

COUNTY OF HUMBOLDT
DEPARTMENT OF HEALTH AND HUMAN SERVICES
CHILD WELFARE SERVICES

POLICY & PROCEDURE

POLICY NUMBER: CWS 23-01	POLICY TITLE: CWS RECORDS – 827 RECORDS REQUESTS	EFFECTIVE DATE: 06/14/23
PROGRAM(S): CWS Court Clerical	REVISION DATES: 7/1/2024	REFERENCES: WIC Code Section 827

BACKGROUND

Welfare and Institutions Code (WIC) Section 827 discusses juvenile case file inspection, confidentiality and release of records. WIC 827 defines which entities are authorized to obtain Child Welfare Services (CWS) information without a court order, and when a court order is required. Individuals not authorized under 827 to receive or inspect juvenile case files must file an 827 petition with the Juvenile Court. The Court then makes a determination as to whether information/records will be disclosed. WIC 827.10 discusses the authorized disclosure of records relating to a minor, who is the subject of either a family law or a probate guardianship case involving custody or visitation issues.

WIC 827 applies whether or not a WIC 300 petition was ever filed with the Juvenile Court for the child. All files within a child’s CWS case file are protected under WIC 827.

CWS files cannot be obtained by civil or criminal subpoena pursuant to California Rules of Court 5.552 (b)(4).

OVERVIEW

This policy outlines the procedures for processing requests for Child Welfare Services case file and/or juvenile court case file records. This policy does not cover Public Records Act (PRA) Requests or requests for records not protected by WIC 827, such as Resource Family Approval (RFA) records, or non-CWS client specific records.

POLICY

It is the policy of Humboldt County Child Welfare Services (CWS) that all confidential and privileged information and documentation remain protected and is only released to individuals who have the proper authorization.

PROCEDURE

1. Individuals allowed access to juvenile case files without a court order:

1.1. Welfare and Institutions Code (WIC) Section 827 and California Rules of Court rule 5.552 entitles specific individuals to inspect or receive copies of juvenile case files without a court order.

1.1.1. Only those individuals described under WIC Code Section 827 are allowed access to juvenile case files without a court order.

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- 1.2. Individuals described under WIC Code Section 827 shall submit a completed and signed “Request for Release of Juvenile Case Record and Declaration in Support of Request” form (A-14-57), marking the box which identifies the criteria they meet for access.
 - 1.2.1. See Attachment A - “Request for Release of Juvenile Case Record and Declaration in Support of Request” form (A-14-57) for persons entitled to inspect or receive copies of juvenile case files.
- 1.3. Completed and signed “Request for Release of Juvenile Case Record and Declaration in Support of Request” forms (A-14-57) shall be submitted to the designated CWS Clerk of Records.

2. Individuals requiring a court order to access juvenile case files:

- 2.1. All individuals who are not authorized under WIC 827 must utilize the following Judicial Council forms and follow the California Rules of Court instructions for filing a petition with the court.
 - 2.1.1. JV-569 through JV-574
- 2.2. Individuals requesting CWS records who are not authorized under WIC 827 must have their petition granted by the juvenile court before any records can be released.
- 2.3. A parent whose parental rights were terminated may not receive or inspect any records under WIC 827, including those records from before their rights were terminated, and they would need to petition the court for access.
- 2.4. Perpetrators/alleged perpetrators who are not the child’s legal parent or guardian may not receive or inspect any records under WIC 827, and they would need to petition the court for access.
- 2.5. When a petition to request juvenile case files has been received by the court, County Counsel will notify the CWS Deputy Director over the CWS Custodian of Records or their designee.
 - 2.5.1. County Counsel may request the following information from CWS:
 - 2.5.1.1. Child’s current legal parent or guardians
 - 2.5.1.2. Tribal affiliation
 - 2.5.1.3. Whether records exist and the types of records that exist
 - 2.5.1.3.1. A CWS Deputy Director or their designee will provide the information to County Counsel
- 2.6. CWS Administration will coordinate any objections on behalf of CWS with County Counsel.

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2.7. Records will not be released until confirmation is received by CWS that the petition was granted.

2.7.1. The CWS Deputy Director will notify the CWS Clerk of Records when a petition has been granted by the court.

2.7.2. CWS will coordinate the production and release of the records with County Counsel.

2.8. If the petition is denied, no records will be released.

3. Procedures upon receipt of a “Request for Release of Juvenile Case Record and Declaration in Support of Request” form (A-14-57) or upon a Court approved 827 petition (JV-574):

3.1. All requests for records that are approved will be entered into the Records Request tracking log.

3.1.1. The following information for each request will be documented within the Records Request log:

3.1.1.1. Date request received

3.1.1.2. Name of Requestor

3.1.1.3. Child’s name

3.1.1.4. WIC 827 category that allows the individual access to the records or the date of the approved JV-574

3.1.1.5. Staff person preparing records

3.1.1.6. Summary of redactions

3.1.1.7. Records delivery method/status

3.2. Copies of all requests for records will be scanned and saved in the Records Request folder.

4. General Provisions

4.1. Legal guardians and adoptive parents have the right to the entire child record (not just the time period since they have had the child).

5. Procedures for the preparation of records for inspection or release:

5.1. Refer to Section 6 below for definition of juvenile case file.

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5.2. All CWS-generated documents within CWS/CMS, the paper case file, and the court file shall be included, unless the requestor specifies they are only requesting certain documents.

5.2.1. The below documents shall be included if they exist in the case file:

5.2.1.1. Emergency Response (ER) Referral Forms

5.2.1.2. Screener Narratives

5.2.1.3. SDM Hotline Tools/Decision Tree

5.2.1.4. ER Closing Checklists

5.2.1.5. Investigative Narratives

5.2.1.6. SDM Risk Assessments

5.2.1.7. SDM Safety Assessments

5.2.1.8. Safety Plans

5.2.1.9. Case Plans

5.2.1.10. Delivered Service Logs (DSLs)

5.2.1.10.1. DSLs are discoverable and must be reviewed for redaction.

5.2.2. The following documents shall NOT be disclosed:

5.2.2.1. Yellow Intake forms (info only)

5.2.2.2. Mandated Reporter Letters

5.2.2.3. Signed Releases of Information (ROI)

5.2.2.4. Public Health Nursing (PHN) Referrals

5.2.2.5. Family Resource Center (FRC) Referrals

5.2.2.6. Non-CWS-generated documents (of which the original author is not CWS), e.g.:

5.2.2.6.1. Police Reports

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- 5.2.2.6.2. Medical Records
- 5.2.2.6.3. Title IV Assessment Service Plan
- 5.2.2.6.4. Suspected Child Abuse Reports (SCARs)

5.3. Review all records and redact all information unauthorized for release.

5.3.1. Redact all Social Security Numbers.

5.3.2. Requestors are only entitled to information regarding their biological or adopted child. Information regarding any other minor must be redacted.

5.3.2.1. On referral documents, this includes non-biological or adopted children mentioned as a victim or other party in the home.

5.3.2.1.1. Redact any mention of non-biological or adopted children in the narratives and other paperwork, including the "referral name" section at the top of the first page of the referral document (under the Emergency Response Referral Information document title), and at the top of the referral documents (except for the first page). Also, the narrative page will list the Focus Child's name right above the narrative; if the focus child is not the biological child (etc.) of the requesting party, redact that as well.

5.3.2.2. If a parent is requesting info on their child and the other parent has other children that are not theirs, any mention of the sibling(s) must be redacted out, etc.

5.3.2.3. If there is mention of an unrelated minor victim/perpetrator, their info must be redacted, etc.

5.3.3. Redact any information regarding the mandated reporter (MR).

5.3.3.1. The first place to find the MR is the last page of the referral document. Redact any information in the narratives that would identify the reporting party.

5.3.4. Redact any mention of Welfare/Aid assistance/MEDS/C-IV, etc. (except for information referencing referral/services to ART/MAC, but no document from those agencies as noted under 5.2.2.6 above).

5.4. **Distributing Records**

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- 5.4.1. Make photo copies of the redacted records the requestor is entitled to. Make double-sided copies whenever possible.
- 5.4.2. Stamp with the Welfare Records code stamp (stored in Discovery area) on the front of the photocopies of the ER Referral, the Screener Narrative and the Investigative Narrative (and any other copied records).
- 5.4.3. Place the photo-copied records in a manila envelope along with a copy of the Welfare records code (found in the back of the Records Request binder). Mark the front of the envelope with the name of the person requesting/picking up. In the corner of the envelope, write your initials and the date you are placing it at the front desk for pickup. Stamp the front of the envelope with the "Confidential" stamp.
- 5.4.4. If the requestor requests a digital copy, an encrypted flash-drive can be used for providing copies of the files.
- 5.4.5. Call the requester back and let them know that they can pick the records at our office with photo ID.
 - 5.4.5.1. If the requester (parent) resides out of the area, they can have their local attorney pick up the records with a letter on the attorney letterhead stating that the parent is giving permission.
 - 5.4.5.2. When the requester lives out of the area, records may be sent by mail. Let the requester know that the records will be sent via certified Collect on Delivery (COD) mail with a return receipt.
 - 5.4.5.2.1. Tape the COD receipts to the back of the corresponding log page in the records binder.

6. Definitions

- 6.1. "Juvenile Case File" as defined by: Rule 5.552. Confidentiality of records (§§ 827, 828)

For the purposes of this rule, "juvenile case file" includes:

- (1) All documents filed in a juvenile court case;
- (2) Reports to the court by probation officers, social workers of child welfare services programs, and CASA volunteers;

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- (3) Documents made available to probation officers, social workers of child welfare services programs, and CASA volunteers in preparation of reports to the court;
- (4) 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;
- (5) Transcripts, records, or reports relating to matters prepared or released by the court, probation department, or child welfare services program; and
- (6) Documents, video or audio tapes, photographs, and exhibits admitted into evidence at juvenile court hearings.

6.2. WIC 827 List

6.2.1. State of California Welfare and Institutions Code, Section 827.10:

- (1) Notwithstanding Section 827, the child welfare agency is authorized to permit its files and records relating to a minor, who is the subject of either a family law or a probate guardianship case involving custody or visitation issues, or both, to be inspected by, and to provide copies to, the following persons, if these persons are actively participating in the family law or probate case:
 - (a) The judge, commissioner, or other hearing officer assigned to the family law or probate case.
 - (b) The parent or guardian of the minor.
 - (c) An attorney for a party to the family law or probate case.
 - (d) 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.
 - (e) A court-appointed investigator, evaluator, or a person conducting a court-connected child custody evaluation, investigation, or assessment pursuant to Section 3111 or 3118 of the Family Code or Part 2 (commencing with Section 1500) of Division 4 of the Probate Code.
 - (f) 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

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court order appointing him or her as the counsel for the minor.

- (2) If the child welfare agency files or records, or any portions thereof, are privileged or confidential pursuant to any other state law, except Section 827, or federal law or regulation, the requirements of that state law or federal law or regulation prohibiting or limiting release of the child welfare agency files or records, or any portions thereof, shall prevail.
- (3) A social worker may testify in any family or probate proceeding with regard to any information that may be disclosed under this section.
- (4) Any records or information obtained pursuant to this section, including the testimony of a social worker, shall be maintained solely in the confidential portion of the family law or probate file.

(Added by Stats. 2010, Ch. 352, Sec. 21. (AB 939) Effective January 1, 2011.)

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Request for Release of Juvenile Case Records and Declaration in Support of Request

Welfare and Institutions Code (WIC) Section § 827, 827.10

California Rules of Court, Rule 5.5552



Name of Minor: _____ Date of Birth of Minor: _____ Case Number (if known): _____
Name of Requestor: _____ Phone Number of Requestor: _____
Agency Name (if applicable): _____ Title (if applicable): _____
State Bar No. (Attorneys): _____ Badge No. (Law Enforcement): _____

Mark applicable box below:

Persons entitled to *inspect and receive* copies of juvenile case files pursuant to WIC § 827 and WIC § 827.10.

- Court personnel. [WIC § 827(a)(1)(A)]
- A district attorney, a city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases under state law. [WIC § 827(a)(1)(B)]
- The minor who is the subject of the proceeding. [WIC § 827(a)(1)(C)]
- The minor's parent or guardian. [WIC § 827(a)(1)(D) and WIC § 827.10(a)(2)]
- An attorney for a party to the juvenile case who is actively participating in criminal or juvenile proceedings involving the minor. [WIC § 827(a)(1)(E)] Name of party: _____
- A judge, referee, or hearing officer who is actively participating in criminal or juvenile proceedings involving the minor. [WIC § 827(a)(1)(E)]
- A probation officer who is actively participating in criminal or juvenile proceedings involving minor. [WIC § 827(a)(1)(E)]
- A law enforcement officer actively investigating or participating in criminal or juvenile proceedings involving the minor. [WIC § 827 (a)(1)(E) and PC § 11165.9]
- The county counsel, city attorney, or any other attorney representing the petitioning agency in a dependency action. [WIC § 827(a)(1)(E) and WIC § 827(a)(1)(F)]
- Members of the child protection agencies as described in Section 11165.9 of the Penal Code. [WIC § 272(a)(1), WIC § 827(a)(1)(E) and WIC § 827(a)(1)(H)]
- CDSS employee as described in WIC § 827(a)(1)(I), WIC §827(a)(1)(J)(i) or WIC § 827(a)(1)(T)
- The Department of Justice as the repository for sex offender registration and notification in California. [WIC § 827(a)(1)(P)]
- The attorneys in an administrative hearing involving the minor or non-minor only as necessary to meet the requirements of Sections 10952 and 10952.5. [WIC § 827(a)(1)(S)]
- Personnel of the Office of Youth and Community Restoration, to carry out the duties of the office pursuant to Sections 2200, 2200.2, 2200.5, and 2200.7. [WIC § 827(a)(1)(U)]
- A person from an Indian tribe, reservation, or tribal court serving in a similar capacity as those described in WIC § 827 (A), (E), (F), (H), (L), (M), and (N) of paragraph (1) of subdivision (a) in a case involving a minor who is a member of, or who is eligible for membership in, that tribe. [WIC § 827(f)]
- Court Appointed Special Advocate (CASA). [WIC § 103(i) and WIC § 827(a)(1)(A)]

Persons entitled to *inspect and receive* copies of juvenile case files when child is subject of family law or probate guardianship case involving custody and/or visitation issues pursuant to WIC § 827.10

- The judge, commissioner, or other hearing officer assigned to the family law or probate case. [WIC § 827.10(a)(1) and WIC § 827(a)(1)(L)]
- An attorney for a party to the family law or probate case. [WIC § 827.10(a)(3)]
- A family court mediator assigned to a case involving the minor. [WIC § 827.10(a)(4) and WIC § 827(a)(1)(L)]
- A court-appointed investigator, evaluator, or a person conducting a court-connected child custody evaluation, investigation, or assessment. [WIC § 827.10(a)(5) and WIC § 827(a)(1)(M)]
- Counsel appointed for the minor in the family law case. [WIC § 827.10(a)(6)]

Persons entitled to *inspect* juvenile case files pursuant to WIC § Section 827. (No Copies)

- The superintendent or designee of the school district where the minor is enrolled or attending school. [WIC § 827(a)(1)(G)]
- Member of child’s multidisciplinary teams, persons, or agencies providing treatment or supervision of the minor. [WIC § 827(a)(1)(K)]
- A local child support agency employee engaged in establishing paternity and/or establishing and enforcing child support orders. [WIC § 827(a)(1)(N)]
- Juvenile justice commissions as established under WIC Code § 225. [WIC § 827(a)(1)(O)]
- A probation officer who is preparing a report on behalf of a person who was in the custody of the DCR, Division of Juvenile Justice and who has petitioned the Board of Juvenile Hearings for an honorable discharge. [WIC § 827(a)(1)(R)]

Declaration

I, _____, do hereby declare that I am a person described in WIC § 827(a)(1)(A)-(U) or 827.10 to wit. I further declare:

I am requesting to view and/or receive copies of the juvenile case file concerning the above named minor/s 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]

I will not attach any portion of the juvenile case file, or any information relating to the contents of the case file to any other document without the prior approval from 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 as described in WIC § 827 or a family law or probate case as described in WIC § 827.10 _____ [initial]

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

Signature: _____ Date: _____

Completed forms can be mailed or delivered to Humboldt County Child Welfare Services, 2440 Sixth St., Eureka, CA 95501; emailed to cws-admin@co.humboldt.ca.us, or faxed to 707-445-6254. For questions related to CWS records requests, call 707-388-6600. If records can be disclosed, CWS staff will notify you when the records are ready. CWS staff make every effort to process requests within ten (10) days, however, more time may be necessary when several requests are being processed or when a case file is voluminous.