

MEMORANDUM

DATE: August 19, 2022

TO: News Media Representatives
Juvenile Court Judicial Officers
Juvenile Court Attorneys
HHS Child Welfare Services
Juvenile Probation Department
Michael T. Smyth, Presiding Judge, San Diego Superior Court
Michael Roddy, Superior Court Executive Officer
Emily Cox, Superior Court Public Affairs Officer
Susanne Koski, Superior Court General Counsel/Director of Legal Services
Patricia Xavier, Juvenile Court Operations Manager
Orlando Martinez, Sheriff's Department

FROM: Hon. Ana España
Presiding Judge, Juvenile Division, San Diego Superior Court

RE: **JUVENILE COURT MEDIA POLICY (REVISED 2022)**

I. STATEMENT OF PURPOSE

Under California law, the Juvenile Court has a duty to protect the confidentiality of its records, courtroom proceedings, and — most importantly — the identities of the children who are or may come under the court's jurisdiction. Safeguarding the confidentiality of a child's contact with the judicial system is essential to protect children and their families from public scandal, harmful curiosity, and humiliation, and to enable the Juvenile Court to act in the best interests of the child and the public.

The Juvenile Court also recognizes the media's responsibility to inform and educate the public about the judicial system and how it works with child victims of abuse and neglect (who may be declared "dependents" of the court) as well as youthful offenders (who may be declared "wards" of the court). Media coverage can facilitate public scrutiny of the juvenile court system, thereby allowing the citizenry to evaluate the overall operations of the judicial system at large.

To maintain the confidentiality required by law, while at the same time ensuring the integrity of the courts through public monitoring, the Juvenile Court hereby adopts this *Juvenile Court Media Policy (Revised 2022)* [hereinafter "*Media Policy*"].

II. SCOPE, APPLICATION, AND EFFECTIVE DATE

This *Media Policy* encompasses confidentiality provisions governing dependency and juvenile justice matters with regard to the following: [1] access to Juvenile Court records; [2] admission to, or media coverage of, courtroom proceedings; [3] media requests for access outside the courtroom; and [4] sanctions for unauthorized disclosure or failure to comply with confidentiality provisions. (See Welfare & Institutions Code (“WIC”) sections 105, 107, 204, 346, 362.5, 675, 676, 827-832.; Cal. Rules of Court (“CRC”), rules 1.150, 5.552, 5.553; San Diego Superior Court Rules (“Local Rules”), Division VI - Juvenile, Chapter 6: Access to Confidential Information.)

This *Media Policy* is designed to protect the children who are or may come under the court’s jurisdiction, and is not intended to replace, nullify, or conflict with any existing policies of the San Diego County Health & Human Services Agency Child Welfare Services (“HHS A CWS”), the San Diego County Juvenile Probation Department (“Probation”), or any other public agency. This *Media Policy* does not prohibit the release of general information on Juvenile Court procedures and policies. Effective immediately, this *Media Policy* supersedes all previously issued media policies.

III. ACCESS TO JUVENILE COURT RECORDS

See “SAN DIEGO JUVENILE COURT PROTOCOL FOR INSPECTION AND COPYING OF JUVENILE CASE FILE DOCUMENTS” at https://www.sdcourt.ca.gov/sites/default/files/sdcourt/juvenile3/policiesproceduresandprotocols/juv_policiesproceduresandprotocolsforms/827%20Protocol%202021.pdf

IV. ADMISSION TO, OR MEDIA COVERAGE OF, COURTROOM PROCEEDINGS

GENERAL RULE —

All dependency proceedings and most juvenile justice proceedings are closed to the public pursuant to WIC sections 346 and 676. CRC rule 1.150 prohibits the court from allowing media coverage of “[p]roceedings closed to the public.” Only those persons listed in CRC rule 5.530 are entitled to be present at Juvenile Court hearings. Further, Presiding Department Order Number 010122-02 (entitled "In re: Procedure Regulating Photography, Recording and Broadcasting in Courthouse") prohibits the use of any device, including a cell phone, to record or photograph a judicial proceeding without prior written judicial approval.

EXCEPTIONS —

- *In all Juvenile Court cases:* Upon a request for permission, any person who is deemed by the judicial officer to have a direct and legitimate interest in the particular case or the work of the court may be admitted. (WIC sections 346, 676.)
- *Dependency cases only:* When requested by a parent or guardian *and* consented to or requested by the child who is the subject of the petition, the public may be admitted -- unless the court finds that an open hearing would be detrimental to the child. (WIC section 346.)
- *Juvenile justice cases only:* When requested by the child who is the subject of the petition *and* any parent or guardian who is present, the public may be admitted. (WIC section 676.)

- *Juvenile justice cases only:* When the petition alleges the commission of an offense listed in WIC section 676(a), the public may be admitted -- unless [1] an exception described in section 676(b) or 676.5 applies or [2] the child establishes a reasonable likelihood that the presence of the public will substantially prejudice the child's right to receive a fair trial. (Cheyenne K. v. Superior Court (1989) 208 Cal.App.3d 331, 336.) If a media representative is admitted under this exception, any information lawfully obtained in the courtroom may be published.
- *Juvenile justice cases only:* Up to two family members may accompany a prosecution witness in the courtroom for support. (WIC section 676.)
- *Juvenile justice cases only:* A victim of an offense alleged to have been committed by the child who is the subject of the petition, and up to two support persons chosen by the victim, are entitled to attend any hearing regarding the offense. However, any such person may be excluded pursuant to WIC section 676.5.
- *Adoption cases only:* All court hearings in an adoption proceeding are closed to the public. (Family Code section 8611.) The parties to the adoption will be allowed to bring cameras and other recording devices to a hearing to finalize an adoption unless a judge prohibits the use of such devices.

PROCEDURE & GUIDELINES FOR REQUESTING ADMISSION AND/OR COVERAGE —

1. To request admission to a Juvenile Court hearing that is not open to the public, complete and submit a *Media Request and Agreement to Be Admitted to Juvenile Court Hearing* (SDSC JUV-029), available on-line at <http://www.sdcourt.ca.gov> [select Forms and then Juvenile] to the judicial officer presiding over the matter. To request permission to photograph, record, or broadcast any portion of any hearing, you must complete and submit a *Media Request to Photograph, Record, or Broadcast* and *Order on Media Request to Permit Coverage* (Judicial Council forms MC-500 and MC-510, available on-line at <http://www.courts.ca.gov/forms.htm> [select Miscellaneous]). All three forms can also be obtained from Juvenile Court Administration at 2851 Meadow Lark Drive, Room 254, San Diego, CA 92123, phone: (858) 634-1668, or from the Business Offices of the following dependency branch courts:
 - 250 East Main St., El Cajon, CA 92020, phone: (619) 456-4118.
 - 325 S. Melrose Dr., Vista, CA 92083, phone: (760) 201-8239.
2. Any person may attend a juvenile justice hearing that is presumed to be open to the public pursuant to WIC section 676. No JUV-029 form is required. However, seating in the juvenile courthouse is limited and seating may be prioritized for family members of the victim and the youth who is the subject of the proceeding ahead of public and/or media seating. Pool arrangements for reporters and/or cameras may be required in high-interest hearings. Permission to photograph, record, or broadcast a hearing that is open to the public does require a media request and order on the MC-500 and MC-510 forms to be filed within the time limits imposed by CRC rule 1.150. See below.

3. Permission to attend or to photograph, record, or broadcast detention hearings and detention rehearings must be sought as early as possible before the session is set to begin. Permission to attend or to photograph, record, or broadcast all other types of hearings must be sought at least five court days before the session unless good cause for noncompliance is shown. (See CRC rule 1.150.)
4. The court may rule on the request with or without a hearing, and may place any limits or conditions on coverage as allowed under CRC rule 1.150. The court may subsequently terminate or modify an order allowing media coverage without prior notice or hearing.
5. If admitted to a closed hearing by a written order of the court, the media representative must, upon entering the courtroom, present identification as a media representative to the bailiff or the courtroom clerk. If the hearing is open to the public, the media representative should check in with the bailiff or courtroom clerk.
6. “The judge may permit inconspicuous personal recording devices to be used by persons in a courtroom to make sound recordings as personal notes of the proceedings. A person proposing to use a recording device must obtain advance permission from the judge. The recordings must not be used for any purpose other than as personal notes.” (CRC rule 1.150.)
7. Where the public and/or media are admitted at the request of the child and the parent or guardian, the consent of all parties thereto shall appear on the record. Unless disclosure is otherwise authorized by law, the court shall admonish all persons present to keep confidential the identities of the child(ren), members of the child(ren)’s family, and any witnesses in the proceedings.
8. In a juvenile justice matter, the name of a minor *found to have committed* one of the offenses listed in WIC section 676(a) "shall not be confidential, unless the court, for good cause, so orders." The court may choose not to divulge the full name of a child until *after* the court has made a finding that the child committed an offense listed in WIC section 676(a). Even if such a finding is made, the court may continue to keep the name of the child confidential for good cause. In any event, the full name of any child who is a victim and/or witness in the proceeding should *not* be divulged.
9. Once admitted, members of the public or media shall conduct themselves in a manner consistent with the decorum and dignity of the courtroom.
10. The judicial officer shall advise all media representatives admitted to the courtroom that:
 - Permission to attend the hearing is conditioned upon compliance with the confidentiality provisions of the Welfare and Institutions Code, the California Rules of Court, and this *Media Policy*, as well as the media’s code of professional responsibility.
 - Failure to comply with the above-mentioned confidentiality provisions may result in the issuance of a court order restricting or terminating coverage, a citation for contempt, or a court order imposing other sanctions authorized by law.

V. MEDIA REQUESTS FOR ACCESS OUTSIDE THE COURTROOM

DEFINITIONS –

For purposes of this section, “access” means the ability to observe, interview, film, photograph, videotape, or record the voices and/or images of children who are under the jurisdiction or supervision of the Juvenile Court, their caretakers, or members of their families, regardless of the location. Alternatively, “access” may refer to permission to enter certain facilities which are not open to the public (e.g., Polinsky Children’s Center or Juvenile Hall) and/or permission to observe, interview, film, photograph, videotape, or record the voices and/or images of children in such facilities.

PROCEDURE & GUIDELINES FOR REQUESTING ACCESS –

1. To request access for dependency matters, the media representative is advised to initiate contact with HHSA Child Welfare Services, Media Coordinator, 8965 Balboa Avenue, San Diego CA 92123, phone: (858) 616-5810, fax: (858) 616-5908.

To request access for juvenile justice matters under the supervision of the San Diego County Probation Department (i.e., juvenile detention facilities), the media representative is advised to initiate contact with the Public Safety Group Communications Officer. Contact information can be found at <http://www.sdcounty.ca.gov/dmpr/piolist.html>.

Filming inside the Juvenile Court building (in indoor areas, outside of courtrooms) is not allowed without permission from the Juvenile Court Operations Manager, 2851 Meadow Lark Drive, San Diego CA 92123, phone: (858) 634-1668, fax: (858) 634-1679 and/or the Court’s Public Affairs Officer, phone: (619) 844-2353. Access to a courtroom hearing is addressed by individual judicial officers as detailed above. Filming outside of the Juvenile Court building may not impede public access to the entrance or exit of the building and may not be done in any way that would risk any breach of confidentiality. Filming the faces of those entering or exiting the building is not permitted. The preferred media area is at the northwest corner of the building in front of the Juvenile Court sign. See photos attached.

All persons and entities involved in a juvenile court case are strictly prohibited by law from disclosing juvenile case information *to others*, including the media, without prior court authorization. (WIC section 827(a)(4).)

2. If access is allowed, the media representative shall comply with the applicable policies of HHSA CWS and/or Probation.
3. HHSA CWS and/or Probation shall act as the liaison between the media representative and the person(s) to whom access is allowed (the child, the child’s family members, or the staff of any detention facility or placement facility) and as the liaison between the media representative and the court.

4. If access is denied by HHSA CWS or Probation, the media representative may seek review of the decision to deny access by the judicial officer presiding over the particular case involved. If the request is not specific to a particular case, a decision to deny access may be reviewed by the Juvenile Court Presiding Judge or a designated judicial officer. In all cases, the court retains the authority to issue a protective order specifying the terms and conditions upon which access is granted.
5. During any authorized contact(s), media representatives are expected to conduct themselves with tact and sensitivity to the particular needs of any dependent children or wards encountered. In any situation where there is uncertainty regarding the limits of an authorized contact or where the contact proves to be intrusive or upsetting to the child(ren) involved, the media representative shall consult with HHSA CWS (for dependent children) or Probation (for wards).

OTHER APPLICATIONS —

The above procedure for requesting access also applies to:

1. Requests from members of the entertainment industry (television, film, cable, or other) to include dependent children or wards in productions intended for public dissemination.
2. Requests to include dependent children or wards in promotions or public service announcements for charitable, political, or public interest organizations or events.

OTHER PROCEDURES —

1. Requests from HHSA CWS or Probation to include dependent children or wards in their own media-related or publicity-related programs and activities must be made to the Juvenile Court. Requests relating to a specific child or sibling group should be directed to the judicial officer presiding over the child(ren)'s case. Other requests should be directed to the Presiding Judge of the Juvenile Court.
2. Requests from HHSA CWS to issue public announcements concerning abandoned infants or children freed for adoption must be made directly to the Juvenile Court.

VI. SANCTIONS FOR UNAUTHORIZED DISCLOSURE OR FAILURE TO COMPLY WITH CONFIDENTIALITY PROVISIONS

“Any violation of this rule or an order made under this rule is an unlawful interference with the proceedings of the court and may be the basis for an order terminating media coverage, a citation for contempt of court, or an order imposing monetary or other sanctions as provided by law.” (CRC rule 1.150(f).)

Likewise, any violation of this *Media Policy* or a protective order issued in a particular case is an unlawful interference with the proceedings of the court and may be the basis for an order terminating media coverage, a citation for contempt of court, or an order imposing monetary or other sanctions as provided by law. (See WIC section 213.)

VII. PREFERRED MEDIA AREA

