

Title	Juvenile Law: Confidentiality of Records (amend Cal. Rules of Court, rule 5.552 and adopt rule 5.553; revise form JV-570 and adopt forms JV-571, JV-572, and JV-573)
Summary	The proposed amendments would make two separate changes pertaining to the confidentiality of juvenile court records: (1) clarify that the court cannot summarily grant a petition to review confidential juvenile court records without an individual determination of the best interest of the child; and (2) conform to new statutory requirements for a streamlined process for requesting the records of deceased children.
Source	Family and Juvenile Law Advisory Committee Hon. Jerilyn L. Borack and Hon. Susan D. Huguenor, Cochairs
Staff	Kerry Doyle, 415-865-8791, kerry.doyle@jud.ca.gov
Discussion	<p>This Invitation to Comment addresses two subjects pertaining to confidentiality of juvenile court records. First, the Family and Juvenile Law Advisory Committee (committee) recommends that California Rules of Court, rule 5.552 and various Judicial Council forms be amended to clarify that an in camera review of a juvenile case file, and an individual determination of the best interest of the child, is required before the court can release juvenile court records. Second, the committee recommends adopting a new rule and forms to conform to new statutory requirements for requesting the records of deceased children.</p> <p><i>In camera review</i></p> <p>The Youth Law Center and Central California Legal Services have notified staff that rule 5.552(e) and the <i>Request for Disclosure of Juvenile Case File</i> (form JV-570) can be read to allow summary granting of a petition to review confidential juvenile court records without an individual determination of the best interest of the child.</p> <p>In determining whether to order disclosure of juvenile court records, a court must consider whether disclosure will be in the best interest of the child. (See <i>In re Keisha T.</i>, (1995) 38 Cal.App.4th 220 (the juvenile court must determine whether disclosure is in the best interest of the minor); <i>In re Tiffany G.</i>, (1994) 29 Cal.App.4th 443 (the court must make the children’s best interests its primary concern); <i>In re Maria V.</i>, (1985) 167 Cal.App.3d 1099 (the juvenile court has exclusive authority to determine whether disclosure of juvenile records</p>

is in the best interest of the child).)

Current rule 5.552(b)(1) states the balancing test the court must apply:

- (E) In determining whether to authorize inspection or release of juvenile court records, in whole or in part, the court must balance the interests of the child and other parties to the juvenile court proceedings, the interests of the petitioner, and the interests of the public.
- (F) The court may permit disclosure of, discovery of, or access to juvenile court records or proceedings only insofar as is necessary, and only if there is a reasonable likelihood that the records in question will disclose information or evidence of substantial relevance to the pending litigation, investigation, or prosecution.

The Court of Appeal, Third Appellate District, expressly approved the rule as a proper balancing test. (See *In re Keisha T.* (1995) 38 Cal.App.4th 220 (addressing former rule 1423, renumbered as 5.552).) This test requires the court to make an individual determination that takes into consideration the policy favoring confidentiality, the best interest of the child, and the interests of the petitioner and the public.

To ensure that the juvenile court protects the child and adequately considers all interests, appellate courts have approved or required procedures that include an in camera review of the record to determine whether the petitioner should be granted access to some or all of the records. The court must have as its primary concern the best interest of the child and weigh the competing interests, looking to the particular facts of each case. The court must recognize the general policy of confidentiality, consider whether disclosure is necessary, and determine whether the information sought can be obtained from another source or through partial disclosure. Procedurally, the petitioner must show good cause, the child must be given notice and an opportunity to be heard, and the juvenile court must make a record of its findings that is adequate for review of its ruling. (See, e.g., *Keisha T.* (1995) 38 Cal.App.4th 220).

Many appellate courts have required an in camera review of the record to determine whether some or all of the documents should be disclosed. (See, e.g. *Pack v. Kings County Human Services Agency*, (2001) 89 Cal.App.4th 821 (“In camera review was an appropriate

procedure, and is routinely used when a judicial decision concerns information claimed to be covered by some rule of confidentiality or privilege.”); *Lorenza P. v. Superior Court* (1988) 197 Cal.App.3d 607 242 Cal Rptr. 877, 879 (Cal.Ct.App. 1988) (“[T]he proper procedure is to petition the juvenile court to review the records in camera to determine which, if any, may be disclosed.”); *In re Gina S.*, 35 Cal.Rptr.3d 277, 286–287 (Cal.Ct.App. 2005) (in camera review of court records conducted by trial court and review of record provided under seal).

The Court of Appeal, First Appellate District set forth guidelines to be followed in determining whether juvenile court records should be disclosed including that the court make a finding that the need for discovery outweighs the policy considerations favoring confidentiality of juvenile records. *Navajo Express v. Superior Court* (1986) 186 Cal.App.3d 981.

Welfare and Institutions Code section 827<sup>1</sup> limits inspection of juvenile case files to specified individuals and “[a]ny other person who may be designated by court order of the judge of the juvenile court upon filing a petition.”

While rule 5.552(b)(1)(E)–(F) (stated above) describes the duties of the court, subdivision (e) provides: “The court must review the petition and grant or deny it summarily, or set a hearing,” and form JV-570 provides options to grant or deny the order, make additional orders, or set a hearing. The first sentence of (e) and the form suggest that an order granting inspection of records can be granted summarily without an in camera review of the record and without ensuring that noticed parties have an opportunity to object before the court issues its order.

Given the importance of confidentiality and the impossibility of correcting any improper release once it has occurred, the committee recommends that the rule and forms make clear that the court may order release of records only after (1) the petitioner has carried its burden of showing that it is likely the records will disclose relevant information, (2) noticed individuals have had an opportunity to be heard, and (3) an in camera inspection of the records has taken place.

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<sup>1</sup> All further statutory references are to the Welfare and Institutions Code.

The committee recommends amending rule 5.552 to (1) require the petitioner to show that it is likely the records will disclose relevant information, (2) require notice of the petition for disclosure and of the right to file an objection, (3) delete the option that the court may grant the petition summarily, and (4) require a finding that the need for discovery outweighs the policy considerations favoring confidentiality of juvenile records before any release of records.

The committee invites comments particularly on proposed rule 5.552(b)(1)(B), which allows inspection by a district attorney, city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases under state law, without limiting inspection to entities who are currently participating in the dependency proceeding. These entities are statutorily authorized to inspect a case file under Welfare and Institutions Code section 827. The committee invites comment as to the scope of authority for these entities to inspect and copy files. For example, as currently written, the rule would permit a district attorney to inspect a juvenile case file to determine whether or not criminal charges should be brought.

The committee recommends adopting a new form, *Order on Petition for Disclosure* (form JV-573) to separate the order from the petition and to provide guidance to the court when making the order. Each potential order will incorporate the relevant legal standards to help the judicial officer in making an order on the petition. For example, the order denying a request would state: “After a noticed hearing and in camera review, the court denies the request. Disclosure is not in the best interest of the child.”

The committee also recommends adopting a new form, *Notice of Request for Disclosure of Juvenile Case File* (form JV-571) to be served with a copy of the petition. This form would inform the child and parents or guardians that the child’s case file is being sought and that they have the right to object to the release of the records. The committee further recommends adopting a new form, *Objection to Release of Case File* (form JV-572) to allow a child or parent or guardian to file his or her objection with the court.

#### *Records of a deceased child*

Senate Bill 39 (Migden, Stats. 2007, ch. 468) amended section 827 and added sections 826.7 and 10850.4. The legislation was enacted to provide public access to juvenile case files in cases where a child fatality occurred. The legislative intent was to promote public scrutiny

of and an informed debate on the circumstances that led to the fatality, thereby promoting the development of child protection policies, procedures, practices, and strategies that will reduce or avoid future deaths and injuries of children. Section 10850.4 provides for an administrative release of certain documents without the filing of a legal petition, and is outside the purview of this proposal. The amendments to section 827 impose time requirements when a request for records of a deceased child is made that will expedite the disposition of the request.

Proposed new rule 5.553 would require the court to proceed under section 827 when a request is made for records of a deceased child.

Proposed rule 5.553 is consistent with the holding in the appellate court case *In re Elijah S.* (2005) 125 Cal.App.4th 1532. In that case, the court held that the juvenile court has exclusive authority to order the release of the juvenile records of deceased minors, whether or not a petition to declare them a dependent of the court has been filed. New rule 5.553 does not impose a requirement that a petition to declare a child a dependent of the court be filed. It requires the court to follow the process under section 827 for a request of a deceased child's juvenile case file. The committee recommends amending *Request for Disclosure of Juvenile Case File* (form JV-570) to allow its use to request records of a deceased child, and to indicate if a petition has been filed under section 300, 601, or 602, or petitioner believes the child died due to abuse or neglect.

The committee further recommends that form JV-570 become a plain language form. The typical petitioner may not be familiar with the court process, and a plain language form will make use easier. The recommended new forms *Notice of Request for Disclosure of Juvenile Case File* (JV-571), and *Objection to Release of Case File* (JV-572), are in plain language and the group of forms should be consistent.

Proposed amendments to rule 5.552 would conform to the new statutory requirement created by SB 39 by listing individuals who may receive a copy of the case file.

In proposed rule 5.552, the number of strike-outs and apparent additions are largely a reorganization of existing rule language. Substantive changes include: (1) the amendments mentioned in the discussion of in camera review; (2) the amendments in the discussion of SB 39; (3) the addition of the child's tribal representative, if the

child's tribe has intervened in the case, to the list of those who may receive a copy of the case file and the addition of the child's Indian tribe to the list of those who must receive notice of the request; (4) the addition of the child's Court Appointed Special Advocate (CASA) volunteer to the list of those who must receive notice of the request; and (5) changing "juvenile court records" to "juvenile case file" throughout the rule to be consistent with statute and the current definition in the rule. The remaining amendments organize the rule in a more logical and sequential way.

The committee recommends deleting the 15-year-old advisory committee comment, as it is no longer necessary to state the process by which the committee developed the rule.

The text of the proposed rules is attached at pages 7–12.

The text of the proposed forms is attached at pages 13–19.

The text of the relevant statutes is attached at pages 20–27.

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Attachments

Rule 5.552 of the California Rules of Court would be amended and rule 5.553 would be adopted effective January 1, 2009, to read:

1 **Rule 5.552. Confidentiality of records (§§ 827, 828)**

2  
3 (a) \*\*\*

4  
5 (b) ~~Inspection~~ General provisions

6  
7 (1) The following individuals and entities may inspect and receive a copy  
8 of the case file without an order of the juvenile court:

9  
10 (A) Court personnel;

11  
12 (B) The district attorney, a city attorney, or a city prosecutor  
13 authorized to prosecute criminal or juvenile cases under the law;

14  
15 (C) The child who is the subject of the proceeding;

16  
17 (D) The child's parents or guardian;

18  
19 (E) The attorneys for the parties, including any trial court or appellate  
20 attorney representing a party in the juvenile proceeding or related  
21 appellate proceeding;

22  
23 (F) Judges, referees, other hearing officers, probation officers, and  
24 law enforcement officers who are actively participating in  
25 criminal or juvenile proceedings involving the child;

26  
27 (G) The county counsel, the city attorney, or any other attorney  
28 representing the petitioning agency in a dependency action;

29  
30 (H) Members of child protective agencies as defined in Penal Code  
31 section 11165.9;

32  
33 (I) The California Department of Social Services in order to carry out  
34 its duty to oversee and monitor county child welfare agencies,  
35 children in foster care or receiving foster-care assistance, and out-  
36 of-state placements; and

37  
38 (J) The child's Indian tribal representative if the tribe has intervened  
39 in the child's case.

1  
2 ~~(1)~~(2) The following individuals and entities may inspect but may not  
3 copy juvenile case files:

4  
5 (A) All persons and entities listed in Welfare and Institutions Code  
6 sections 827 and 828 who are not listed in (b)(1) above; and

7  
8 (B) A child's Indian tribal representative if the tribe has not  
9 intervened in the child's case.

10  
11 ~~(A) Counsel who are entitled to inspect juvenile court records include~~  
12 ~~any trial court or appellate attorney representing a party in the~~  
13 ~~juvenile court proceeding.~~

14  
15 ~~(B)~~(3) Authorization for any other person to inspect, obtain, or copy  
16 juvenile court records case files may be ordered only by the juvenile  
17 court presiding judge or a judicial officer of the juvenile court.

18  
19 ~~(C) The child, the child's attorney, the child's parents and their~~  
20 ~~attorneys, the child's social worker, the county counsel, and a~~  
21 ~~child's identified Indian tribe, can obtain a copy of a juvenile case~~  
22 ~~file document that was previously disseminated during the~~  
23 ~~proceedings, while the case is pending.~~

24  
25 ~~(D)~~(4) Juvenile court records case files may not be obtained or inspected  
26 by civil or criminal subpoena.

27  
28 ~~(E) In determining whether to authorize inspection or release of~~  
29 ~~juvenile court records, in whole or in part, the court must balance~~  
30 ~~the interests of the child and other parties to the juvenile court~~  
31 ~~proceedings, the interests of the petitioner, and the interests of the~~  
32 ~~public.~~

33  
34 ~~(F) The court may permit disclosure of, discovery of, or access to~~  
35 ~~juvenile court records or proceedings only insofar as is necessary,~~  
36 ~~and only if there is a reasonable likelihood that the records in~~  
37 ~~question will disclose information or evidence of substantial~~  
38 ~~relevance to the pending litigation, investigation, or prosecution.~~

39  
40 ~~(G) The court may issue protective orders to accompany authorized~~  
41 ~~disclosure, discovery, or access.~~

1           (2)(5)       When a petition is sustained for any offense listed in section 676,  
2           the charging petition, the minutes of the proceeding, and the orders of  
3           adjudication and disposition that are contained in the court file must be  
4           available for public inspection, unless the court has prohibited  
5           disclosure of those records under that section.

6  
7       (c)   \*\*\*

8  
9       (d)   **Notice of petition for disclosure**

10  
11       (1)   At least ~~five~~ 10 days before the petition is submitted to the court, the  
12       petitioner must personally or by first-class mail serve, ~~or attempt to~~  
13       ~~serve, a copy of the petition~~ Request for Disclosure of Juvenile Case  
14       File (form JV-570), Notice of Request for Disclosure of Juvenile Case  
15       File (form JV-571), and a blank copy of Objection to Release of Case  
16       File (form JV-572) on the following:

- 17  
18       (A)   The county counsel, city attorney, or any other attorney  
19       representing the petitioning agency in a dependency action;  
20  
21       (B)   The district attorney;  
22  
23       (C)   The child;  
24  
25       (D)   The attorney of record for the child who remains a ward or  
26       dependent of the court;  
27  
28       (E)   The parent or guardian of the child who is under 18 years of age  
29       or if a dependency petition (§ 300 et seq.) was filed regarding the  
30       child;  
31  
32       (F)   ~~the~~ The probation department or child welfare services program,  
33       or both, if applicable;  
34  
35       (G)   The child's identified Indian tribe; and  
36  
37       (H)   The child's CASA volunteer.

38  
39       (2)   For good cause, the court may on the motion of the person seeking the  
40       order, or on its own motion, shorten the time for service of the petition  
41       for disclosure.  
42  
43

1 (e) **Procedure before hearing**

2  
3 The court must review the petition and ~~grant or~~ if petitioner does not show  
4 good cause deny it summarily, or if petitioner does show good cause, set a  
5 hearing. The clerk must notice all parties of the hearing. the persons and  
6 entities listed in (d)(1) above. If at the hearing  
7

8 (f) **Conduct of hearing**

9  
10 (1) The petitioner and all those entitled to notice have a right to be heard.

11  
12 (2) If the court determines that there may be information or documents in  
13 the records sought to which the petitioner may be entitled, ~~review of~~  
14 ~~records must be in camera~~ and the juvenile court judicial officer must  
15 conduct an in camera review and assume that all legal claims of  
16 privilege are asserted.  
17

18 (3) In determining whether to authorize inspection or release of juvenile  
19 case files, in whole or in part, the court must balance the interests of the  
20 child and other parties to the juvenile court proceedings, the interests of  
21 the petitioner, and the interests of the public.  
22

23 (4) If the court grants the petition, the court must find that the need for  
24 discovery outweighs the policy considerations favoring confidentiality  
25 of juvenile case files. These policy considerations include:  
26

27 (A) The best interest of the child is paramount.

28  
29 (B) The confidentiality of records is intended to protect the privacy  
30 rights of the child.  
31

32 (5) The court may permit disclosure of, discovery of, or access to juvenile  
33 case files or proceedings only insofar as is necessary, and only if  
34 petitioner shows by a preponderance of the evidence that the records  
35 requested are necessary and have substantial relevance to the legitimate  
36 need of the petitioner.  
37

38 (6) If after in-camera review the court determines that all or a portion of  
39 the case file may be disclosed, the court must make appropriate orders,  
40 specifying the information to be disclosed and the procedure for  
41 providing access to it.  
42



1 Proposed rule 5.552 and proposed *Petition for Disclosure of Juvenile Court Records* (form JV-  
2 570) were drafted and circulated for comment. There were many responses, all of which were  
3 carefully considered by the committee as a whole, and several suggestions and amendments were  
4 incorporated. The comments universally welcomed the addition of the rule and the formalization  
5 of a procedure through the use of the form.

6  
7 The rule does not attempt to set forth a procedure for access to records protected under other  
8 statutes or to include documents or materials not specifically under the authority of the juvenile  
9 court. Thus, the files maintained by probation departments and child welfare services programs  
10 may be the subject of a JV 570 petition to disclose only if a section 300, 601, or 602 petition  
11 concerning the subject child has been filed in juvenile court at some time (before, after, or  
12 concurrent with the acquisition of the materials in the files). The protection of reports of  
13 suspected child abuse is recognized and specifically identified in (f) of the rule. (Reference to  
14 Pen. Code, § 11165 et seq.)

15  
16 Notice to the subject child that his or her records are being sought is fundamental, as is notice to  
17 the parents of a child who has not reached majority. Because dependency files contain many  
18 references to and details of family issues, notice to parents of children on whom section 300  
19 petitions were filed is also mandated. Because their records are most commonly the subjects of  
20 such requests, the probation department and child welfare services program were added to the list  
21 of persons and agencies requiring notice. Although some commentators questioned the  
22 requirement of notice to both the county counsel and the district attorney because there are  
23 frequent “cross-overs” of purposes of disclosure, it was felt that notice to both offices would  
24 assure the court that all those interested in the records would have an opportunity to respond to  
25 the petition.

26  
27 Because these are confidential records and the protection of the interest of the child is paramount,  
28 specific procedural safeguards are appropriate.

29  
30 **Rule 5.553 Juvenile case file of a deceased child**

31  
32 When the juvenile case file of a deceased child is sought, the court must proceed  
33 under section 827.

*Clerk stamps date here when form is filed.*

**DRAFT 10  
04/03/08 mc  
Not approved by the  
Judicial Council**

*Fill in court name and street address:*

**Superior Court of California, County of**

*Fill in case number if known:*

**Case Number:**

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

② Name of child: \_\_\_\_\_

- ③ 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

④ The records I want access to are (describe in detail, attach additional pages if necessary):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- ⑤ The reasons for this request are (describe in detail the relevance of, and the necessity for, the requested records; attach additional pages if necessary):  
a.  Civil court case pending in (name of county): \_\_\_\_\_ case number: \_\_\_\_\_  
b.  Criminal court case pending in (name of county): \_\_\_\_\_ case number: \_\_\_\_\_  
d.  Juvenile court case pending in (name of county): \_\_\_\_\_ case number: \_\_\_\_\_  
e.  Other (specify): \_\_\_\_\_

You must provide notice to all interested parties if you know their names and addresses.



Case Number: \_\_\_\_\_

Your name: \_\_\_\_\_

- 6  A copy of this request, JV-571, and JV-572 have been placed in a sealed envelope with postage paid and the envelope has been deposited in the United States mail addressed to the following:
- a.  County counsel or other attorney representing the child welfare services agency (*name and address*):  
\_\_\_\_\_  
Date mailed: \_\_\_\_\_
  - b.  District attorney (*name and address*): \_\_\_\_\_  
\_\_\_\_\_  
Date mailed: \_\_\_\_\_
  - c.  Child (*name and address*): \_\_\_\_\_  
\_\_\_\_\_  
Date mailed: \_\_\_\_\_
  - d.  Attorney of record for the child (*name and address*): \_\_\_\_\_  
\_\_\_\_\_  
Date mailed: \_\_\_\_\_
  - e.  Child's parent or legal guardian (*name and address*): \_\_\_\_\_  
Date mailed: \_\_\_\_\_
  - f.  Probation department (*address*): \_\_\_\_\_  
Date mailed: \_\_\_\_\_
  - g.  Child welfare agency/custodian of records (*address*): \_\_\_\_\_  
Date mailed: \_\_\_\_\_
  - h.  The child's identified Indian tribe (*address*): \_\_\_\_\_  
Date mailed: \_\_\_\_\_
  - i.  The child's CASA volunteer (*name and address*): \_\_\_\_\_  
Date mailed: \_\_\_\_\_



Case Number: \_\_\_\_\_

Your name: \_\_\_\_\_

7  I was not able to provide notice of this petition to the following because I did not know their names or addresses, and the clerk should serve a copy of this petition. If this is a request for a case file of a deceased child, the custodian of records should serve a copy of this petition.

a.  County counsel or other attorney representing the child welfare services agency (*name and address*): \_\_\_\_\_

Date mailed: \_\_\_\_\_

b.  District attorney (*name and address*): \_\_\_\_\_

Date mailed: \_\_\_\_\_

c.  Child (*name and address*): \_\_\_\_\_

Date mailed: \_\_\_\_\_

d.  Attorney of record for the child (*name and address*): \_\_\_\_\_

Date mailed: \_\_\_\_\_

e.  Child's parent or legal guardian (*name and address*): \_\_\_\_\_

Date mailed: \_\_\_\_\_

f.  Probation department (*address*): \_\_\_\_\_

Date mailed: \_\_\_\_\_

g.  Child welfare agency/custodian of records (*address*): \_\_\_\_\_

Date mailed: \_\_\_\_\_

h.  The child's identified Indian tribe (*address*): \_\_\_\_\_

Date mailed: \_\_\_\_\_

i.  The child's CASA volunteer (*name and address*): \_\_\_\_\_

Date mailed: \_\_\_\_\_

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: \_\_\_\_\_

\_\_\_\_\_  
*Type or print your name*

\_\_\_\_\_  
*Sign your name*

**RE: RELEASE OF JUVENILE CASE FILE AND  
RIGHT TO FILE AN OBJECTION**

TO (*names*):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

① Child's name: \_\_\_\_\_

② Information relating to the child named in item ① is being sought by  
(*name*): \_\_\_\_\_  
\_\_\_\_\_

③ The requested information is described in the attached *Request for  
Disclosure of Juvenile Case File* (form JV-570).

④ If you object to the disclosure of these records and information, you must fill out *Objection to Release of Records*  
(form JV-572) and return it to the court listed at the address above within 10 days of the date this notice was  
served on you (*mailed or personally delivered to you, see "date" below*).

⑤ Before the court can release your records, it must hold a hearing. You have the right to (1) receive a notice of the  
date, time, and place of the hearing; (2) attend the hearing and tell the court why your records should not be  
released; and (3) have an attorney represent you at the hearing, but the court is not required to appoint an attorney  
to represent you.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Type or print your name*

▶  
\_\_\_\_\_  
*Sign your name*

*Clerk stamps date here when form is filed.*

**DRAFT 8  
04/03/08 mc  
Not approved by the  
Judicial Council**

*Fill in court name and street address:*

**Superior Court of California, County of**

*Fill in case number if known:*

**Case Number:**

**Warning: If you do not object, the court may release the child's case file.**

Objections to the release of information and records described in the attached *Request for Disclosure of Juvenile Case File* (form JV-570) must be filed with the court.

① Name of child: \_\_\_\_\_

②  I object to the release of information and records relating to the child named in item ① .

③ The reasons I do not want the court to release the records are:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
*Type or print your name*

▲  
\_\_\_\_\_  
*Sign your name*

*Clerk stamps date here when form is filed.*

**DRAFT 7  
04/03/08 mc  
Not approved by the  
Judicial Council**

*Fill in court name and street address:*

**Superior Court of California, County of**

*Fill in case number if known:*

**Case Number:**

Clerk stamps date here when form is filed.  
  
**DRAFT 9  
04/03/08 mc  
Not approved by  
the Judicial Council**

**The court finds and orders:**

- ①  Request denied. The applicant has not shown good cause for release of the records requested.
- ②  Set hearing on request. Applicant has shown good cause for release of the juvenile case file, but the court must balance the interests of the applicant, the child, other parties to the juvenile court proceedings, and the public. Clerk to send notice under California Rules of Court, rule 5.552.  
Date of hearing: \_\_\_\_\_  
Time of hearing: \_\_\_\_\_ Location: \_\_\_\_\_

Fill in court name and street address:  
**Superior Court of California, County of**

- ③  After a noticed hearing and in camera review, the court denies the request. Disclosure is not in the best interest of the child.
- ④  After a noticed hearing and in camera review, the court grants the request. The applicant has shown by a preponderance of the evidence that the records requested are necessary and have substantial relevance to the legitimate needs of the applicant. The court has balanced this need with the child's best interest. The court finds that the need for discovery outweighs the policy considerations favoring confidentiality of juvenile records.

Fill in child's name and date of birth:  
**Child's Name:**  
**Date of Birth:**

- a.  The following records may be disclosed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- b.  The procedure for providing access is:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Fill in case number when form is filed.  
**Case Number:**

- ⑤  The child is deceased and the request is denied. The court finds by a preponderance of the evidence that release of the juvenile case file or any portion thereof is detrimental to the safety, protection, or physical or emotional well-being of another child who is directly or indirectly connected to the juvenile case that is the subject of the request.

- ⑥  The child is deceased and the request granted.

- a.  The court has read and considered the following:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Case Number: \_\_\_\_\_

Your name: \_\_\_\_\_

b.  The court has only considered the interests of the child.

c.  The following records may be disclosed:

\_\_\_\_\_  
\_\_\_\_\_

d.  The procedure for providing access is:

\_\_\_\_\_  
\_\_\_\_\_

**Additional orders:**

7  Applicant may not disseminate the information to anyone who is not specified in section 827.

8  Disclosure subject to protective order (*list orders*): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

9  Inspection of designated records only.

10  Inspection of records with redaction.

11  Other:

\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_

▶ \_\_\_\_\_

*Signature of judicial officer*

**§ 826.7. Child who died as result of abuse or neglect; release of juvenile case files**

Juvenile case files that pertain to a child who died as the result of abuse or neglect shall be released by the custodian of records of the county welfare department or agency to the public pursuant to Section 10850.4 or an order issued pursuant to paragraph (2) of subdivision (a) of Section 827.

**§ 827. Juvenile case file inspection; confidentiality; release; probation reports; destruction of records; liability**

(a)(1) Except as provided in Section 828, a case file may be inspected only by the following:

(A) Court personnel.

(B) The district attorney, a city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases under state law.

(C) The minor who is the subject of the proceeding.

(D) The minor's parents or guardian.

(E) 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 minor.

(F) The county counsel, city attorney, or any other attorney representing the petitioning agency in a dependency action.

(G) The superintendent or designee of the school district where the minor is enrolled or attending school.

(H) Members of the child protective agencies as defined in Section 11165.9 of the Penal Code.

(I) The State Department of Social Services, to carry out its duties pursuant to Division 9 (commencing with Section 10000), and Part 5 (commencing with Section 7900) of Division 12, of the Family Code to oversee and monitor county child welfare agencies, children in foster care or receiving foster care assistance, and out-of-state placements, Section 10850.4, and paragraph (2).

(J) Authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate community care facilities, 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. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 3 (commencing with Section 1500) and Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Social Services in a criminal, civil,

or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names that are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and may not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Social Services may not contain the name of the minor.

(K) Members of children's multidisciplinary teams, persons, or agencies providing treatment or supervision of the minor.

(L) A judge, commissioner, or other hearing officer assigned to a family law case with issues concerning custody or visitation, or both, involving the minor, and the following persons, if actively participating in the family law case: a family court mediator assigned to a case involving the minor pursuant to Article 1 (commencing with Section 3160) of Chapter 11 of Part 2 of Division 8 of the Family Code, a court-appointed evaluator or a person conducting a court-connected child custody evaluation, investigation, or assessment pursuant to Section 3111 or 3118 of the Family Code, and counsel appointed for the minor in the family law case pursuant to Section 3150 of the Family Code. Prior to allowing counsel appointed for the minor in the family law case to inspect the file, the court clerk may require counsel to provide a certified copy of the court order appointing him or her as the minor's counsel.

(M) A court-appointed investigator who is actively participating in a guardianship case involving a minor pursuant to Part 2 (commencing with Section 1500) of Division 4 of the Probate Code and acting within the scope of his or her duties in that case.

(N) A local child support agency for the purpose of establishing paternity and establishing and enforcing child support orders.

(O) Juvenile justice commissions as established under Section 225. The confidentiality provisions of Section 10850 shall apply to a juvenile justice commission and its members.

(P) Any other person who may be designated by court order of the judge of the juvenile court upon filing a petition.

(2)(A) Notwithstanding any other law and subject to subparagraph (A) of paragraph (3), juvenile case files, except those relating to matters within the jurisdiction of the court pursuant to Section 601 or 602, that pertain to a deceased child who was within the jurisdiction of the juvenile court pursuant to Section 300, shall be released to the public pursuant to an order by the juvenile court after a petition has been filed and interested parties have been afforded an opportunity to file an objection. Any information relating to another child or which could identify another child, except for information about the deceased, shall be redacted from the juvenile case file prior to release, unless a specific order is made by the juvenile court to the contrary. Except as provided in this paragraph, the presiding judge of the juvenile court may issue an order prohibiting or limiting access to the juvenile case file, or any portion thereof, of a deceased child only upon a showing by a preponderance of evidence that release of the juvenile case file or any portion thereof is detrimental to the safety, protection, or physical or emotional well-being of another child who is directly or indirectly connected to the juvenile case that is the subject of the petition.

(B) This paragraph represents a presumption in favor of the release of documents when a

child is deceased unless the statutory reasons for confidentiality are shown to exist.

(C) If a child whose records are sought has died, and documents are sought pursuant to this paragraph, no weighing or balancing of the interests of those other than a child is permitted.

(D) A petition filed under this paragraph shall be served on interested parties by the petitioner, if the petitioner is in possession of their identity and address, and on the custodian of records. Upon receiving a petition, the custodian of records shall serve a copy of the request upon all interested parties that have not been served by the petitioner or on the interested parties served by the petitioner if the custodian of records possesses information, such as a more recent address, indicating that the service by the petitioner may have been ineffective.

(E) The custodian of records shall serve the petition within 10 calendar days of receipt. If any interested party, including the custodian of records, objects to the petition, the party shall file and serve the objection on the petitioning party no later than 15 calendar days of service of the petition.

(F) The petitioning party shall have 10 calendar days to file any reply. The juvenile court shall set the matter for hearing no more than 60 calendar days from the date the petition is served on the custodian of records. The court shall render its decision within 30 days of the hearing. The matter shall be decided solely upon the basis of the petition and supporting exhibits and declarations, if any, the objection and any supporting exhibits or declarations, if any, and the reply and any supporting declarations or exhibits thereto, and argument at hearing. The court may solely upon its own motion order the appearance of witnesses. If no objection is filed to the petition, the court shall review the petition and issue its decision within 10 calendar days of the final day for filing the objection. Any order of the court shall be immediately reviewable by petition to the appellate court for the issuance of an extraordinary writ.

(3) Access to juvenile case files pertaining to matters within the jurisdiction of the juvenile court pursuant to Section 300 shall be limited as follows:

(A) If a juvenile case file, or any portion thereof, is privileged or confidential pursuant to any other state law or federal law or regulation, the requirements of that state law or federal law or regulation prohibiting or limiting release of the juvenile case file or any portions thereof shall prevail. Unless a person is listed in subparagraphs (A) to (O), inclusive, of paragraph (1) and is entitled to access under the other state law or federal law or regulation without a court order, 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, shall petition the juvenile court. The juvenile court may only release the portion of, or information relating to the contents of, juvenile case files protected by another state law or federal law or regulation if disclosure is not detrimental to the safety, protection, or physical or emotional well-being of a child who is directly or indirectly connected to the juvenile case that is the subject of the petition. This paragraph shall not be construed to limit the ability of the juvenile court to carry out its duties in conducting juvenile court proceedings.

(B) Prior to the release of the juvenile case file or any portion thereof, the court shall afford due process, including a notice of and an opportunity to file an objection to the release of the record or report to all interested parties.

(4) 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, unless it is used in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

(5) Individuals listed in subparagraphs (A), (B), (C), (D), (E), (F), (H), and (I) of paragraph (1) may also receive copies of the case file. In these circumstances, the requirements of paragraph (4) shall continue to apply to the information received.

(b)(1) While the Legislature reaffirms its belief that juvenile court records, in general, should be confidential, it is the intent of the Legislature in enacting this subdivision to provide for a limited exception to juvenile court record confidentiality to promote more effective communication among juvenile courts, family courts, law enforcement agencies, and schools to ensure the rehabilitation of juvenile criminal offenders as well as to lessen the potential for drug use, violence, other forms of delinquency, and child abuse.

(2) Notwithstanding subdivision (a), written notice that a minor enrolled in a public school, kindergarten to grade 12, inclusive, has been found by a court of competent jurisdiction to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Section 290 of the Penal Code, assault or battery, larceny, vandalism, or graffiti shall be provided by the court, within seven days, to the superintendent of the school district of attendance. Written notice shall include only the offense found to have been committed by the minor and the disposition of the minor's case. This notice shall be expeditiously transmitted by the district superintendent to the principal at the school of attendance. The principal shall expeditiously disseminate the information to those counselors directly supervising or reporting on the behavior or progress of the minor. In addition, the principal shall disseminate the information to any teacher or administrator directly supervising or reporting on the behavior or progress of the minor whom the principal believes needs the information to work with the pupil in an appropriate fashion, to avoid being needlessly vulnerable or to protect other persons from needless vulnerability.

Any information received by a teacher, counselor, or administrator under this subdivision shall be received in confidence for the limited purpose of rehabilitating the minor and protecting students and staff, and shall not be further disseminated by the teacher, counselor, or administrator, except insofar as communication with the juvenile, his or her parents or guardians, law enforcement personnel, and the juvenile's probation officer is necessary to effectuate the juvenile's rehabilitation or to protect students and staff.

An intentional violation of the confidentiality provisions of this paragraph is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500).

(3) If a minor is removed from public school as a result of the court's finding described in subdivision (b), the superintendent shall maintain the information in a confidential file and shall defer transmittal of the information received from the court until the minor is returned to public school. If the minor is returned to a school district other than the one from which the minor came, the parole or probation officer having jurisdiction over the minor shall so notify the superintendent of the last district of attendance, who shall transmit the notice received from the court to the superintendent of the new district of attendance.

(c) Each probation report filed with the court concerning a minor whose record is subject to dissemination pursuant to subdivision (b) shall include on the face sheet the school at which the minor is currently enrolled. The county superintendent shall provide the court with a listing of all of the schools within each school district, within the county, along with

the name and mailing address of each district superintendent.

(d) Each notice sent by the court pursuant to subdivision (b) shall be stamped with the instruction: "Unlawful Dissemination Of This Information Is A Misdemeanor." Any information received from the court shall be kept in a separate confidential file at the school of attendance and shall be transferred to the minor's subsequent schools of attendance and maintained until the minor graduates from high school, is released from juvenile court jurisdiction, or reaches the age of 18 years, whichever occurs first. After that time the confidential record shall be destroyed. At any time after the date by which a record required to be destroyed by this section should have been destroyed, the minor or his or her parent or guardian shall have the right to make a written request to the principal of the school that the minor's school records be reviewed to ensure that the record has been destroyed. Upon completion of any requested review and no later than 30 days after the request for the review was received, the principal or his or her designee shall respond in writing to the written request and either shall confirm that the record has been destroyed or, if the record has not been destroyed, shall explain why destruction has not yet occurred.

Except as provided in paragraph (2) of subdivision (b), no liability shall attach to any person who transmits or fails to transmit any notice or information required under subdivision (b).

(e) For purposes of this section, a "juvenile case file" means a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in that case or made available to the probation officer in making his or her report, or to the judge, referee, or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer.

**§ 10850.4. Suspicion of child fatality caused by abuse or neglect; release of records**

(a) Within five business days of learning that a child fatality has occurred in the county and that there is a reasonable suspicion that the fatality was caused by abuse or neglect, the custodian of records for the county child welfare agency, upon request, shall release the following information:

(1) The age and gender of the child.

(2) The date of death.

(3) Whether the child was in foster care or in the home of his or her parent or guardian at the time of death.

(4) Whether an investigation is being conducted by a law enforcement agency or the county child welfare agency.

(b) All cases in which abuse or neglect leads to a child's death shall be subject to the disclosures required in subdivision (c). Abuse or neglect is determined to have led to a child's death if one or more of the following conditions are met:

(1) A county child protective services agency determines that the abuse or neglect was substantiated.

(2) A law enforcement investigation concludes that abuse or neglect occurred.

(3) A coroner or medical examiner concludes that the child who died had suffered abuse or neglect.

(c) Upon completion of the child abuse or neglect investigation into the child's death, as described in subdivision (b), the following documents from the juvenile case file shall be released by the custodian of records upon request, subject to the redactions set forth in subdivision (e):

(1) All of the information in subdivision (a).

(2) For cases in which the child's death occurred while living with a parent or guardian, all previous referrals of abuse or neglect of the deceased child while living with that parent or guardian shall be disclosed along with the following documents:

(A) The emergency response referral information form and the emergency response notice of referral disposition form completed by the county child welfare agency relating to the abuse or neglect that caused the death of the child.

(B) Any cross reports completed by the county child welfare agency to law enforcement relating to the deceased child.

(C) All risk and safety assessments completed by the county child welfare services agency relating to the deceased child.

(D) All health care records of the deceased child, excluding mental health records, related to the child's death and previous injuries reflective of a pattern of abuse or neglect.

(E) Copies of police reports about the person against whom the child abuse or neglect was substantiated.

(3) For cases in which the child's death occurred while the child was in foster care, the following documents in addition to those specified in paragraphs (1) and (2) generated while the child was living in the foster care placement that was the placement at the time of the child's death:

(A) Records pertaining to the foster parents' initial licensing and renewals and type of license or licenses held, if in the case file.

(B) All reported licensing violations, including notices of action, if in the case file.

(C) Records of the training completed by the foster parents, if in the case file.

(d) The documents listed in subdivision (c) shall be released to the public by the custodian of records within 10 business days of the request or the disposition of the investigation, whichever is later.

(e)(1) Prior to releasing any document pursuant to subdivision (c), the custodian of records shall redact the following information:

(A) The names, addresses, telephone numbers, ethnicity, religion, or any other identifying information of any person or institution, other than the county or the State Department of Social Services, that is mentioned in the documents listed in paragraphs (2) and (3) of subdivision (c).

(B) Any information that would, after consultation with the district attorney, jeopardize a criminal investigation or proceeding.

(C) Any information that is privileged, confidential, or not subject to disclosure pursuant to any other state or federal law.

(2)(A) The State Department of Social Services shall promulgate a regulation listing the laws described in subparagraph (C) of paragraph (1) and setting forth standards governing redactions.

(B) Notwithstanding the rulemaking provisions of the Administrative Procedures Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), until emergency regulations are filed with the Secretary of State, the State Department of Social Services may implement the changes made to Section 827 and this section at the 2007-08 Regular Session of the Legislature through all county letters or similar instructions from the director. The department shall adopt as emergency regulations, as necessary to implement those changes, no later than January 1, 2009.

(C) The adoption of regulations pursuant to this paragraph shall be deemed to be an emergency necessary for the immediate preservation of the public peace, health, safety, or general welfare. The emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted for filing with the Secretary of State and shall remain in effect for no more than 180 days, by which time the final regulations shall be adopted.

(f) Upon receiving a request for the documents listed in subdivision (c), the custodian of records shall notify and provide a copy of the request upon counsel for any child who is directly or indirectly connected to the juvenile case file. If counsel for a child, including the deceased child or any sibling of the deceased child, objects to the release of any part of the documents listed in paragraphs (2) and (3) of subdivision (c), they may petition the juvenile court for relief to prevent the release of any document or part of a document requested pursuant to paragraph (2) of subdivision (a) of Section 827.

(g) Documents from the juvenile case file, other than those listed in paragraphs (2) and (3) of subdivision (c), shall only be disclosed upon an order by the juvenile court pursuant to Section 827.

(h) Once documents pursuant to this section have been released by the custodian of records, the State Department of Social Services or the county welfare department or agency may comment on the case within the scope of the release.

(i) Information released by a custodian of records consistent with the requirements of this section does not require prior notice to any other individual.

(j) Each county welfare department or agency shall notify the State Department of Social Services of every child fatality that occurred within its jurisdiction that was the result of child abuse or neglect. Based on these notices and any other relevant information in the State Department of Social Services' possession, the department shall annually issue a report identifying the child fatalities and any systemic issues or patterns revealed by the notices and other relevant information. The State Department of Social Services, after consultation with interested stakeholders, shall provide instructions by an all county letter regarding the procedure for notification.

(k) For purposes of this section, the following definitions apply:

(1) "Child abuse or neglect" has the same meaning as defined in Section 11165.6 of the Penal Code.

(2) "Custodian of records," for the purposes of this section and paragraph (2) of subdivision (a) of Section 827, means the county welfare department or agency.

(3) "Juvenile case files" or "case files" include any juvenile court files, as defined in Rule 5.552 of the California Rules of Court, and any county child welfare department or agency or State Department of Social Services records regardless of whether they are maintained electronically or in paper form.

(4) "Substantiated" has the same meaning as defined in Section 11165.12 of the Penal Code.

(l) A person disclosing juvenile case file information as required by this section shall not be subject to suit in civil or criminal proceedings for complying with the requirements of this section.

(m) This section shall apply only to deaths that occur on or after January 1, 2008.

(n) Nothing in this section shall require a custodian of records to retain documents beyond any date otherwise required by law.

(o) Nothing in this section shall be construed as requiring a custodian of records to obtain documents not in the case file.

## Item SPR08-40 Response Form

**Title:** **Juvenile Law: Confidentiality of Records** (amend Cal. Rules of Court, rule 5.552; adopt rule 5.553; revise form JV-570; adopt forms JV-571, JV-572, JV-573, JV-574 and JV-576)

- Agree with proposed changes
- Agree with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Name:** \_\_\_\_\_ **Title:** \_\_\_\_\_

**Organization:** \_\_\_\_\_

- Commenting on behalf of an organization**

**Address:** \_\_\_\_\_

**City, State, Zip:** \_\_\_\_\_

### **To Submit Comments**

Comments may be written on this form, prepared in a letter format, or submitted online. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments.

**Internet:** [www.courtinfo.ca.gov/invitationstocomment](http://www.courtinfo.ca.gov/invitationstocomment)

**Email:** [invitations@jud.ca.gov](mailto:invitations@jud.ca.gov)

**Mail:** Ms. Camilla Kieliger  
Judicial Council, 455 Golden Gate Avenue  
San Francisco, CA 94102

**Fax:** (415) 865-7664, Attn: Camilla Kieliger

<b>DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 20, 2008</b>
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*Circulation for comment does not imply endorsement by the Judicial Council  
or the Rules and Projects Committee.  
All comments will become part of the public record of the council's action.*