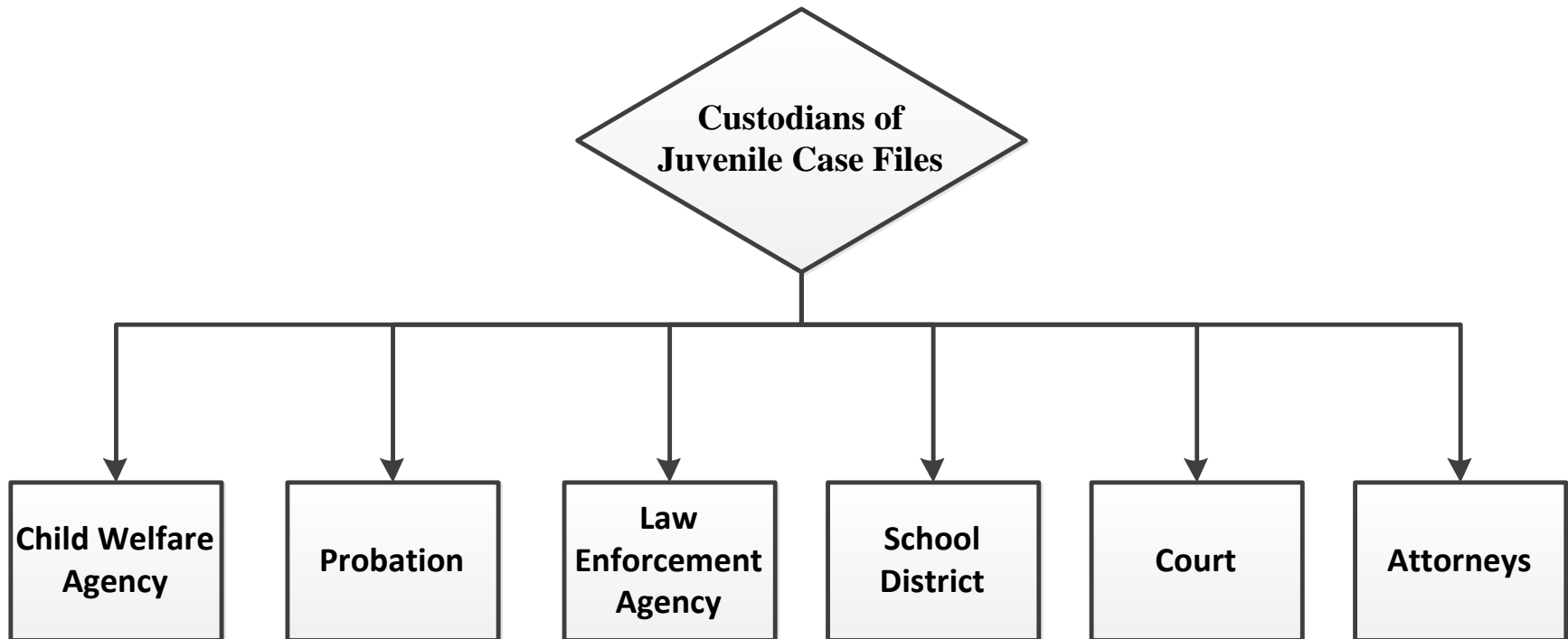
- File a Declaration in Support of Access to Juvenile Case Records or a Similar Form

Not entitled to access

- File a JV-570

From Whom Under WIC § 827

- From whom can you obtain records contained in a juvenile case file?



What Information Under WIC § 827

- What info do entitled parties receive?
- What info do non-entitled parties receive?

Extent of Info Released

☐ Entitled Parties:

- Receive everything except confidential information

☐ Non-Entitled Parties:

- May receive everything, including confidential information, if good cause is shown and the judge has authority to release confidential information

Why?

Other Layers of Protection



- Other statutes/privileges may need to be addressed before information may be disclosed.
- Documents/information in a juvenile case file, including DCFS files, **may be protected** by **several statutes or privileges** in addition to WIC §827. (i.e. attorney-client communication, medical and mental health records, HIV status, etc.)

Other Layers of Protection: Confidential Information



- Health Insurance Portability and Accountability Act (HIPPA) [**medical records**],
- Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act (CAAPTR) [**substance abuse treatment records**],
- Family Educational Rights and Privacy Act (FERPA) [**education records**],
- Confidentiality of Medical Information Act (CMIA) [**medical records**],
- Lanterman-Petris-Short Act (LPS) [**mental health records**],
- Privileges under the Evidence Code section 900 et seq. [**e.g. attorney-client privilege, physician-patient privilege, psychiatrist-patient privilege**],
- California Education Code section 49075 [**education records**],
- Health and Safety Code section 11845.5 [**substance abuse treatment records**],
- Penal Code section 11167.5 [**child abuse reports and mandated reporters**], and California Vehicle Code [**personal identification**].

Requesting Access to Confidential Information

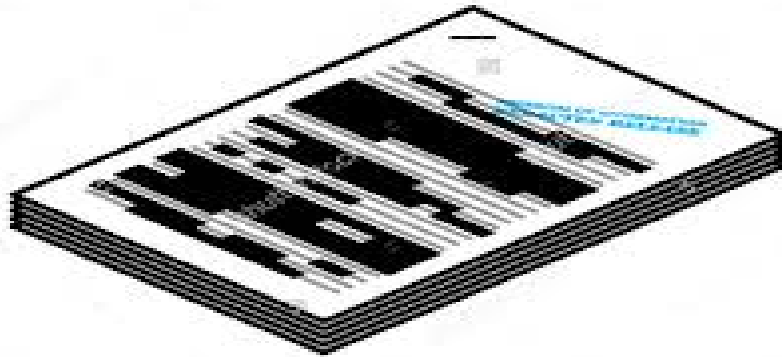
“All those seeking access, pursuant to other authorization, to portions of, or information relating to the **contents of juvenile case files protected under another state law or federal law or regulation [e.g. psychological, medical, or educational records], shall petition the juvenile court.**” (WIC 827(a)(3)(A).)

FILE JV-570

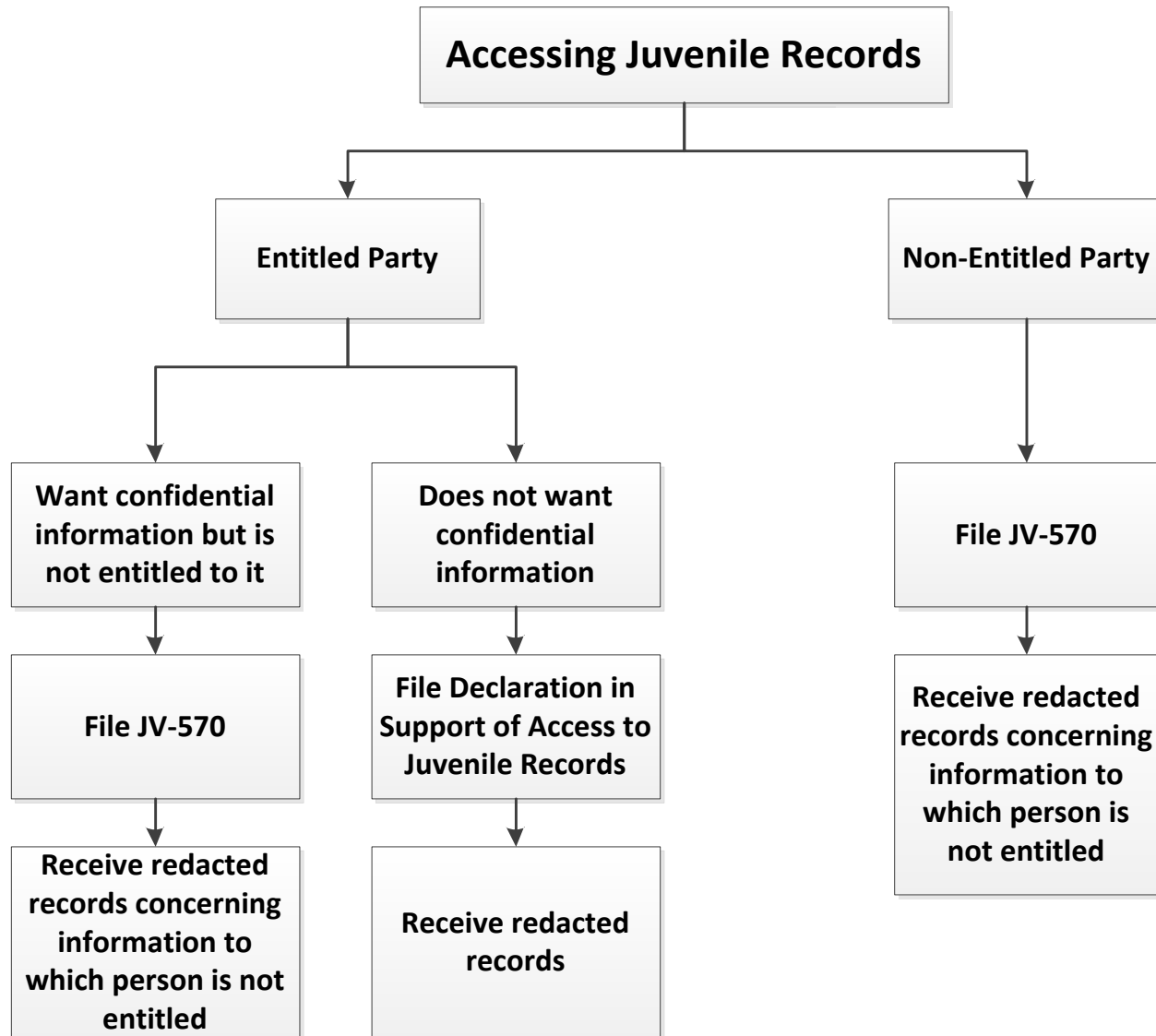


Confidential Information → Redact

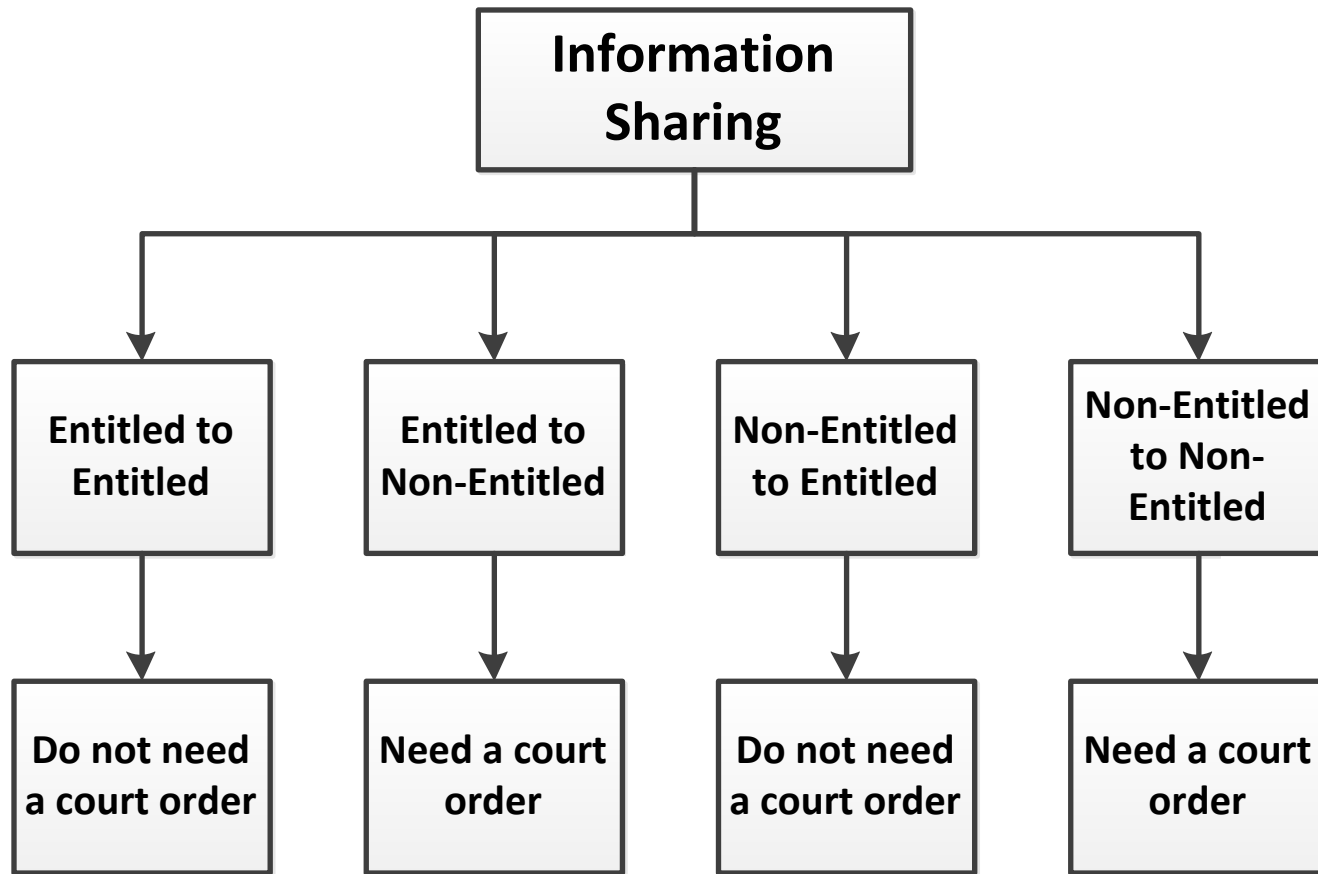
You may receive redacted records.



RECAP



The Use Under WIC § 827



Check local rule. Los Angeles County Superior Court Local Rule 7.4(a)(4) allows an entitled party to share a document or information from the file to another entitled party.

Information Sharing Outline

- **Types of Information:**
 - Child Abuse Reports
 - Mandated Reporters
 - Non-minor Dependent Cases
 - Juvenile Police Records
 - Law Enforcement Information/Juvenile Criminal Records
 - Child's Mental Health Information
 - Adoption Records
- **Information Released to:**
 - CASA
 - De Facto Parents
 - 317(e) Education/Tort Attorneys
 - School Districts
 - Adoptive Parents
 - Federal Agencies
 - Multi-Disciplinary Teams (MDT)
 - Child and Family Teams (CFT)

Types of Shared Information

- Child Abuse Reports
- Mandated Reporters
- Non-minor Dependent Cases
- Juvenile Police Records
- Law Enforcement Information/Juvenile Criminal Records
- Child's Mental Health Information
- Adoption Records

Collaborative Information Sharing with Law Enforcement

- ❑ Some documents **may be used by both** child welfare and police when investigating child abuse.
 - Medical reports/documents, therapist reports, and police reports that generated the child abuse referral.
- ❑ When both agencies are investigating **the same child abuse case**, documents **may be shared** among child welfare and law enforcement agencies without the need for a WIC § 827 petition.



Disclosure of Reports Made To Child Protection Agencies

- **Reports** made by a reporter to a child protection agency per PC § 11167(d)(1) may be **disclosed only** to:

- **Agencies** charged with **investigating** child abuse.
- **District Attorney or County Counsel** involved with criminal prosecution of child abuse, WIC §§ 300 or 602 cases.
- **Licensing agency investigating out-of-home abuse/neglect** (may also get the investigative notes.)
- **Child's dependency attorney** appointed per WIC § 317(c)
- When those **persons waive confidentiality**.
- **By order of the court**.

- * **The name of the reporting party may not be further disclosed.**
- ** **Family Law and Probate Attorney's are not on this list.**



Disclosure of Non-minor Dependent (NMD) Cases

- WIC § 362.5 created special rules regarding the records for an NMD. Access is **limited** to the following:
 - Court personnel
 - The DA ONLY, if the NMD is also a delinquent ward
 - The NMD
 - The NMD's attorney
 - Judges and other hearing officers actively participating in juvenile proceedings involving the NMD
 - DCFS and Probation
 - CDSS
 - County Counsel
 - Certain personnel of the State Department of Social Services

NOTE: NMD's parent(s) and attorney **may only access file if still receiving family reunification services.**

Disclosure of Juvenile Police Records

WIC § 827.9

- When requesting a police reports involving a minor suspect, file a JV-575 (Judicial Council form) with the court.

Disclosure of Law Enforcement Info/ Juvenile Criminal Records

- WIC § 827.2: Disclosure of serious felony to other law enforcement agencies.
- WIC § 827.5: Release name of minor 14 years/+ if taken into custody for a serious felony.
- WIC § 827.6: Release name, description, and allegation of violent offense.
- WIC § 827.7: Disclosure of felony.
- WIC § 828: Disclosure of info gathered by law enforcement agency; information about minor escapees.
- WIC § 828.1: Disclosure of juvenile criminal records to the school district.

Disclosure of Child's Mental Health Information

- **CSW's, Probation Officers, or other persons legally authorized to have custody/care of a child can obtain a 300 or 601 minor's confidential mental health information in order to coordinate:**
 - **“Health care services and medical treatment,”** including:
 - health care provider coordinating care with a 3rd party,
 - consultation between providers, or
 - referring a child for services to another health care provider;
 - **Mental health services; or**
 - **Services for developmental disabilities.**



Disclosure of Child's Mental Health Information (cont'd.)

- **Psychotherapy notes** cannot be disclosed.
- Information shall not be further disclosed unless it is for the purpose of coordinating those services, and then only to a person who would also be legally permitted to obtain it.
- Doctors, nurses, licensed psychologists & therapists, CSWs with a master's degree, attorneys, and other professionals **cannot be compelled** by this section to reveal info, including notes, that were given in confidence by a child or child's family.
- Information cannot be admitted into evidence against a minor in any criminal or delinquency proceeding.
- This section does not limit disclosure of information when otherwise required by law.

Physician-Patient and Psychotherapist-Patient Privilege

- The privilege stands without an affirmative need for the child or the child's attorney to openly assert it.
 - The privilege does not preclude a therapist from giving information to accomplish the information-gathering goal of therapy.
 - Visitation issues (monitored v. unmonitored), custody issues, progress in therapy, whether conjoint therapy is recommended, child safety, etc.
 - The privilege protects confidential communications between the child and therapist and details of therapy.



Physician-Patient and Psychotherapist-Patient Privilege

- The therapist is permitted to disclose the child's general participation and progress in therapy, but not specific notes of treatment.
- This is often referred to as a “progress and participation” letter.

In re Kristen W. (2001) 94 Cal.App.4th 521





Disclosure of Adoption Records

- **Adoption information is confidential and is not to be released** (or inspected) by anyone who was **not a party to the adoption.**
- The **birth family** (parents, siblings, relatives) **MAY NOT** receive identifying information about the **adoptive family** (including the adopted child).
- The **adoptive family MAY NOT** receive identifying information about the **birth family.**
- See Family Code §§ 9200-9206

Information Disclosed to Certain Persons/Entities Outline

Information Released to:

- CASA
- De Facto Parents
- 317(e) Education/Tort Attorneys
- School Districts
- Caregivers
- Federal Agencies
- Child and Family Teams (CFT)

Disclosure to CASA

- CASA are considered “court personnel” under WIC § 827(a)(1)(A). CASA may **inspect** and **obtain copies** without a court order. A CASA will need to file a **Declaration in Support of Access to Juvenile Records**.
- If requesting psych, education, or medical records, a CASA must file a JV-570. Local Rule of Court 7.2(d). (Excluding what is in the court report).

Disclosure to De Facto Parents

- De facto parents are not automatically entitled to copies of social worker's report or other documents.
- De facto parents receive their discovery through WIC § 827 and should be limited to that which is relevant to the issues the de facto parent is involved.
- Must file a **JV-570**.

Seiser & Kumli, § 2.109[15]
In re Damion B. (2011) 202 Cal.App.4th 880
In re B.F. (2010) 190 Cal.App.4th 811
In re Matthew P. (1999) 71 Cal.App.4th 841



Disclosure to WIC § 317(e) Education & Tort Attorneys

- An attorney appointed for a child under WIC § 317(e) for tort or education related matters may obtain juvenile records **without** filing a JV-570.
- Attorneys may use the appointment order and submit a **Declaration in Support of Access (DSA) to Juvenile Records** to obtain the records.





Disclosure to School Districts

- Teachers and administrators are entitled to certain records under the MDT statutes.
- They are considered members of an MDT
 - WIC § 18951(d)(5)
 - A public or private school teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee.

Disclosure to Caregivers

- Generally, the **caregiver may obtain** from DCFS the following information concerning the child:
 - School records and information
(WIC § 16010(a) & (c) & 42 USCS 675(1)(C) & (5)(D))
 - Medical records and information that are a part of the health summary or related to treatment
(WIC §§ 16010(a) & (c), 16010.5 & 42 USCS 675(1)(C) & (5)(D))
 - Court information: Visitation with parents & siblings; name, phone, fax, and email of assigned CSW/SCSW, child's attorney, and CASA; child's needs and services; copy of birth certificate, etc. (WIC § 16010.4(e))



Disclosure to Federal Officials

WIC § § 827(a)(1)(P) & 831

- Federal agencies/officials must file a JV-570. May not obtain records without a court order, including information such as:
 - Name of the minor
 - Date or place of birth
 - Immigration status (maintained by the court, child welfare agency, probation, and/or law enforcement agency)
- *Except *** Pending Legislation SB 811: If amended, WIC § 827(a)(1)(P) would provide, “The **Department of Justice**, to carry out its duties pursuant to Sections 290.008 and 290.08 of the Penal Code as the repository for sex offender registration and notification in California.”*

Disclosure to Multidisciplinary Team Members

WIC § § 830, 830.1, & 18951

- **Definition:** “Any team of three or more persons who are trained in the prevention, identification, management, or treatment of child abuse or neglect cases and who are qualified to provide a broad range of services related to child abuse or neglect.” (WIC § 18591; § 18961.7 [“[A]ny team of two or more persons . . .”].)
- **Entitled under WIC § 827(a)(1)(K):** “Members of children’s multidisciplinary teams, persons, or agencies providing treatment or supervision of the minor” may inspect the juvenile case file.
- **Cross sharing info:** Members of the MDT may “**disclose and exchange information** and writings to and with one another to any incidents of child abuse that may also be a part of a juvenile court record or otherwise designated as confidential under state law if the member of the team having that information or writing reasonably believes it is generally relevant to the prevention, identification, management, or treatment of child abuse, or the provision of child welfare services.” (WIC § § 830, 18951 & 18961.7.)

Disclosure to Child and Family Teams

WIC § 832

ACL 16-84 Requirements and Guidelines for Creating and Providing a CFT states:

- Confidentiality and information sharing practices are key elements throughout the CFT process, and they must be designed to protect children, youth and families' rights to privacy without creating barriers to receiving services. Section 832 of the Welfare and Institutions Code was added to promote sharing of information between CFT members relevant to case planning and providing necessary services and supports to the child, youth and family. To promote more effective communication needed for the development of a plan to address the needs of the child or youth and family, a person designated as a member of a child and family team may receive and disclose relevant information and records, subject to the child or youth and/or their parent or guardian signing a release of information.
- When the CFT convenes, members will discuss and address any concerns related to sharing information openly and transparently. Working together as a team to discuss necessary information such as strengths and challenges, will help the family to determine specific goals, and implement a plan to meet those goals. Sharing relevant information allows families and professionals to build trust in each other and in themselves. This strengths-based, collaborative engagement with families is fundamental to the CFT process.

FAQ's

Per statute the child's counsel can be provided with the name of the reporting party. Can they disclose the reporting party to anyone else?

No

The child's counsel is not permitted to further disclose the reporting party.

FAQ's

A parent wants to know the identity of the reporting party. Are they entitled to the information?

No

Penal Code 11167 indicates that the identity of the reporting party is confidential and shall only be disclosed to those listed in the statute. Parents are not listed in the statute.

FAQ's

A relative wants to know the status of the case.
Are they entitled to any information?

No

A relative is not entitled to information contained in the case file and/or status of the case. Only those entities listed in WIC § 827 are entitled to confidential information.

FAQ's

A child custody evaluator wants information regarding multiple child abuse referrals. Are they entitled to the information?

Yes

They are an entitled party under WIC §827. Under 827 they are entitled to inspect but not receive copies. Check local rules: under the Los Angeles County Superior Court Local Rule of Court 7.2(a)(3) they are entitled to copies.

FAQ's

A media outlet is requesting information and copies of a juvenile case. Are they entitled to access?

No

Under WIC §827 juvenile case information is protected and can only be obtained through the filing of a JV-570.

FAQ's

A person with authority to view the file wants to disclose to someone who is not entitled to access to the file. Can that person reveal the information?

No

WIC 827 allows an entitled party to share a document or information from the file with another entitled party. In this hypo the second person is not an entitled party.

FAQ's

An outside organization is seeking copies of the juvenile case file for purposes of research. Are they entitled to access?

No

In Los Angeles County the petitioner would file a research petition with the Presiding Judge. Check local rules for what is applicable in your county.

All information contained in this presentation is for information purposes only and is not legal advice. Everyone is reminded to complete his or her own legal research.

