

Superior Court of the State of California
County of Orange



Chambers of
Douglas J. Hatchimonji
Presiding Judge of Juvenile Court

Juvenile Court
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Juvenile Court Administrative Order No. 12/002

Juvenile Drug Court

Order and Protocol re: Communications with Judicial Officers

A. Findings:

1. The California Code of Judicial Ethics, Canon 3B(7), provides: "A judge shall not initiate, permit or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties concerning a pending or impending proceeding...."
2. The State Bar Rules of Professional Conduct, Rule 5-300(B), provides: "A member [of the State Bar] shall not directly or indirectly communicate or argue to a judge or judicial officer upon the merits of a contested matter pending before such judge or judicial officer...."
3. In the case of *In The Matter Concerning Judge Bruce Clayton Mills* (2006) the California Commission on Judicial Performance issued a public admonishment of Judge Mills, in part, for a violation of Canon 3B(7), the prohibition against ex parte communications, because Judge Mills: (1) communicated with the defendant about her case without her counsel or the prosecutor present; (2) communicated with the defendant's attorney about the defendant's case without the prosecutor present; (3) communicated with the defense attorney and a probation officer about the defendant's case without a prosecutor present; (4) communicated with the defense attorney, probation officer and the defendant about the case and took action on the case without the prosecutor present.
4. Welfare and Institutions Code, section 680, provides: "The judge of the juvenile court shall control all proceedings during the hearings with a view to the expeditious and effective ascertainment of the jurisdictional facts and the ascertainment of all information relative to the present condition and future welfare of the person upon whose behalf the petition is brought. Except where there is a contested issue of fact or law, the proceedings shall be conducted in

an informal nonadversary atmosphere....” (See also: Rule 5.534, California Rules of Court.)

5. Key Component #1 of the “Key Components of Drug Court”, states: “Drug courts integrate alcohol and other drug treatment services with justice system case processing.” The Performance Benchmarks associated with this key component, states: “The court and treatment providers maintain ongoing communication, including frequent exchanges of timely and accurate information about the individual participant’s overall program performance.” (See: Defining Drug Courts: The Key Components; by the National Association of Drug Court Professionals, Drug Court Standards Committee; January 1997, reprinted October 2004.)

B. In light of the foregoing, it is hereby ordered:

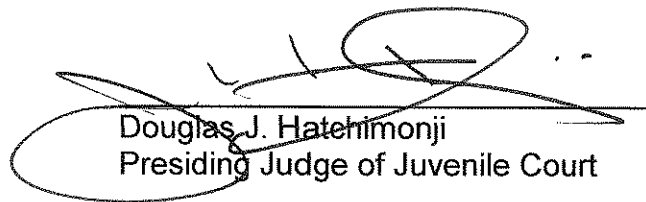
1. **Oral communications:** No member of the Juvenile Drug Court (JDC) team (attorneys, probation officers, therapists, mentors, volunteers) shall communicate, or attempt to communicate, directly or indirectly, orally with any judicial officer regarding any substantive issue or circumstance concerning a JDC participant, without – *at least* – a district attorney and the minor’s attorney being “present”. For the purpose of oral communications, the term “present” shall mean: being physically in the presence of the judicial officer and/or participating in the conversation by telephone conference call with the ability of the listener to hear and speak to all other persons present.
2. **Email communications:** No member of the Juvenile Drug Court (JDC) team (attorneys, probation officers, therapists, mentors, volunteers) shall communicate, or attempt to communicate, directly or indirectly, by email with any judicial officer regarding any substantive issue or circumstance concerning a JDC participant, without contemporaneously sending the email to – *at least* – a district attorney and the minor’s attorney.
3. **Written communications:** No member of the Juvenile Drug Court (JDC) team (attorneys, probation officers, therapists, mentors, volunteers) shall communicate, or attempt to communicate, directly or indirectly, by written communication with any judicial officer regarding any substantive issue or circumstance concerning a JDC participant, without contemporaneously sending the writing to – *at least* – a district attorney and the minor’s attorney.
4. **Persons to be included in the communication:** The Court recognizes that issues and circumstances for JDC participants happen on an urgent basis, and that the goals of timely, efficient and effective communication can be frustrated by requiring that all members of the JDC team participate in unscheduled communications. Therefore, this order only *requires* that “at least” the district attorney and minor’s counsel be present when information is communicated to a judicial officer. However, pursuant to Key Component #1, it is preferable that as

many members of the team as is feasible and practicable participate in communications regarding a JDC participant.

5. **Non-judicial communications:** This order only applies to communications with a judicial officer by any JDC team member. It does not apply to communications amongst the JDC team to which a judicial officer is not included.
6. **Non-substantive communications:** A member of the JDC team may communicate with a judicial officer or the courtroom clerk for scheduling, administrative purposes, or emergencies that do not deal with substantive matters; for instance, to simply notify the judicial officer that the team member needs to communicate about a JDC participant and seeks the court's assistance in facilitating a substantive conversation pursuant to this order.

This Juvenile Court Administrative Order is to remain in effect until otherwise ordered by the Presiding Judge of Juvenile Court.

Dated February 29, 2012



Douglas J. Hatehimonji
Presiding Judge of Juvenile Court