

DE-MYSTIFYING THE EXHIBIT REVIEW PROCESS IN CRIMINAL CASES A 2008 EDITION¹

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In the Fourth Appellate District, procedures for reviewing exhibits for adult and juvenile cases vary among the six county court systems. Division One jurisdiction covers San Diego County and Imperial County. Division Two jurisdiction covers Riverside County, San Bernardino County, and Inyo County. Division Three jurisdiction covers Orange County. Below is updated information assembled on the process, including applicable rules of court. Information is also provided on how Appellate Defenders, Inc. (“ADI”) can help by viewing exhibits on behalf of an out-of-county appointed attorney.

California Rules of Court

Reference to Exhibits in the Appellate Briefs: Exhibits are part of the record and can therefore be referred to in the appellate briefs. (Cal. Rules of Court, rule 8.320(e).)

Transmission of Exhibits to the Reviewing Court: California Rules of Court, rule 8.224(a), provides, in relevant part, that within 10 days after the last respondent’s brief is filed or could be filed, a party wanting the reviewing court to review an exhibit must serve and file a notice in the superior court designating such exhibit. The Court of Appeal must be served with a copy. If you miss the deadline, a motion requesting transmittal must be filed in the reviewing court. (Cal. Rules of Court, rule 8.224(c).)

¹ The article was originally published in the ADI July 2003 newsletter.

Division Two has a modified procedure. It sends out to the appointed attorney, early on in the case, a form informing that it prefers early transmission of the exhibits. The form contains a request for transmission which is to be completed by the attorney and returned to Division Two, not the superior court, with the appellant's opening brief.

Attachment to Appellate Briefs: Under California Rules of Court, rule 8.204(d), copies of exhibits or other materials in the appellate record may be attached to a brief. The attachment is limited to 10 pages in length, but a longer attachment may be permitted on application for good cause.

ADI Assistance

Divisions Two and Three Cases: To save travel time and reduce expenses, ADI can view and copy documentary exhibits on behalf of the appointed attorney during the usual court ambassador trips to Divisions Two and Three. This is not required if the needs of the case demand that the appointed attorney personally view the exhibit. The Division Two ADI staff attorneys are David Rankin and Lynelle Hee. The Division Three ADI staff attorney is Neil Auwarter.

The appointed attorney should contact the assigned staff attorney to the case by email and make a request, providing the case name, appeal number, superior court number, and the specific exhibits to be reviewed and informing whether you want a copy. That request will then be forwarded to the division ADI ambassador. Staff attorney e-mail

addresses are located on ADI's web site: www.adi-sandiego.com. ADI will make the arrangements directly with the court for ADI to view the exhibits.

If the request concerns a distant branch court, appointed attorneys should contact ADI sufficiently in advance to arrange transfer of exhibits to the central court of the county. If the exhibits cannot be transferred, counsel of record will likely have to go to the court personally to view the exhibits after consulting with ADI.

Division One Cases: For San Diego County cases, an original court order or certified copy of same is required to permit ADI and anyone other than the appointed attorney to view exhibits. The order must specify the name of the specific individual to view, and valid identification such as a California driver's license and a business card must be presented. Obtaining the court order is the appointed attorney's responsibility. There is no transferring of exhibits from a branch court to the central court.

ADI does not routinely travel to Imperial County to review exhibits. As such, if the case necessitates, the appointed attorney will need to personally review the exhibits. In an effort to keep costs down, the appointed attorney must first ask the exhibit custodian if he/she could send copies of documentary exhibits to the attorney.

Division One Jurisdiction

San Diego County:

There are four courts in which exhibits relating to adult felony cases are contained, and there is a fifth court which maintains the exhibits relating to juvenile cases. To view an exhibit, you must go to the respective court house.

(1) County Courthouse, Central Division Exhibit Room MS-C44: 220 West Broadway, San Diego, CA 92101, (619) 450-5574, Custodian of Exhibits Coordinator - William Nicks.

The appointed attorney must call in advance and make an appointment. Take the stairs or elevator down to the basement where the exhibit room is located. At the security door, pick up the phone and call x5574 to be allowed in. The hours of operation are 7:30 a.m. to 12:00 p.m. and 1:00 p.m. to 4:30 p.m., Monday through Friday.

Only attorneys of record are allowed to personally view exhibits, and a court order is required for all others as outlined above. Bring identification and the appointment order in the event the exhibit room has not yet received the appointment order from the court.

If a copy of paper documents is needed, the exhibit technician will copy up to 10 pages. If there are more pages, there are three options: (1) bring a copier; (2) obtain and present a court order (original or certified copy) to have the documents released to the appointed attorney to make copies elsewhere, or (3) obtain a court order to have a copy service come to the exhibit room and make the copies.

Equipment is available to review media exhibits (CDs, DVDs, audiotapes, and videotapes). No equipment is available to make copies of these exhibits. To make a copy of media exhibits, a court order is required. The request for an order must specifically explain how the exhibit will be copied and the method employed must comply with the specific order. With that court order, the appointed attorney can bring his or her own device to make the copy, if that is what the order permits; otherwise, the court order must specifically permit release of the exhibit so that it can be copied elsewhere by the attorney. Releasing any type of exhibit, including a sealed or confidential exhibit, is allowed upon presentation of a court order permitting release.

(2) North County Superior Court: 325 S. Melrose Dr., Vista, CA 92083, (760) 940-4445, Exhibit Custodian - Cindy Martin.

Call to make an appointment. The exhibit room is located in the single-story, old court building. After entering, go left and follow the signs towards older records. Take the elevator to the basement and enter at room number C021. Hours are 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 5:00 p.m., Monday through Friday.

The same procedures outlined in section (1) above apply. Equipment is available to review media exhibits.

(3) East County Superior Court: 250 E. Main St., El Cajon, CA 92020, (619) 441-4699, Exhibit Custodian - Jean Francoeur.

Call to make an appointment. To see the exhibits, go to the first floor family law business office and ask for Jean at the counter. The hours for viewing are 8:00 a.m. to 12 p.m and 1:00 p.m. to 4:30 p.m., Monday through Friday.

The same procedures outlined in section (1) above apply. Equipment is available to review media exhibits, but you must give notice ahead of time that you will need the equipment.

(4) South County Superior Court: 500 3rd Ave., Chula Vista, CA 91910, (619) 746-6155, (619) 746-6198, Exhibit Custodian - Melissa Gutierrez.

Call to make an appointment. Exhibits can be viewed 8:30 p.m. to 3:30 p.m., Monday through Friday. The exhibit room is located on the second floor. The attorney must first go to the attorney window and ask for Ms. Gutierrez who will escort the attorney to the exhibit room. The same procedures outlined in section (1) above apply. The equipment that is available is a tape player and television to view VHS tapes.

(5) Juvenile Court: 2851 Meadow Lark Drive, San Diego, CA 92123, (858) 634-1537.

Call to make an appointment. Exhibits are viewed in the business office which is located on the second floor. Ask to speak to the exhibit custodian. The hours for viewing are 8:30 a.m. to 4:00 p.m., Monday through Friday.

The same procedures outlined in section (1) above apply with the following modifications. Only the appointed attorney of record is permitted to view these

confidential exhibits, and an appointment order must be presented. ADI is permitted to view on behalf of the appointed attorney if the required court order, as explained above, is produced and valid identification presented.

Equipment is not available to review media exhibits. Therefore, you will need to bring in your own equipment or present a court order for release and copy of the exhibit.

Imperial County:

The main court contains the exhibits for felony adult cases and juvenile cases.

(1) **Main Court:** 939 W. Main St., El Centro, CA 92243, (760) 482-4217. Call to make an appointment. Go to the clerk's office of the civil department to view the exhibits. The department is open for exhibit viewing from 8:00 a. m. to 4:00 p.m., Monday through Friday. No appointment order is required. Viewing exhibits is not limited to attorneys of record.

If a copy of paper documents is needed, the exhibit technician may copy up to 50 pages. If there are more pages, then they will be mailed. No equipment is available to review media exhibits. No equipment is available to make copies of these exhibits. To make copies, a court order is required. Make sure the order states that there are no costs to appellant because it is an indigent appeal. The exhibit technician will make the arrangements for making a copy. The appointed attorney cannot bring his or her own

equipment to make copies. To view a sealed or confidential exhibit, a court order is required.

In cases that involve a large number of exhibits, such as death penalty or LWOP cases, contact the exhibit clerk at least two days in advance.

The procedures outlined above apply to the review of juvenile case exhibits with two modifications. Only the appointed attorney can view the exhibits, and an appointment order must be shown.

Division Two Jurisdiction

Riverside County:

Attorneys are advised to call the court in advance to make an appointment, to obtain more specific guidance on the exhibit review process, and, for those cases which are located in the branch courts, to determine in which court the exhibits are stored.

If the exhibit you wish to examine is a media exhibit and you would like to obtain a copy, rather than going to the court to view the exhibit, you can file a motion with Division Two for an order directing the superior court to make a copy and to mail it to you. For more guidance on this, contact the Division Two ambassadors.

(1) **Riverside County Court:** Hall of Justice, 4050 Main St., Riverside, CA 92501, (951) 955-1655. The exhibit room is located in the basement. Viewing hours are 8:00 a.m. to 4:00 p.m., Monday through Friday. Only attorneys of record are allowed to

view exhibits, unless the attorney gives notice by letter that someone else will view the exhibits. You must bring the appointment order and identification.

The exhibit clerk can provide a copy of documentary exhibits. You can also bring your own scanner and laptop. Equipment is available to review media exhibits.

Viewing a sealed or confidential exhibit requires a court order.

(2) **Juvenile Court:** 9991 County Farm Rd., Riverside, CA 92503, (951) 358-4137. Juvenile case exhibits are housed at the Riverside County Court ((951) 955-1655). It is advised to call to determine the location of the exhibits because some may not yet have been transferred from the juvenile court. Appointment orders are required. Only attorneys of record are permitted to view these exhibits.

(3) **Indio Court:** 46-200 Oasis St., Indio, CA 92201, (760) 863-8986. Call exhibit custodian Yolanda Alvarez to make an appointment. At the court, go to the criminal window on the first floor and ask for Yolanda. The hours of operation are 8:00 a.m. to 4:30 p.m., Monday through Friday. An appointment order is not required.

Usually only attorneys of record are allowed to view exhibits, unless you advise of a different arrangement with the custodian. Viewing a sealed or confidential exhibit requires a court order. Equipment is not available to review media exhibits. .

The custodian can make a black and white copy of paper documents while you wait. For a colored copy, the documents can be sent to Riverside Court.

If the case concerns a murder conviction, the District Attorney's Office is contacted so that an investigator can be present during the viewing.

(4) **Blythe Court:** 265 N. Broadway, Blythe, CA 92225, (760) 921-5900, press 2 for criminal. It is rare for felony trials to take place in this court. Felonies are sent to Indio court following the preliminary hearing, and all the exhibits are stored there.

(5) **Southwest Court:** 30755 Bldg. D Auld Rd., Ste. 1226, Murrieta, CA 92563, (951) 304-5327. Call Rebecca, exhibit custodian, to make an appointment. Viewing hours are 8:30 a.m. to 5:00 p.m., Monday through Friday. At the court house, go to the agency service window and ask for the exhibit custodian. Equipment is available to review media equipment, but prior arrangements must be made. Bring your appointment order and identification. To have someone else view on your behalf, the person should bring their identification, a letter from you authorizing the person to view, and a copy of your appointment order. Only the appointed attorney or a pro per defendant can view confidential exhibits with the custodian present. A copy of documentary exhibits can be provided on site. Southwest court houses some juvenile exhibits. Only the appointed attorney or a pro per defendant can view these exhibits.

San Bernardino County:

There are thirteen court locations that house exhibits. The viewing hours are 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding the lunch hour. Attorneys are allowed to make walk-in requests; however, making an appointment is recommended.

When calling to arrange a viewing of exhibits, inquire as to the court location of the exhibit and the location for viewing. Transfer of exhibits from one court house to another to accommodate the viewer is not done unless a death penalty case is involved or a court order is obtained. Some districts do not have a designated exhibit room.

An appointment order and identification are required to view juvenile case exhibits and any sealed/confidential exhibits. The latter also requires a separate court order to view and to have copies made. For all other matters of public record, anyone can view.

All district courts request that if an exhibit is voluminous, notice be given prior to a copying request. The copies may be provided the day the attorney views the exhibit if time allows or otherwise are mailed to the attorney.

Rancho Cucamonga and San Bernardino Central Court have equipment to view videotapes and hear audiotapes. Central Court has capability to copy videotapes only. To view exhibits contained at a distant court, a court order is required to transfer the exhibit. The attorney can bring a tape recorder to hear and copy an audiotape but prior arrangements are required.

(1) **San Bernardino District - Criminal, Family Law & Traffic:** 351 N. Arrowhead, San Bernardino, CA 92415, (909) 387-3963.

(2) **San Bernardino District - Civil:** 303 W. Third St., San Bernardino, CA 92415, (909) 382-3652.

(3) **Barstow Court:** 235 E. Mountain View Ave., Barstow, CA 92311, (760) 256-4700.

(4) **Fontana Court:** 17780 Arrow Route, Fontana, CA 92335, (909) 356-3487.

(5) **Joshua Tree Court:** 6527 White Feather Rd., Joshua Tree, CA 92252, (760) 366-4107.

(6) **Rancho Cucamonga Court:** 8303 N. Haven Ave., Rancho Cucamonga, CA 91730, (909) 945-4111.

(7) **Redlands Court:** 216 Brookside Ave., Redlands, CA 92373, (909) 798-8560.

(8) **Victorville Court:** 14455 Civic Dr., Victorville, CA 92392, (760) 243-8930.

(9) **Chino Court:** 13260 Central Ave., Chino, CA 91710, (909) 356-5337.

(10) **Big Bear Court:** 477 Summit Blvd., P.O. Box 2806, Big Bear Lake, CA 92315, (909) 866-0153.

(11) **Needles Court:** 1111 Bailey St., Needles, CA 92363, (760) 326-9324.

(12) **Juvenile Court - Central:** 900 East Gilbert St., San Bernardino, CA 92415, (909) 387-7626.

(13) **Dependency Court:** 860 E. Gilbert Street, San Bernardino, CA 92415, (909) 387-7005.

Inyo County:

Only the main courthouse contains felony criminal adult and juvenile case exhibits: 168 Edwards St., Independence, CA 93526, (760) 878-0298. Exhibits are available for viewing from 8:00 a.m. to 4:00 p.m., Monday to Friday. Call to make an appointment. The exhibit room is located in the executive offices.

Generally, there is no requirement that only attorneys are allowed to view exhibits. However, an attorney appointment order is required for viewing sealed exhibits and confidential matters such as juvenile cases. A court order is required to see sealed or confidential exhibits.

There is no limit on copying of regular-sized paper exhibits. Equipment is usually not available to review media exhibits, but one may call ahead and arrangements may be possible. The attorney can bring his or her own equipment. To make a copy of a media exhibit, a court order is required.

Division Three Jurisdiction

Orange County:

There are two courts that contain exhibits for all felony cases, and one which contains the juvenile case exhibits. In adult cases, call the exhibits technician of the Central Justice Center for making arrangements to view all exhibits from both courts. The exhibits from the West Justice Center will be sent to the Central Justice Center for viewing.

(1) **Central Justice Center:** 700 Civic Center Dr. West, Santa Ana, CA 92702, (714) 834-2013. The hours for viewing are 8:00 a.m. to 4:00 p.m., Monday through Friday. Call or e-mail your request for a viewing appointment to both Geoff Christison gchristison@occourts.org and Kevin Jackson kjackson@occourts.org. Include the case number, case name, exhibit numbers and description, and provide alternative dates for viewing. A follow-up telephone call is suggested if there is no reply within a reasonable amount of time. To view, go to the civil division, room 1D110, window 69, which is located on the first floor. Inform the person of the appointment. The appointed attorney will be escorted to the location for viewing the exhibits.

An attorney appointment order is not required but bring a business card. There are no restrictions on only attorneys viewing exhibits, unless the exhibit is sealed or confidential. If the latter, a court order is required. If a copy of paper exhibits is needed, the exhibit technician will provide that during the visit up to 15 pages. Otherwise, it will be mailed. If requested, the technician can make arrangements to make a copy media exhibits, which can be mailed to the attorney. A court order is not required, unless the exhibit is sealed. The exhibit clerk has equipment for review media exhibits.

(2) **Juvenile Court:** 341 City Drive, Rm. C207, 2nd Flr., Orange, CA 92868, (714) 935-6420. Call to make an appointment. An appointment order and identification are needed. If a copy of paper exhibits is needed, the technician will provide that during the visit, unless there are time constraints. Equipment is available to review media equipment.

At least two days notice is needed to examine these type of exhibits. A court order is required to obtain a copy of these exhibits. There is no equipment to make a copy on site.