

## Procedural Guide

0300-306.05

### NOTICE OF HEARING FOR JUVENILE COURT PROCEEDINGS

Date Issued: **03/04/13**

- New Policy Release
- Revision of Existing Procedural Guide 0300-306.05, Notice of Hearing for Juvenile Court Proceedings, dated 12/13/11.

**Revision Made:** **NOTE: Current Revisions are Highlighted**

**This Procedural Guide has been revised to reflect new noticing provisions related to a Non-minor Dependent (NMD).**

Cancels: None

#### DEPARTMENTAL VALUES

This Procedural Guide supports the Department's efforts to obtain timely permanence. A key element towards these efforts is the completion and submission of legally sufficient notices, which will enable the court to make the findings/orders necessary to achieve legal permanency for a child in a timely manner.

#### WHAT CASES ARE AFFECTED

This Procedural Guide is applicable to all new and existing court cases.

#### OPERATIONAL IMPACT

The purpose of this Procedural Guide is to inform CSWs of the necessary procedures to ensure that parents, legal guardians, Non-Minor Dependents (NMDs), children age 10 and older, all out-of-home caregivers and other entitled persons are properly noticed for all relevant hearings, as required by law.

Notices for all court hearings can be populated on CWS/CMS or through the Simple Notice Application (SNAP) system. SNAP is a computer system designed and maintained by County Counsel to help social workers fulfill court notices requirements, including ICWA notices. In SNAP, all court information comes directly from JADE, while all social work information comes from CWS/CMS. SNAP helps alleviate the burden of

remembering hearing dates, who is required to be noticed and the method of service required.

#### Benefits of using SNAP:

- If a parent is incarcerated, the In-and-Out or Statewide removal order is prepared via SNAP. When a removal order is created in SNAP, SNAP automatically creates two notices for that parent, one addressed to them in the facility and one to their last known address.
- If a parent resides in Mexico, SNAP will automatically generate all required forms of service pursuant to the Hague Convention.
- It is strongly recommended that SNAP be used for ICWA notices as it provides the ability to communicate with County Counsel attorneys prior to mailing ICWA notices. This will help increase the probability that ICWA notices will be correct the first time, thereby reducing the social worker's workload

#### Mailing Court Reports with Notices:

If the court report is completed and approved by SCSW at the time the notices are completed, CSWs are to mail the court report with attachments along with the notice to the parents and children over 12 years of age. As a matter of due process and in order to provide adequate notice for support of the CSW's recommendation, attachments should be included when reports are mailed to parents and children over 12 years of age. There are some attachments, which may be confidential or privileged and should not be provided to all parties. This includes, but is not limited to, confidential addresses, locations of persons in domestic violence shelters, reproductive information concerning minors and information concerning some sexually transmitted diseases. When a CSW has a question regarding the confidentiality and/or privileged disclosure of information contained in an attachment, the CSW should consult with the trial county counsel or an out-stationed county counsel. In addition, the identity of the reporting party is confidential and anything from the County Counsel's office to the CSW is privileged, therefore, that information should not be attached to court reports. See FYI 09-35 (REV), Mailing Attachments with Court Reports, dated 7/9/09.

#### Incarcerated Parent(s)

Regardless of the type of custody facility or whether an incarcerated parent is incarcerated in Los Angeles County, other parts of California, or out of state, notice rules for the specified hearing must be complied with. If a parent is incarcerated in the state of California, CSWs are to call the Department of Corrections and Rehabilitation at (916) 324-2203 to determine where a parent is incarcerated and to obtain the correct address that will facilitate timely and effective notice of hearings for incarcerated parents. If a parent is in federal custody, call the United States Bureau of Prison at (202) 307-3126. See Procedural Guide 0300-306.26, Locating Parties Who Require Notice and Are Incarcerated in State, Out-of-State or Federal Custody for more information on locating an incarcerated parent.

Pursuant to Penal Code 2625, CSWs are only required to submit a removal order for an incarcerated parent for the following two hearings, Jurisdictional/Dispositional hearing to adjudicate their child a dependent of the court and for the WIC 366.26 hearing to terminate their parental rights. It is **not legally required** for an incarcerated parent to be present at a WIC Section 366.26 hearing to appoint a legal guardian or when the permanent plan is a permanent placement living arrangement. However, it is best practice to request a removal order for all appearance hearings when a parent is incarcerated in a Los Angeles County or local facility/jail. See Procedural Guide 0300-306.45, Removal Orders for Parents and Youth for information on how to request a parent to appear in a dependency court proceeding.

### Parent Who Resides Outside of U.S.A.

Per the Hague Convention Treaty, DCFS has a legal obligation to comply with the Hague Service Convention when a parent resides outside of the United States, even when it is not court ordered for a parent to be noticed per the Hague Convention. If the country is a member of the Hague and you have an address then you must look up that country and see what type of notice they permit. This can be done through the website [http://travel.state.gov/law/judicial/judicial\\_680.html](http://travel.state.gov/law/judicial/judicial_680.html).

Notice under the Hague Service Treaty is required at two types of hearings:

- 1) ADJ/DISPO, **IF** the parent(s) has not made a general appearance.
- 2) WIC 366.26 when the recommendation is to terminate parental rights **and** the parent has not made a general appearance.

**Note:** The Hague Convention only applies when you have an address. If you do not have an address, utilize normal notice procedures (i.e. due diligence, publication, etc.).

Important link to reference when completing notices to comply with the Hague Convention Treaty:

[Hague Notice & International Noticing Tips \(Revised 12/03/10\)](#)

**Note:** If the country requires the notice to be in Spanish, CWS/CMS has the option to populate the notice in Spanish.

### Sensitive Cases

If a sibling's case is marked sensitive, (i.e., when parties involved may be a celebrity, public figure, elected official, DCFS employee, or an active Los Angeles County law enforcement employee who is likely to create media attention) contact the Sensitive Cases Unit for assistance in obtaining addresses and contact information for noticing.

## Indian Child Cases

If the child or nonminor dependent may be or has been identified as coming within and under the guidelines of the Indian Child Welfare Act (ICWA), refer to Section E, for additional instructions.

## Children Age 10 and Older

In addition to the required notice, if the child is 10 years of age or older, he/she has the right to attend the hearing and must be given the opportunity to attend, even if the child is incarcerated/institutionalized. CSWs are to arrange for the child's transportation if the child wishes to attend the hearing. If the child was not properly notified or if he or she wished to be present and was not given the opportunity to be present, the court will continue the hearing to allow the minor to be present unless the court finds that it is in the best interest of the minor not to continue the hearing. See Procedural Guide 0300-306.80, Transportation Requests to Bring Children to Court for information on arranging a child's transportation and Procedural Guide 0300-306.45, Removal Orders for information on how to request for an incarcerated child to appear in a dependency court proceeding.

## Non-Minor Dependent (NMD)

The parent's attorneys are relieved at the hearing once NMD turns 18. On and after January 1, 2012, in the case of NMDs, **no** notice is required for a parent, unless the parent is receiving continued family reunification services.

The JV 281, Notice of Hearing-Nonminor and the JV 282, Proof of Service-Nonminor, must be used to notice NMDs.

For youth who fall under ICWA, tribes must continue to receive notification of hearings unless the NMD has elected not to have the provisions of ICWA continue to apply to their case after turning age 18.

The CSW is required to give notice of review hearings and termination of jurisdiction hearings in specified dependency proceedings to a **NMD, any known siblings of the NMD, and the current caregiver of the NMD**. Additionally, the caregiver of the NMD may attend the hearings and can submit relevant written information for filing and distribution to the parties and attorneys.

**NOTE:** For NMD's any known sibling: applies if that sibling is either the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, notice the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, notice the sibling's caregiver and the sibling's attorney. These requirements only apply when the sibling(s)' hearings is calendared on a different day or in a different court than the NMD's hearing;

To help ensure that NMDs can be involved in the court process if they are not able to attend the court hearing in person, telephonic court appearances are available per W&IC section 388(e)(3).

At any hearing for a NMD at which the court is considering termination of jurisdiction, ensure that NMD is present in court unless he or she does not wish to appear in court, elects a telephonic appearance or efforts made to locate the NMD have been documented.

### Caregiver's Notice and Right to be Heard

The child' and/or NMD's current caregiver, which includes a foster parent, pre-adoptive parent, relative caregiver, and non-relative extended family member, is entitled to receive notice of, and have the opportunity to be heard at, specified hearings.

The CSW shall provide notice to the current caregiver of any statutory review hearings, permanency hearings, WIC Section 366.26 hearings, and any disposition hearing in which the dispositional hearing is also serving as a permanency hearing pursuant to WIC Section 361.5 (f). Section 361.5 (f) refers to those instances where the court can order No Family Reunification Services at the disposition hearing. Refer to Sections B, C, and D of this procedural guide for the required notice of hearing forms, methods of service, and timeframes for each of those specified types of hearings.

The right to be heard includes the right to submit written information to the court, which may be accomplished by using the JV-290, Judicial Council Caregiver Information Form, or by submitting a letter to court. The JV-290 allows a caregiver to document information related to the current status of the child and/or NMD's medical, dental, general physical and emotional health, as well as the child and/or NMD's current education status, adjustment to his or her living arrangement, and other relevant information. The JV-290 INFO, Judicial Council Instruction Sheet for Caregiver Information Form, provides the caregiver with directions about how to complete and file the form with the court.

In addition to providing the required notice of specified hearings, at least 10 calendar days prior to each of those hearings, the CSW must also provide the current caregiver with:

- A summary of the recommendations for disposition of the hearing, including any recommended change in custody or status;
- JV-290, the Caregiver Information Form (revised October 1, 2007); and
- JV-290 INFO, the Instruction Sheet for Caregiver Information Form.

Most notices of hearing are required to be served more than 10 days prior to the hearing. Therefore, in order to ensure timely compliance with the 10-day requirements

of Court Rule 5.534, the CSW shall include the summary of recommendations on the applicable notice of hearing form, and shall provide the JV-290 and the JV-290 INFO forms with that notice within the applicable notice timeframes.

The JV-290, JV-290 INFO, and summary of recommendations shall be given in the caregiver's primary language, when available. If the applicable notice form is available in the caregiver's primary language, the CSW shall use that version to provide the summary of recommendations. All forms are available on the LA Kids in the Forms Section.

**NOTE:** For Notices pertaining to making the designation of a prospective adoptive parent and/or removal of a child from a prospective adoptive home, See Procedural Guide 0300-503.25, Removing a Child from the Home of a Prospective Adoptive Parent(s) for instructions.

### **Procedures**

**A-1. WHEN: INITIAL PETITION/DETENTION HEARING, INCLUDING EX PARTE APPLICATION, IS CALENDARED**

#### **WHO IS REQUIRED TO BE NOTICED AND BY WHOM**

The CSW must document the method of notice provided for all parties in the Detention Report.

The detaining CSW is responsible for providing either oral or written notice to the following parties:

#### **BOTH DETAINED AND NON-DETAINED PETITIONS**

- **Mother**
  - unless parental rights have been terminated;
- **Father(s)**, all presumed and alleged
  - unless parental rights have been terminated;
- **Legal guardian(s);**
  - **NOTE: If a parent or legal guardian resides out-of state or their whereabouts are unknown:**
    - Send the notice to any adult relative residing within the county or, if none, to the adult relative residing nearest to the court.
    - List the names and addresses of the relative in the indicated space on the cover sheet of the petition. Provide notice of the hearing and, if possible, a

copy of the petition to the relative who will serve as a substitute for the parent or legal guardian.

- **Children 10 years and older;**
- **Attorneys**, if there are any;
- **Any known sibling**, if that sibling is either the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, notice the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, notice the sibling's caregiver and the sibling's attorney. These requirements only apply when the sibling(s)' hearings is calendared on a different day or in a different court than the child's hearing;
  - When filing a petition on a child with siblings on an open case, the Case-Carrying CSW/Emergency Response/Command Post (ERCP) CSW is responsible for providing notices to the required persons by telephone or written notice (Notification Letter) at least 24 hours prior to the hearing;
- **Probate Court**, if legal guardianship was granted by the probate court; and,
- **Child Court Appointed Special Advocate (CASA)**, if there is one.

**NOTE:** Per WIC 290.1, the CSW shall serve notice and a copy of the petition when the petition is filed and, per WIC 290.2, upon filing of the petition the Clerk must also do so. However, based on long-standing practice, CSWS shall continue to provide the notices for all required persons.

**FORMS TO BE USED:**

- A Notification Letter is only necessary if the detaining CSW was unable to provide oral notice for the Initial Hearing
  - There are separate notices for the Edelman court and the Antelope Valley court
  - Notification Letters are to be sent out by 1<sup>st</sup> Class mail
  - The Notification Letter must be submitted to the clerical staff assigned to process Notification Letters on the same day the child was detained (it is recommended that a 4:00 p.m. cutoff time be used)
  - The CSW must document the method of notice provided for all parties in the Detention Report
  - *In case a Notification Letter was not sent out by 4 PM (e.g. a detention taking place late in the day or after hours), CSWs should continue to attempt to verbally notify the parent (by telephone, leaving a voice mail, at a TDM, etc.) of the date of the detention hearing. CSWs have up until 24 hours prior to the detention hearing to do so.*

- **JV-100**, Juvenile Dependency Petition
  - IDC CSW should read the petition to the person when s/he confirms the detention hearing date with the parent and/or guardian.

**TIMEFRAMES AND METHOD OF SERVICE**

**Child Retained In Custody:**

- Notice shall be given as soon as possible, but at least 24 hours prior to the hearing.
  - Notify the required party by telephone or written notice (Notification Letter) in their primary language.
  - Notice must be given orally if it appears that the parent or legal guardian cannot read.

**NOTE:** When a Notification Letter was not sent out by 4 p.m. (e.g. a detention taking place late in the day or after hours), CSWs should continue to attempt to verbally notify the parent by telephone, leaving a voicemail or at a TDM of the date of the detention hearing. CSWs have up until 24 hours prior to the detention hearing to do so.

**Child Not Retained In Custody:**

- Notice shall be given by 1<sup>st</sup> Class Mail as soon as possible, but at least 10 days prior to the hearing.

**SPECIAL INSTRUCTIONS**

Search CWS/CMS to locate dependent siblings and attorneys. If any are located, notify them of the time and place of the detention hearing.

ERCP should make every attempt to notice dependent siblings and their attorneys. However, given the hour of the day the child was detained, it may not be possible to do so. Therefore, document in the Detention Report the names, addresses, telephone numbers and the reason(s) why this task was not completed (e.g., child was detained after 10:00 p.m.). IDC will follow up on these cases and contact the dependent sibling(s), attorney(s) and CASA.

If IDC is aware that the parent is in custody, in a local incarceration facility, complete the DCFS 4217, Children's Social Worker Report and Order of the Court for Removal of Prisoner from County Jail. Send the completed DCFS 4217 to the Juvenile Court Services clerk as soon as possible but no later than three business days prior to the hearing for processing.



Complete the JV 450, Order for Prisoner's Appearance at Hearing Affecting Prisoner's Parental Rights and Waiver of Appearance, for parties incarcerated in state custody (prison, California Youth Authority (CYA)) or other county/city jails outside of Los Angeles County. Send the completed JV-450 to the Juvenile Court Services Liaison Office in an envelope labeled: "Affidavit and Order for Removal of Prisoner." If this is an Antelope Valley Case, send it to the Juvenile Court Services Liaison Office for the Antelope Valley Court.

**NOTE:** There is no mechanism to transport out-of-state inmates or individuals in federal custody to the dependency court.

Document in the Detention Report and in the Court Notebook that the persons have been provided notice of the hearing. Include the names of the persons, their relationship to the child and the date and time that notice was provided.

For additional information regarding notice requirements for Indian children, see Section E.

#### **A-2. WHEN: AN INITIAL PETITION/DETENTION HEARING IS CONTINUED**

#### **WHO IS REQUIRED TO BE NOTICED AND BY WHOM**

The detaining CSW or the DI is responsible for providing written notice to all required persons listed under A-1 for the continued hearing.

#### **FORMS TO BE USED FOR THE CONTINUED HEARING**

- **CT-NOTPET**- Notice of Hearing on Petition\*
- **JV-100**, Juvenile Dependency Petition
- **JV-510**, Proof of Service Juvenile
- **JV-505**, Statement Regarding Parentage

**\*DISCONTINUE using the State version of the Notice of Hearing on Petition generated by CWS/CMS in the Court Notebook. The revised CT-NOTPET, Notice of Hearing on Petition, can be generated on CWS/CMS by taking the following steps:**

While in the **Case Management Section (Green button)**, select 'create a new document', select Los Angeles County, then select Notice of Hearing on Petition and then create the document. The notice will be generated with populated data. Then create **only** the JV 510, Proof of Service – Juvenile, from the Court Notebook, and send it with the revised Notice of Hearing on Petition along with a copy of the petition.

or

While in the ID tab of the Court Management Section (Purple button), create a New JV Document by selecting “+”, then change the “Document Category” to “County”, and then select “Notice of Hearing on Petition” to generate the form.

or

Utilize the revised version of the Notice of Hearing on Petition with JV 510 found on LA Kids in the Forms section. This will provide the required notice and proof of service but no information will be populated into the document. See FYI 05-42, IN RE: Wilford J. - Notice of Hearing on Petition.

### **TIMEFRAMES AND METHOD OF SERVICE FOR CONTINUED INITIAL PETITION/DETENTION HEARINGS**

#### **Child Is Retained In Custody:**

- Notice shall be given as soon as possible, but at least 5 days before the hearing, by 1<sup>st</sup> Class Mail.
  - However, if the hearing is set in less than 5 days, notice shall be given at least 24 hours prior to the hearing.

#### **Child Is Not Retained In Custody:**

- Notice shall be given as soon as possible, but at least 10 days prior to the hearing, by 1<sup>st</sup> Class Mail.

If the hearing is continued and the person is in custody, send the notice and copy of the petition to the person at the place of incarceration within the required timeframe. There is no mechanism to transport out-of-state inmates or individuals in federal custody to dependency court.

**Be sure to attach a copy of the petition along with the notice to all persons entitled to receive the notice.**

### **B. WHEN: A JURISDICTIONAL/DISPOSITIONAL HEARING IS CALENDARED**

Once a 300, 342 or a 387 petition has been filed and the court has made rulings regarding the child’s detention at the initial petition/detention hearing, the court will place the matter on calendar for a jurisdictional/dispositional hearing, *formally* known as the pre-trial resolution conference (PRC).

**NOTE:** A petition may also be amended one or more times prior to a disposition to include new allegations.

## **WHO IS REQUIRED TO BE NOTICED AND BY WHOM**

Dependency Investigator (DI) CSW or the case-carrying CSW in a vertical case management section is responsible for providing notices to the following parties:

- **Mother**
  - unless parental rights have been terminated;
- **Father(s)**, all presumed and alleged
  - unless parental rights have been terminated;
- **Legal guardians;**

**NOTE: If a parent or legal guardian resides out-of state or their whereabouts are unknown:**

- Send the notice to any adult relative residing within the county or, if none, to the adult relative residing nearest to the court
  - List the names and addresses of the relative in the indicated space on the cover sheet of the petition. Provide notice of the hearing and, if possible, a copy of the petition to the relative who will serve as a substitute for the parent or legal guardian.
- **Children 10 years or older;**
  - **Any known sibling** if that sibling is either the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, notice the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, notice the sibling's caregiver and the sibling's attorney. These requirements only apply when the sibling(s)' hearing is calendared on a different day or in a different court than the child's hearing;
  - **All attorneys of record**, unless attorney was present in court when the hearing date was scheduled;
  - **CASA**, if there is one; and
  - **Child's current caregiver** for a disposition hearing **ONLY** when the **recommendation is for No Reunification Services** so the dispositional hearing is serving as a permanency hearing under WIC section 361.5 (f). (See Procedural Guide 0080-508.05, Fast Track to Permanency (FTP) Provisions) Caregivers include a foster parent, pre-adoptive parent, relative caregiver, and non-relative extended family member.

Note: In addition to the JV-300 notice form, at least 10 calendar days before the hearing, CSW shall provide the following to the current caregiver:

- (A) A summary of his or her recommendations for disposition, and any recommendations for change in custody or status;
  - (B) *Caregiver Information Form* (form JV-290); and
  - (C) *Instruction Sheet for Caregiver Information Form* (form JV-290-INFO).
- See Special Instructions Section below for compliance procedures.**

## **FORMS TO BE USED**

If the disposition recommendation is that No Reunification Services be provided, send:

- **CT-NOTPET**, Notice of Hearing on Petition (revised version)\*
- **JV-100**, Juvenile Dependency Petition (Be sure to add in Item 2 of the petition the subdivisions of the WIC Section 300 under which the petition has been filed.)
- **JV-510**, Proof of Service – Juvenile

### **In addition to above documents:**

- **JV-290**, Juvenile Council Caregiver Information Form
  - **Give only to child's current caregiver**
- **JV-290 INFO**, Juvenile Council Caregiver Information Form Letter
  - **Give only to child's current caregiver**
- **DCFS JV-290 Cover Letter**
  - **Give only to child's current caregiver**

**\*DISCONTINUE using the State version of the Notice of Hearing on Petition generated by CWS/CMS in the Court Notebook. The revised CT-NOTPET, Notice of Hearing on Petition, can be generated on CWS/CMS by taking the following steps:**

While in the **Case Management Section (Green button)**, select 'create a new document', select Los Angeles County, then select Notice of Hearing on Petition and then create the document. The notice will be generated with populated data. Then create **only** the JV-510, Proof of Service – Juvenile from the Court Notebook, and send it with the revised Notice of Hearing on Petition along with a copy of the petition.

or

While in the ID tab of the Court Management Section (Purple button), create a New JV Document by selecting "+", then change the "Document Category" to "County", and then select "Notice of Hearing on Petition" to generate the form.

Or

Utilize the revised version of the Notice of Hearing on Petition with JV-510 found on LA Kids in the Forms section. This will provide the required notice and

proof of service but no information will be populated into the document. See FYI 05-42, IN RE: Wilford J. - Notice of Hearing on Petition.

**NOTE:** Send the JV-505, Statement Regarding Paternity (Juvenile Dependency) to all alleged fathers if there is not one filed in the case records.

## **TIMEFRAMES AND METHOD OF SERVICE**

### **When Child Is Detained & Required Person Was Not Present At Initial Hearing:**

- As soon as possible and at least 5 calendar days prior to the hearing, personally serve the notice and a copy of the petition, or send them by certified mail return receipt requested (CMRRR).

### **When Child Is Detained & Required Person Was Present At Initial Hearing:**

- As soon as possible and at least 5 calendar days prior to the hearing, personally serve the notice and a copy of the petition, or send them by 1<sup>st</sup> Class Mail.

### **If Child Is Detained And The Hearing Is Scheduled In Less Than 5 Calendar Days:**

- Serve notice no later than 24 hours before the hearing, regardless of whether the person was or was not present at the Initial Petition Hearing.

### **When The Child Is Not Detained:**

- At least 10 calendar days prior to the hearing, personally serve the notice and a copy of the petition, or send them by 1<sup>st</sup> Class Mail.

## **SPECIAL INSTRUCTIONS**

### **Due Diligence**

Initiate a due diligence search for any parents/legal guardians whose whereabouts are unknown. See Procedural Guide 0300-306.75, Due Diligence, for further information. Send the notice to all potential or last known addresses identified on the Due Diligence Report for parents/legal guardians whose whereabouts are unknown.

**Although additional notices are not always required for a subsequent jurisdictional/dispositional hearing, for instance, when the court orders the person back for the next hearing, the court often orders that such notice occur. It is best that the CSW err on the side of caution and send notices for all hearings for which there is sufficient time to send the notice within the statutory limits.**

### **No Reunification Services Shall Be Offered**

If the recommendation is that no reunification services shall be offered pursuant to WIC Section 361.5(b), add the following typewritten notice to the end of the petition and on the face of the JV-100 in capitalized, bold type:

**THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES MAY SEEK AN ORDER PURSUANT TO WIC 361.5(b) THAT NO REUNIFICATION SERVICES SHALL BE PROVIDED TO THE FAMILY, WHICH WOULD RESULT IN IMMEDIATE PERMANENCY THROUGH TERMINATION OF PARENTAL RIGHTS, ADOPTION, LEGAL GUARDIANSHIP OR PLANNED PERMANENT LIVING ARRANGEMENT.**

### **Removal Orders for Incarcerated Parents**

Pursuant to Penal Code 2625, CSWs are only required to submit a removal order for an incarcerated parent for the following two hearings, Jurisdictional/Dispositional hearing to adjudicate their child a dependent of the court and for the WIC 366.26 hearing to terminate their parental rights. For more information, please see Procedural Guide, 0300-306.45, Removal Orders for Parents and Youth.

Complete the DCFS 4217, Children's Social Worker Report and Order of the Court for Removal of Prisoner from County Jail, for parties incarcerated in local custody as set forth in Procedural Guide 0300-306.45. Send the completed DCFS 4217 in an envelope addressed, "Attention Juvenile Court Services Liaison Office: In-and-Out Order," three days prior to the hearing for processing.

Complete the JV 450, Order for Prisoner's Appearance at Hearing Affecting Prisoner's Parental Rights and Waiver of Appearance, for parties incarcerated in state custody (prison, California Youth Authority (CYA)) or other county/city jails outside of Los Angeles County. Send the completed JV 450 to the Juvenile Court Services Liaison Office in an envelope labeled: "Affidavit and Order for Removal of Prisoner."

If this is an Antelope Valley Case, send it to the Juvenile Court Services Liaison Office for the Antelope Valley Court.

**NOTE:** There is no mechanism to transport out-of-state inmates or individuals in federal custody to the dependency court.

**NOTE: Legal Compliance with Caregiver Notice & JV-290 Forms:**

If the Department's recommendation for disposition is that No Reunification services should be provided, in addition to providing notice of the continued disposition hearing, at least 10 calendar days prior to the hearing, the CSW shall also provide the current caregiver with all of the following:

- **Summary of recommendation for disposition**
- **JV-290**, Caregiver Information Form (revised 10/1/07),
- **JV-290 INFO**, Instruction Sheet for the Caregiver Information Form; and
- **DCFS JV-290 Cover Letter**

**Do not send the caregiver a copy of the jurisdiction/disposition report.**

The CSW shall include the summary of recommendations on the CT-NOTPET notice form (revised version)\*, and shall provide the JV-290, the JV-290 INFO forms and the DCFS JV-290 Cover Letter *with the notice* in accordance with the required notice timeframe.

The JV-290, JV-290 INFO, DCFS JV-290 Cover Letter and summary of recommendations shall be given in the caregiver's primary language, when available. If the CT-NOTPET notice form is available in the caregiver's primary language, the CSW shall use that version to provide the summary of recommendations.

If the caregiver returns the JV-290 to the CSW, instead of to the court as the JV-290 INFO instructs, submit any received JV-290 forms to court prior to the hearing. If the JV-290 is received after the report has been sent to court, forward the JV-290 with a Last Minute Information for the Court to ensure it is available for the hearing. If there is not enough time, fax it to the Juvenile Court Services liaison.

For additional information regarding Indian child notices, see Section E.

**C. WHEN: A WIC 364, 366.21, 366.22, 366.25, 366.3 or 366.31 STATUS REVIEW HEARING IS CALENDARED**

The 366.25 hearing is a 24-month permanency review hearing. At the 366.22 hearing the court may extend reunification services provided that the hearing (366.25) shall occur within 24 months of the date the child was originally taken from the physical custody of his or her parent or legal guardian.

**WHO IS REQUIRED TO BE NOTICED AND BY WHOM**

Case-Carrying CSW is responsible for providing notices to the following parties:

- **Mother**

- unless parental rights have been terminated;
- **Father(s)**
  - unless parental rights have been terminated:
    - ***For WIC 364, 366.21, 366.22, & 366.25 Hearings, Notice:***
      - -Presumed father, or
      - -Any man receiving services per court order;
    - **For WIC 366.3 Hearing, Notice:**
      - Presumed father, *and*
      - Alleged father, but only if recommendation is to set a new 366.26 hearing;

**NOTE:** On and after January 1, 2012, no notice **is required** for a parent of a nonminor dependent (NMD). Notice is provided only if requested by NMD.

- **Legal guardian(s);**
- **Children 10 years or older, or a NMD;**
- **All attorneys of record**, unless attorney was present in court when the hearing was scheduled;
- **Any known sibling** if that sibling is either the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, notice the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, notice the sibling's caregiver and the sibling's attorney. These requirements only apply when the sibling(s)' hearing is calendared on a different day or in a different court than the child's hearing;
- **CASA**, if there is one;
- **Child or NMD's current caregiver** including a foster parent, pre-adoptive parent, relative caregiver, and non-relative extended family member, community care facility, or foster family agency having custody of the child.

Note: In addition to the JV 280 notice form, at least 10 calendar days before the hearing, CSW shall provide the following to the current caregiver or facility:

- (A) A summary of his or her recommendations for disposition, and any recommendations for change in custody or status;
- (B) *Caregiver Information Form* (form JV-290); and
- (C) *Instruction Sheet for Caregiver Information Form* (form JV-290-INFO).



**See Special Instructions Section below for compliance procedures.**

**NOTE:** If the notice is sent to the Foster Family Agency (FFA) and not directly to the caregiver's home certified by the FFA, it is the FFA's responsibility to provide timely notice to the child's caregiver.

### **ADDITIONAL INSTRUCTIONS SPECIFIC TO A NON-MINOR DEPENDENT (NMD)**

The parent's attorneys are relieved at the hearing once NMD turns 18. On and after January 1, 2012, in the case of NMDs, **no** notice is required for a parent, unless the parent is receiving continued family reunification services.

The JV 281, Notice of Hearing-Non-minor and the JV 282, Proof of Service-Non-minor, must be used to notice NMDs.

For youth who fall under ICWA, tribes must continue to receive notification of hearings unless the NMD has elected not to have the provisions of ICWA continue to apply to their case after turning age 18.

The CSW is required to give notice of review hearings and termination of jurisdiction hearings in specified dependency proceedings to a **NMD, any known siblings of the NMD, the current caregiver of the NMD and if applicable, the NMD's Court Appointed Special Advocate (CASA)**. Additionally, the caregiver of the NMD may attend the hearings and can submit relevant written information for filing and distribution to the parties and attorneys.

**NOTE:** For NMD's any known sibling: applies if that sibling is either the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, notice the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, notice the sibling's caregiver and the sibling's attorney. These requirements only apply when the sibling(s)' hearings is calendared on a different day or in a different court than the NMD's hearing;

To help ensure that NMDs can be involved in the court process if they are not able to attend the court hearing in person, telephonic court appearances are available per W&IC section 388(e)(3).

At any hearing for a NMD at which the court is considering termination of jurisdiction, ensure that NMD is present in court unless he or she does not wish to appear in court, elects a telephonic appearance or efforts made to locate the NMD have been documented.

**SPECIAL INSTRUCTIONS FOR W&IC 391 – Requesting termination of Juvenile Court jurisdiction for an NMD:**

**FORMS TO BE USED**

- **JV-365**, Termination of Juvenile Court Jurisdiction – Non-minor

Attach a copy of each JV-281, Notice of Hearing-Non-minor, the JV-282, Proof of Service, the JV-365, the completed 90-day Transition Plan to the court's copy of the Status Review Hearing Report. Retain photocopies in the case file.

**FORMS TO BE USED**

- **JV-280**, Notice of Review Hearing (Juvenile)
- **JV-281**, Notice of Hearing - Nonminor
- **JV-510**, Proof of Service – Juvenile
- **JV-282**, Proof of Service - Nonminor

**In addition to above documents:**

- **JV-290**, Juvenile Council Caregiver Information Form
  - **Give only to child's current caregiver**
- **JV-290 INFO**, Juvenile Council Caregiver Information Form Letter
  - **Give only to child's current caregiver**
- **DCFS JV-290 Cover Letter**
  - **Give only to child's current caregiver**
- **Transitional Independent Living Case Plan (for NMDs only)**

**TIMEFRAMES AND METHOD OF SERVICE**

- Send the JV-280 or JV-281 notice form by 1<sup>st</sup> Class Mail no earlier than 30 days, but no later than 15 days, prior to the hearing.
- Notice may also be provided by CMRRR or personal service within the same timeframe.

In The Case Of Parents/Legal Guardians Whose Whereabouts Are Unknown:  
Send notice by certified mail, return receipt requested to the court-designated permanent mailing address, if there is one, and to all possible addresses identified in the Due Diligence Affidavit.

- **Also send a copy of the status review report and Transitional Independent Living Case Plan (for youth 14 and over)** by first class mail to all parties, attorneys, and CASA at least 17\* calendar days in state, or 22\* calendar days out of the state of California. Do not send the caregiver a copy of the report.

\*The statutory guidelines require that the report be provided at least 15 calendar days prior to the hearing to a party whose address is within the State of California, or at least 20 calendared days prior to the hearing to a party whose address is outside the State of California. Our Department has added two calendar days to the minimum requirement to allow for processing and mailing of notices.

## **SPECIAL INSTRUCTIONS**

Create the notice in the Court Notebook on CWS/CMS. Select the appropriate review type (6 month, 12 month, 18 month, or "Other" for the 366.25 hearing). Enter "RPP" for Review of Permanent Plan Hearings. Select the appropriate "Social Worker Recommends" option. In the appropriate prompt box, type a statement indicating the specific recommendations regarding placement, custody or status. If recommending that the permanent plan be changed to legal guardianship, or adoption, include a statement that DCFS will recommend that a hearing be set pursuant to WIC 366.26. If the notice is for a 366.25 hearing, once the JV-280 is populated, in the "Notice of Review Hearing" section check "Other" and type 24 Month.

Attach a copy of each JV-280, Notice of Review Hearing, the JV-290 and DCFS JV-290 Cover Letter, and the JV 510, to the court's copy of the Status Review Hearing Report. If any signed receipts for notices sent by certified mail are received, attach the original receipts to the report. Retain photocopies in the case file.

**NOTE:** For NMDs attach a copy of each JV-281, Notice of Hearing-Nonminor the JV-282, Proof of Service - Nonminor, and Transitional Independent Living Case Plan, to the court's copy of the Status Review Hearing Report.

For additional information regarding Indian child notices, see Section E.

**NOTE: Legal Compliance with Caregiver Notice & JV-290 Forms:**

- **Summary of recommendation for the status review hearing**
- **JV-290**, Caregiver Information Form (revised 10/1/07),
- **JV-290 INFO**, Instruction Sheet for the Caregiver Information Form; and
- **DCFS JV-290 Cover Letter**

**Do not send the caregiver a copy of the status review report.**

The CSW shall include the summary of recommendations on the caregiver's JV-280 notice form. In order to ensure legal compliance with providing the JV-290 forms 10 days prior to the hearing, send the JV-290, the JV-290 INFO and DCFS JV 290 Cover Letter with the notice in accordance with the required notice timeframe.

The JV-290, JV-290 INFO, DCFS JV 290 Cover Letter and summary of recommendations shall be given in the caregiver's primary language, when available. If

the JV-280 is available in the caregiver's primary language, the CSW shall use that version to provide the summary of recommendations.

If the caregiver returns the JV-290 to the CSW, instead of to the court as the JV-290 INFO instructs, submit any received JV-290 forms to court prior to the hearing. If the JV-290 is received after the report has been sent to court, forward the JV-290 with a Last Minute Information for the Court to ensure it is available for the hearing. If there is not enough time, fax it to the Juvenile Court Services liaison.

If the child is placed in a group home or a FFA and the recommendation is to return the child to the physical custody of the parent(s) or legal guardian, or the recommendation is adoption or the creation of a legal guardianship, send a copy of the JV-290, JV-290 INFO, and the DCFS JV 290 Cover Letter along with the notice to the group home or FFA. Instruct the agency that they may mail or present the JV 290 to the court as follows:

Edmund D. Edelman Children's Court  
Juvenile - Dependency Court  
201 Centre Plaza Drive, Department # \_\_\_\_\_  
Monterey Park, California 91754

Antelope Valley Dependency Court  
1040 W. Avenue J., Department 426  
Lancaster, CA 93534

Document in the Court Notebook that the parties were provided notice of the hearing. Include the names of the parties, their relationship to the child and the date and time that notice was provided.

### **Removal Orders for Incarcerated Parents**

Pursuant to Penal Code 2625, CSWs are only required to submit a removal order for an incarcerated parent for the following two hearings, Jurisdictional/Dispositional hearing to adjudicate their child a dependent of the court and for the WIC 366.26 hearing to terminate their parental rights. However, **it is best practice to request** a removal order for all appearance hearings when a parent is incarcerated in a Los Angeles County or local facility. For more information, please see Procedural Guide, 0300-306.45, Removal Orders for Parents and Youth.

### **D. WHEN: A WIC 366.26 HEARING IS CALENDARED**

Effective 07/01/2010, Tribal Customary Adoption is an additional permanency option for juvenile court dependent Indian children who fall under the provision of ICWA, however, this option can only be recommended by the child's Indian Tribe, please see Section E and Procedural Guide 0200-515.05, Adoption of Children under the Indian Child Welfare Act (ICWA) and 1200-500.05, Indian Child Welfare Act (ICWA). The JV 300 has been updated to reflect the permanency option of TCA for American Indian children.

## **WHO IS REQUIRED TO BE NOTICED AND BY WHOM**

The Dependency Investigator or the case-carrying CSW in a vertical case management section is responsible for providing notices when the recommendation is adoption or legal guardianship. If the recommendation is a Planned Permanent Living Arrangement, it is the responsibility of the case-carrying CSW to provide notice.

Notice will be provided as follows to the following parties:

- **Mother**
  - unless parental rights have been terminated or an adoption relinquishment has been filed per Family Code Section 8700;
- **Father(s):** all presumed **and** alleged
  - unless parental rights have been terminated, an adoption relinquishment has been filed per Family Code Section 8700, or an alleged father has denied paternity and waived the right to notice of future hearings on form JV-505;
- **Children 10 years or older;**
- **Grandparents of the child** if their address are known and if the parent's whereabouts are unknown;
- **All attorneys of record,**
  - unless the attorney was present in court at the time when the .26 hearing date was calendared
- **Any known sibling** when that sibling either is the subject of a dependency proceeding or has been adjudged to be a dependent child of the juvenile court. If the sibling is 10 years of age or older, notice the sibling, the sibling's caregiver, and the sibling's attorney. If the sibling is under 10 years of age, notice the sibling's caregiver and the sibling's attorney. These requirements only apply when the sibling(s)' hearing is calendared on a different day or in a different court than the child's hearing;
- **CASA**, if there is one; and
- **Current caregiver of the child**, including foster parents, pre-adoptive parents, relative caregivers, and non-relative extended family members.

Note: In addition to the JV-300 notice form, at least 10 calendar days before the hearing, CSW shall provide the following to the current caregiver:

- (A) A summary of his or her recommendations for disposition, and any recommendations for change in custody or status;
- (B) *Caregiver Information Form* (form JV-290); and
- (C) *Instruction Sheet for Caregiver Information Form* (form JV-290-INFO).

**See Special Instructions Section below for compliance procedures.**

## **FORMS TO BE USED**

- **JV-300**, Notice of Hearing on Selection Of A Permanent Plan – Juvenile
- **JV-310**, Proof Of Service - Juvenile Hearing Under Section 366.26 of the Welfare and Institutions Code Section
- **JV-505**, Statement Regarding Paternity (Juvenile Dependency), if it is not on file.

## **In addition to above documents:**

- **JV 290**, Juvenile Council Caregiver Information Form
  - **Give only to child's current caregiver**
- **JV 290 INFO**, Juvenile Council Caregiver Information Form Letter
  - **Give only to child's current caregiver**
- **DCFS JV 290 Cover Letter**
  - **Give only to child's current caregiver**

## **TIMEFRAMES AND METHOD OF SERVICE**

### **1. SERVICE TO PARENTS**

#### **(a.) PARENT WHO RESIDES IN CALIFORNIA & WHEREABOUTS ARE KNOWN**

Notice may be given to the parent in any one of the following manners:

- **Court Order at the Selection of the WIC 366.26 Hearing Date:**  
If the parent appeared at the hearing where the court scheduled the WIC 366.26 hearing, and the court advised the parent of the purpose of the 366.26 hearing, ordered the parent to appear, and also ordered notice to the parent by first class mail, then the CSW shall send the notice by 1<sup>st</sup> Class Mail to the parent's usual place of residence or business at least 55 calendar days before the hearing. This method is sufficient regardless of whether the recommendation is adoption, legal guardianship, or planned permanent living arrangement.
- **Certified Mail, Return Receipt Requested (CMRRR):**  
Send notice by CMRRR to the parent's last known mailing address at least 55 days before the hearing.
  - **The CSW must receive a return receipt, which has been signed by the parent in order for this method to be legally sufficient.** All returned receipts must be sent to court.
- **Personal Service:**  
Hand deliver the notice to the parent at least 45 calendar days before the hearing.
- **Substituted Personal Service:**  
Hand deliver the notice to a competent person at least 18 years of age at the parent's usual place of residence or business, thereafter followed by the mailing of a

copy of the notice to the parent, at the place where the notice was delivered, by 1<sup>st</sup> Class Mail at least 55 days before the hearing.

- **First Class Mail:**  
Notice sent by 1<sup>st</sup> Class Mail to the parent's usual place of residence or business at least 55 calendar days prior to the hearing.
  - **First Class Mail is only permitted as a service method for a parent when the recommendation is Legal Guardianship or Planned Permanent Living Arrangement.** It is not legally sufficient for an Adoption recommendation.

(b.) PARENT RESIDING OUTSIDE CALIFORNIA & WHEREABOUTS ARE KNOWN

Notice may be given by any of the following manners, as detailed in subsection 1. (a.) above:

- **Court Order at the Selection of the WIC 366.26 Hearing Date**
- **Personal Service**
- **Substituted Personal Service**
- **Certified Mail, Return Receipt Requested (CMRRR)**
  - A receipt signed by the out-of-state parent is not required. All returned receipts must be sent to court.
- **First Class Mail**
  - First Class Mail is only permitted as a service method for a parent when the recommendation is Legal Guardianship or Planned Permanent Living Arrangement

(c.) PARENT WHOSE WHEREABOUTS ARE UNKNOWN

- Send notice to all previous addresses identified in the case or Due Diligence Affidavit in order to attempt to ascertain the parent's address.
- If the address cannot be determined, at least 90 days prior to the WIC 366.26 hearing, submit a completed Due Diligence Affidavit to court for a finding regarding the legal sufficiency of the due diligence search. The CSW shall make every effort to submit the Due Diligence in time for the hearing at which the court will schedule the 366.26 hearing date.
- Once the court makes a finding that the Due Diligence search is legally sufficient, notice to the parent may be given in any one of the following manners depending upon the recommendation:
  - **Adoption Recommendation**
    - If Parent Has An Attorney Of Record:

- Send notice to the Attorney by Certified Mail Return Receipt Requested at least 55 calendar days before the hearing. The notice should be address to the parent "in care of" the Attorney;

**AND**

- The CSW must also send notice to the child's grandparents, if their identities and addresses are known, by 1<sup>st</sup> Class Mail at least 55 days before the hearing.
- If Parent Does Not Have An Attorney Of Record:
  - The Court shall order notice by Publication.
    - The Publication Citation shall run in the newspaper at least once a week for four consecutive weeks and be completed no later than 30 days prior to the WIC 366.26 hearing, not including the day of the hearing. See Procedural Guide 0300-306.30, Notice of Publication of Citation, for more information.
- **Legal Guardianship or Planned Permanent Living Arrangement Recommendation**
  - No further notice is required to be given to the parent.
  - **However**, the CSW must send notice to the child's grandparents, if their identities and addresses are known, by 1<sup>st</sup> Class Mail at least 55 days before the hearing.

**NOTE:** If the parent's whereabouts is unknown and a due diligence affidavit was not submitted at the hearing where the WIC 366.26 was scheduled, it must be filed with the court at least 90 calendar days\* in advance of the 366.26 hearing. The court will make a finding as to whether due diligence has been exercised. When the court's findings that due diligence has been exercised is posted on CWS/CMS by court staff or received in the regional office, send the notices as described above.

\*The State's requirement is 75 days; however, 90 calendar days is a Department requirement.

**(d.)IF PARENT'S WHEREABOUTS SUBSEQUENTLY BECOME KNOWN**

The CSW shall immediately serve notice on the parent by any of the following manners, as detailed in subsection 1. (a.) above:



- **Certified Mail Return Receipt Requested**
  - In-State Parent: CSW must receive a receipt signed by the parent.
  - Out-Of-State Parent: A receipt signed by the parent is not required.
- **Personal Service**
- **Substituted Personal Service**
- **First Class Mail**
  - First Class Mail is only permitted as a service method for a parent when the recommendation is Legal Guardianship or Planned Permanent Living Arrangement

(e.) PARENT WHOSE IDENTITY IS UNKNOWN OR NAME IS UNCERTAIN

- The CSW shall make every effort to submit the Due Diligence in time for the hearing at which the court will schedule the 366.26 hearing date. If not, at least 90 days prior to the WIC 366.26 hearing, submit a completed Due Diligence Affidavit to court for a finding regarding the legal sufficiency of the due diligence efforts to identify the unknown parent.
- Once the court makes a finding that the Due Diligence efforts are legally sufficient, notice to the parent may be given in any one of the following manners:
  - **Adoption Recommendation**  
The CSW shall provide notice by Publication, but only if ordered to do so by the Court. The Publication Citation shall run in the newspaper at least once a week for four consecutive weeks and be completed no later than 30 days prior to the WIC 366.26 hearing, not including the day of the hearing. See Procedural Guide 0300-306.30, Notice of Publication of Citation, for more information.
    - On the DCFS 4376, indicate the party to be served by checking the box next to “all persons claiming to be mother or father to the minor.” Also, indicate on the DCFS 4376 that the notice could not be otherwise served by checking the box next to “the identity or name of the parent of the minor(s) is unknown or uncertain.”
  - **Legal Guardianship or Planned Permanent Living Arrangement Recommendation**

No further notice is required to be given to the parent.

**NOTE:** Per WIC 294 (g) (2), after making a determination that there has been a legally sufficient due diligence in attempting to identify an unknown parent and the recommendation is adoption, the court has the authority to **waive** publication of citation. In making this decision, the court shall consider

whether publication notice would likely lead to actual notice to the unknown parent.

In the event that the court determines that publication is not necessary, ensure that this order appears on the minute order.

## 2. SERVICE TO CHILD, SIBLINGS, GRANDPARENTS, ATTORNEYS OF RECORD, CAREGIVERS, AND CASA

Regardless of whether the recommendation is Adoption, Legal Guardianship, or Planned Permanent Living Arrangement, the CSW shall notice these individuals by:

- **First Class Mail:**

Send notice by 1<sup>st</sup> Class Mail to the individual's usual place of residence or business at least 55 calendar days prior to the hearing.

- **Exception Regarding Parent's Attorney of Record:**

If a parent's whereabouts are unknown, and service is required to be given to the parent in care of the attorney by Certified Mail Return Receipt Requested, as detailed in the Section 1. (a.) above, then in addition to providing notice to the attorney by CMRRR, the CSW shall also provide a separate notice to the attorney by 1<sup>st</sup> Class Mail unless the attorney was present at the time when the 366.26 hearing date was set.

## SPECIAL INSTRUCTIONS

### Removal Orders for Incarcerated Parents

Pursuant to Penal Code 2625, CSWs are only required to submit a removal order for an incarcerated parent for the following two hearings, Jurisdictional/Dispositional hearing to adjudicate their child a dependent of the court and for the WIC 366.26 hearing to terminate their parental rights. It is **not legally required** for an incarcerated parent to be present at a WIC Section 366.26 hearing to appoint a legal guardian or when the permanent plan is a permanent placement living arrangement. Complete and send the JV-450, Order for Prisoner's Appearance at Hearing Affecting Prisoner's Paternal Rights at six weeks prior to the hearing. For more information, please see Procedural Guide, 0300-306.45, Removal Orders for Parents and Youth.

If the parent's whereabouts is identified prior to the court date, immediately send the parent a notice with the court report attached by personal service or registered mail, return receipt requested in substitution to personal service. Substitute service is not deemed legally sufficient until a notice has also been sent by mail at least 55 days before the hearing. Therefore, substitute service should be accomplished within a sufficient time frame.

In lieu of the CSW, other parties may also perform personal service. In most counties, the Sheriff's Department performs this service. Complete the notices (JV-300 and

JV-310) and submit them to Juvenile Court Services well in advance of the statutory time limit for service. It is recommended that the CSW begin the appropriate process as soon as the court order setting the date of the hearing is received in the regional office or can be accessed through the Juvenile Automated Data Enhancement (JADE) system. See Procedural Guide 0300-306.27, Out of County Personal Service, for additional information.

**NOTE: Legal Compliance with Caregiver Notice & JV-290 Forms**

In addition to providing notice to the current caregiver of the WIC 366.26 hearing on the JV-300, at least 10 calendar days prior to the hearing, the CSW shall also provide the current caregiver with all of the following:

- **Summary of recommendation for disposition**
- **JV-290**, Caregiver Information Form (revised 10/1/07),
- **JV-290 INFO**, Instruction Sheet for the Caregiver Information Form; and
- **DCFS JV-290** Cover Letter

**Do not send a copy of the WIC 366.26 report to caregiver.**

The CSW shall include the summary of recommendations on the JV-300 notice form. In order to ensure timely compliance with the 10-day requirement for the JV-290 documents, send the JV-290, the JV-290 INFO and the DCFS JV 290 Cover Letter with the notice in accordance with the required notice timeframe.

The JV-290, JV-290 INFO, DCFS JV 290 Cover Letter, and summary of recommendations shall be given in the caregiver's primary language, when available. If the JV-300 notice form is available in the caregiver's primary language, the CSW shall use that version to provide the summary of recommendations.

If the caregiver returns the JV-290 to the CSW, instead of to the court as the JV-290 INFO instructs, submit any received JV-290 forms to court prior to the hearing. If the JV-290 is received after the report has been sent to court, forward the JV-290 with a Last Minute Information for the Court to ensure it is available for the hearing. If there is not enough time, fax it to the Juvenile Court Services liaison.

For additional information regarding ICWA notices, see Section E.

**E. WHEN: A CHILD MAY COME UNDER THE PROVISIONS OF THE INDIAN CHILD WELFARE ACT (ICWA) OR IS AN AMERICAN INDIAN CHILD FROM A FEDERALLY RECOGNIZED TRIBE**

The CSW responsible for providing notice as specified above is responsible for the following requirements if the child may come under the provisions of the Indian Child Welfare Act (ICWA) or is an American Indian child from a federally recognized tribe.

Inquiry of American Indian Heritage should be done for every family served by DCFS during initial contact with all families, especially when placement is imminent. Inquiry should not be done no later than the time of the detention. CSWs are to ask parents to complete the DCFS 5649, Indian Ancestry Questionnaire to document that the inquiry was made. The results of the inquiry need to be documented on the ICWA-010(A), Indian Child Inquiry Attachment if the child is detained. The ICWA-010(A) must be attached to the detention report when faxed to IDC. At the time of the detention, the ICWA-010(A), Indian Child Inquiry Attachment must be attached to the petition. CSWs have an affirmative and **ongoing** duty to inquire if a child is an Indian child. If new information is obtained regarding the child's Indian Heritage, the tribe, BIA, and Secretary of Interior must be re-noticed with the new information. This must be done even if the court already found that ICWA does not apply.

Notice under the ICWA (and regular notice) must be sent if the CSW knows or has reason to know that a child may be an Indian child. The CSW should know or have reason to know that an Indian child is involved if:

- A person having an interest in the child gives information suggesting that the child has Indian heritage. A person of interest could be a parent, guardian, Indian custodian, tribe, public or private agency, a member of the child's extended family, or someone close to the family; or
- The parent, child, or Indian custodian live in an Indian community; or
- Someone from the child's family received or is receiving services or benefits from a tribe or federal Indian agency (WIC 224.3(b))

If the tribe is known, the detaining CSW must notify the tribe upon detention by telephone or written notice, using the ICWA-030.

**NOTE:** The ICWA does not apply to non-federally recognized tribes; do not send the ICWA-030 to non-federally recognized tribes. They should be noticed according to the instructions and forms listed in Sections A, B, C, and/or D.

CSWs are not required to send notices to non-federally recognized tribes **unless** the court has ordered notice to be sent to a non-federally recognized tribe. However, if the identification and location of the non-federally recognized tribe is known, it is best social work practice to send a notice to non-federally recognized tribe(s).

A list of non-federally recognized tribes can be located at [www.kstrom.net/isk/maps/tribesnonrec.html](http://www.kstrom.net/isk/maps/tribesnonrec.html)

To obtain an address and/or phone number of a non-federally recognized tribe contact the individual State Indian Affairs Office at [http://w1.paulbunyan.net/~giic/pages/office\\_directory.html](http://w1.paulbunyan.net/~giic/pages/office_directory.html)

## WHO IS REQUIRED TO BE NOTICED

**NOTE: For NMD's:** The tribe is only noticed for the NMD who has elected to have the Indian Child Welfare Act continue to apply. See Non-minor Dependent (NMD) section above for more instructions regarding NMDs.

Follow the applicable instructions in Section A, B, C, or D regarding notice to required persons. With respect to parents or legal guardian, give a copy of the ICWA-030 to the parents along with the regular notice form required for the specified hearing.

The ICWA-030, ICWA-010(A), Petition, and child's birth certificate (if available) must be mailed to the following parties by Certified Mail, Return Receipt Requested or by Registered Mail, Return Receipt Requested, at least 30 days prior to the hearing, when possible. The ICWA-030 must be received by any tribe at least 10 days prior to the hearing and 15 days prior to the federal agencies.

Send the ICWA-030, ICWA-010(A), Petition, and child's birth certificate (if available) to:

- Parent and/or Legal Guardian
- Bureau of Indian Affairs (BIA)  
Sacramento Area Director  
Federal Office Building  
2800 Cottage Way  
Sacramento, California 95825
- Secretary of the Interior  
U.S. Department of the Interior  
Bureau of Indian Affairs  
1849 C Street, N.W.  
Washington, D.C., 20240
- Indian Custodian
- All federally recognized tribes in which the child may claim or may be eligible for membership by tribal affiliation (tribe/rancheria) if known. To obtain the address of the federally recognized tribe(s), refer to the federal register developed by BIA at BIA Tribe Listing (<http://edocket.access.gpo.gov/2009/pdf/E9-9644.pdf>) and the CDSS list of tribes at [CDSS Tribe Listing](#). To ensure that legally sufficient notice is achieved, notice must be sent to the individuals and address in the list of designated agents for service developed by the BIA, **as well as** the contact person and address from CDSS. Contact the County Counsel's ICWA Notice Program to confirm the address of the tribe(s), please see page 35 of this policy for their contact information.
  - i. Notice to the tribe should be to the tribal Chairperson unless the tribe has designated another agent for service in the BIA list of designated agents.

- ii. If the tribe has not designated another agency for service in the BIA list of designated agents and the name of the tribal Chairperson is unknown, it is recommended that the notice to the tribe be addressed as follows: "Tribal Chair Person, Name of Tribe."

## **FORMS TO BE USED**

As of January 1, 2008 the ICWA-030, Notice of Child Custody Proceeding for Indian Child replaced the the JV-135, Notice of Involuntary Child Custody Proceedings for an Indian Child. Each child **must have** their own ICWA-030 notice completed; multiple children cannot be listed on the ICWA-030. The ICWA-030(A)-Attachment to Notice of Child Custody Proceedings for Indian Child is to be used only if all tribes served were not listed on the ICWA-030.

The ICWA-030 can be automatically generated from the Notices Page under Notice Type in the Hearing Notebook, the notice is listed under ICWA. The ICWA-030(A) will automatically be generated as an attachment to the ICWA-030 when more than four tribes receive a notice of hearing. The ICWA-030 and ICWA-030(A) is also available on CWS/CMS under LA County specific templates and on LA Kids in the Forms section.

Follow the applicable instructions in Sections A, B, C, or D. regarding the type of notices to be used. In addition, the ICWA-030, Notice of Child Custody Proceeding for Indian Child must also accompany the required notice to the parent or legal guardian. The JV 300 has been updated to reflect the permanency option of TCA for American Indian children if recommended by the child's Indian tribe.

### **The following forms must accompany the ICWA-030:**

- ✓ Petition
- ✓ ICWA-010(A) (one per child)
- ✓ Birth Certificate of the child, if available

Use the ICWA-030 to notice on Indian child custody proceedings, **until**:

- a) Court finds notice proper or
- b) The Tribe acknowledges in writing that the child is not a member and is not eligible for membership and the Court determines ICWA does not apply or
- c) It has been more than 60 days since the tribe received the notice and it has not responded and the Court determines ICWA does not apply or and the Court determines ICWA does not apply or
- d) The Tribe intervenes
- e) Tribe acknowledges in writing that the child is a member of the Tribe or is eligible. When a federally recognized tribe confirms that a child is American Indian, the tribe must be noticed for all hearings regarding the Indian child. The Indian tribe must receive the Regular Notice form that is required for that hearing, the ICWA-030 is no longer used and no further notice is required for BIA or SOI.

## **TIMEFRAMES AND METHOD OF SERVICE**

Send all notices by registered mail, return receipt requested or certified mail return receipt requested, to the BIA and Secretary of Interior, parents, Indian caregiver and tribe(s). Also follow the instructions in Sections A, B, C, and D. regarding the type of notice to be used and the method of noticing for specific hearings for other persons entitled to be noticed.

### **Timeframes-Detention Hearing**

- Notice must be given as soon as possible after the filing of the petition.
- Proof of Notice must be filed with the court within 10 days after the filing of the petition.

### **Timeframes-Every hearing other than a detention hearing**

When a federally recognized tribe confirms that a child is American Indian, the tribe must be noticed for all hearings regarding the Indian child. The Indian tribe must receive the Regular Notice form that is required for that hearing, the ICWA-030 is no longer used and no further notice is required for BIA or SOI.

- **Tribe(s)-All tribes in which the child may claim or may be eligible for membership must receive notice 10 days prior to the hearing**
- **Bureau of Indian Affairs (BIA)-Must receive notice 15 days prior to the hearing**
- **Secretary of Interior (SOI)-Must receive notice 15 days prior to the hearing**

### **Proof of Sending Notice**

The CSW must file the following with the court before the hearing:

- Copies of notices sent – ICWA 030; ICWA 030A; ICWA-010(A), Petition, regular notice of hearing;
- All return receipts; and
- All responses from the tribes, BIA and Secretary of the Interior.

### **Continued W&IC 366.26 Hearing when the permanent plan is Tribal Customary Adoption (TCA)**

When the permanent plan for an Indian child is TCA as recommended by the child's tribe, the statute requiring TCA requires that W&IC 366.26 hearing to be continued 120 days from the initial 366.26 hearing to file the Tribal Customary Adoption Order (TCAO) with the court. At the continued 366.26 hearing, the court will determine if full faith and credit should be afforded to the tribe's TCAO. If required to notice for the continued 366.26 hearing, CSWs are to use the JV 300 to notice all appropriate parties, including the child's tribe.

## **SPECIAL INSTRUCTIONS**

Assist the parents/caregiver in completing the DCFS 5649, American Indian Ancestry Questionnaire. Use the ICWA Checklist as a reference to ensure that all possible relatives were explored for American Indian Ancestry.

At the first court appearance, the court will order for the parent to complete the ICWA-020, Parental Notification of Indian Status. If the parent is not present at the first court appearance, the court will order for DCFS to use reasonable diligence to locate the parent and inform him/her that the court has ordered the parent to complete the ICWA-020. Once the parent(s) is located, the CSW responsible for writing the court report must have the parent complete the ICWA-020 and submit it as an attachment with the court report for the next court hearing.

Document the required data in the child's Client Notebook on CWS/CMS. Refer to the Existing Tribal Organization located in the Resource Management Section of CWS/CMS to obtain the address of the federally recognized tribes. In cases where the address of the tribe is unknown, contact the Indian Child Welfare Unit at (626) 938-1846 or (626) 938-1838 for assistance in locating updated tribal information.

The notice shall contain a statement that the parent or Indian custodian and the tribe have a right to intervene at any point in the proceedings. The notice shall include a statement that the parent or Indian custodian and the tribe shall upon request, be granted up to 20 additional days to prepare for the proceeding.

Maintain all ICWA documents in the ICWA designated folder (yellow), see Procedural Guide 1200-500.90, Model Case Format (MCF) for filing instructions. Effective 07/01/2010, Tribal Customary Adoption (TCA) is an additional permanency option for juvenile court dependent Indian children who fall under the provision of ICWA. TCA is an adoption, which occurs under the customs, laws or traditions of an Indian child's tribe, but where termination of parental rights is not required. TCA becomes a permanency option for a dependent Indian child when a federally recognized tribe has confirmed that the child is American Indian and is a member of the Tribe or is eligible for membership. TCA may be recommended by the child's tribe at any point in the dependency process (as early as the dispositional hearing) as long as the case remains open and the court has not ordered termination of parental rights. Please see Procedural Guide 0200-515.05, Adoption of Children under the Indian Child Welfare Act (ICWA) and 1200-500.05, Indian Child Welfare Act (ICWA) for more information.

## **APPROVAL LEVELS**

<b>Section</b>	<b>Level</b>	<b>Approval</b>
<b>A. B. C. D. &amp; E.</b>		No higher level of approval is required



## OVERVIEW OF STATUTES/REGULATIONS

**Welfare and Institutions Code Section 224.2** explains the notice requirement for Indian child custody proceedings.

**Welfare and Institutions Code Section 290.1** explains the notice requirements when filing initial petition hearings.

**Welfare and Institutions Code Section 290.2** explains the notice requirement when an initial petition has been filed.

**Welfare and Institutions Code Section 291**, explains the notice requirement for the Jurisdictional/Dispositional Hearing.

**Welfare and Institutions Code Section 292**, explains the notice requirements for the WIC 364 Status Review Hearing.

**Welfare and Institutions Code Section 293** explains the notice requirements for the WIC 366.21, WIC 366.22, and WIC 366.25 Status Review Hearings.

explains the notice requirements for the a selection and implementation hearing held pursuant to Section 366.26.

**Welfare and Institutions Code Section 295** explains the notice requirements for the review hearings held pursuant to Sections 366.3 and 366.31 and for termination of jurisdiction hearings held pursuant to Section 391.

**Welfare and Institutions Code Section 349 (d)** states in part that if the minor is 10 years of age or older and he or she is not present at the hearing, the court shall determine whether the minor was properly notified of his or her right to attend the hearing and inquire whether the minor was given an opportunity to attend.

**Welfare and Institutions Code Section 361.5(e)(2)**-The county welfare department shall utilize the prisoner locator system developed by the Department of Corrections and Rehabilitation to facilitate timely and effective notice of hearings for incarcerated parents.

**Welfare and Institutions Code Section 366.21 (c)**.states that the JV 290, Judicial Council Caregiver Information Form must be sent to the child's foster parent, relative caregivers, or foster parents approved for adoption, in the caregiver's primary language when available, along with information on how to file the form with the court.

**Welfare and Institutions Code Section 366.21 (d)** states in part that prior to any hearing involving a child in the physical custody of a community care facility or foster family agency that may result in the return of the child to the physical custody of his or her parent or legal guardian, or in adoption or the creation of a legal guardianship, the

facility or agency shall file with the court a report or a Judicial council Caregiver Information Form (JV 290), containing its recommendation for disposition.

**California Rules of Court Rule 5.534(m)** -Caregiver notice and right to be heard (WIC Sections 290.1–297, 366.21)

For cases filed under section 300 et seq.:

- (1) For any child who has been removed from the home, the court must ensure that notice of statutory review hearings, permanency hearings, and section 366.26 hearings has been provided to the current caregiver of the child, including foster parents, pre-adoptive parents, relative caregivers, and non-relative extended family members. Notice of dispositional hearings also must be provided to these individuals when the dispositional hearing is serving as a permanency hearing under section 361.5(f).
- (2) The current caregiver has the right to be heard in each proceeding listed in paragraph (1), including the right to submit information about the child to the court before the hearing. Written information about the child may be submitted to the court using the Caregiver Information Form (form JV-290) or in the form of a letter to the court.
- (3) At least 10 calendar days before each hearing listed in paragraph (1), the social worker must provide to the current caregiver:
  - (A) A summary of his or her recommendations for disposition, and any recommendations for change in custody or status;
  - (B) *Caregiver Information Form* (form JV-290); and
  - (C) *Instruction Sheet for Caregiver Information Form* (form JV-290-INFO).
- (4) If the caregiver chooses to provide written information to the court using form JV-290 or by letter, the caregiver must follow the procedures set forth below. The court may waive any element of this process for good cause.
  - (A) If filing in person, the caregiver must bring the original document and 8 copies to the court clerk's office for filing no later than five calendar days before the hearing.
  - (B) If filing by mail, the caregiver must mail the original document and 8 copies to the court clerk's office for filing no later than seven calendar days before the hearing.
- (5) When form JV-290 or a caregiver letter is received by mail the court clerk must immediately file it.
- (6) When form JV-290 or a caregiver letter is filed, the court clerk must provide the social worker, all unrepresented parties and all attorneys with a copy of the completed form or letter immediately upon receipt. The clerk also must complete, file, and distribute *Proof of Service—Juvenile* (form JV-510). The clerk may use any technology designed to speed the distribution process, including drop boxes

in the courthouse, email or fax to distribute the JV-290 form or letter and proof of service form.

Because the intent of subdivision (m) is to expand access to the courts for caregivers of children in out-of-home care, the rule should be liberally construed. To promote caregiver participation and input, judicial officers are encouraged to permit caregivers to verbally address the court when caregivers would like to share information about the child. In addition, court clerks should allow filings by caregivers even if the caregiver has not strictly adhered to the requirements in the rule regarding number of copies and filing

**California Rules of Court Rule 5.903(c)** –Nonminor dependent status review hearing (224.1(b), 295, 366(f), 366.1, 366.3)

- (1) The social worker or probation officer must serve written notice of the hearing in the manner provided in section 295, and to all persons required to receive notice under section 295, except notice to the parents of the nonminor dependent is not required.
- (2) The written notice served on the nonminor dependent must include:
  - (A) A written statement that he or she may appear for the hearing by telephone; and
  - (B) Instructions about the local court procedures for arranging to appear and appearing at the hearing by telephone.
- (3) Proof of service of notice must be filed by the social worker or probation officer at least five court days before the hearing.

**ACL 10-17, ASSEMBLY BILL 1325, CHAPTER 287, STATUTES OF 2009 TRIBAL CUSTOMARY ADOPTION**

<http://www.dss.cahwnet.gov/lettersnotices/entres/getinfo/acl/2010/10-17.pdf>

**LINKS**

California Code	<a href="http://www.leginfo.ca.gov/calaw.html">http://www.leginfo.ca.gov/calaw.html</a>
Division 31 Regulations	<a href="http://www.cdss.ca.gov/ord/PG309.htm">http://www.cdss.ca.gov/ord/PG309.htm</a>
Title 22 Regulations	<a href="http://www.dss.cahwnet.gov/ord/PG295.htm">http://www.dss.cahwnet.gov/ord/PG295.htm</a>

**RELATED POLICIES**

[Procedural Guide 0070-548.20](#), Taking Children Into Temporary Custody  
[Procedural Guide 0080-508.05](#), Fast Track to Permanency (FTP) Provisions  
[Procedural Guide 0300-306.27](#), Out of County Personal Service  
[Procedural Guide 0300-306.30](#), Notice by Publication of Citation  
[Procedural Guide 0300-306.45](#), Removal Orders for Parents and Youth  
[Procedural Guide 0300-306.75](#), Due Diligence  
[Procedural Guide 0300-306.80](#), Transportation Requests to Bring Children to Court  
[Procedural Guide 1200-500.05](#), Indian Child Welfare Act (ICWA)  
[Procedural Guide 1200-500.90](#), Model Case Format (MCF)

## FORM(S) REQUIRED/LOCATION

<b>HARD COPY</b>	<b>JV 505</b> , Statement Regarding Paternity (Juvenile Dependency)
<b>LA Kids:</b>	<a href="#"><u>DCFS 4217</u></a> , Children's Social Worker Report and Order of the Court for Removal of Prisoner from County Jail <a href="#"><u>DCFS 4376</u></a> , Application for Order for Publication of Citation <a href="#"><u>DCFS 5649</u></a> , Indian Ancestry Questionnaire <a href="#"><u>ICWA-010(A)</u></a> , Indian Child Inquiry Attachment <a href="#"><u>ICWA-020</u></a> , Parental Notification of Indian Status <a href="#"><u>ICWA-030</u></a> , Notice of Child Custody Proceeding for Indian Child <a href="#"><u>ICWA-030(A)</u></a> , Attachment to Notice of Child Custody Proceeding for Indian Child <a href="#"><u>JV 100</u></a> , Juvenile Dependency Petition (Version One) <a href="#"><u>JV 290</u></a> , Cover Letter <b>Notice of Hearing on Petition w/ JV 510</b> <b>Notification Letter-Detention Hearing Antelope Valley Court</b> <b>Notification Letter-Detention Hearing Edmund Edelman Court</b>
<b>CWS/CMS:</b>	Contact Notebook Hearing Notebook Ex-Parte Application and Order Notice of Hearing on Petition (revised version under Case Management Section <b>not</b> Court Notebook) <b>ICWA-020</b> , Parental Notification of Indian Status <b>ICWA-030</b> , Notice of Child Custody Proceeding for Indian Child <b>ICWA-030(A)</b> , Attachment to Notice of Child Custody Proceeding for Indian Child <b>JV 100</b> , Juvenile Dependency Petition (Version One) <b>JV-281</b> , Notice of Hearing – Nonminor <b>JV-282</b> , Proof of Service - Nonminor <b>JV-280</b> , Notice of Review Hearing, Juvenile <b>JV 290</b> Judicial Council Caregiver Information Form <b>JV-365</b> , Termination of Juvenile Court Jurisdiction-Nonminor <b>JV 450</b> , Order for Prisoner's Appearance at Hearing Affecting Prisoner's Parental Rights and Waiver of Appearance <b>JV 510</b> , Proof of Service - Juvenile <b>JV-300</b> , Notice Of Hearing On Selection Of A Permanent Plan - Juvenile <b>JV-310</b> , Proof Of Service -- Juvenile Hearing Under Section 366.26 of the Welfare and Institutions Code Section <b>JV-505</b> , Statement Regarding Paternity (Juvenile Dependency) <b>JV-550</b> , Order for Prisoner's Appearance at Hearing Affecting Prisoner's Paternal Rights
<b>SDM</b>	None

## Important ICWA Contacts

### County Counsel's ICWA Notice Program

The purpose of the program is to provide CSWs with specialized assistance with making ICWA inquiries and preparing ICWA notices, with the objective of decreasing the number of continuances for improper ICWA notice.

Currently, County Counsel has three designated ICWA specialist attorneys. They are:

**Liza Samuelson** is responsible for DCFS offices in the Southern Region: Compton, Lakewood, Santa Fe Springs, Torrance, Vermont Corridor, and Wateridge.

Telephone: (323) 881-1359 (direct line); (310) 263-2021 (voice mail only)

Fax: (323) 881-0148

E-mail: [lsamuelson@counsel.lacounty.gov](mailto:lsamuelson@counsel.lacounty.gov)

**Keith Davis** (home base: Pasadena) Keith is responsible for DCFS offices in the Central Region: Belvedere, Covina Annex, El Monte, Glendora, Metro North, Pasadena, Pomona, and West L.A.

Telephone: (626) 229-3658 (direct line – no voice mail); (626) 229-3667 – voice mail only)

Fax: (626) 397-9162

E-mail: [kdavis@counsel.lacounty.gov](mailto:kdavis@counsel.lacounty.gov)

**Scott Miller**, responsible for DCFS offices in the Northern Region:

- Chatsworth (Monday, Tuesday, & Wednesday) - telephone: (818) 717-4810
- Santa Clarita (Monday, Tuesday, & Wednesday) - telephone: (661) 702-6256  
fax: (661) 257-5823
- Lancaster
- Palmdale (Thursday & Friday)-Telephone: (661) 223-4191

E-mail: [smiller@counsel.lacounty.gov](mailto:smiller@counsel.lacounty.gov)