

DE-MYSTIFYING THE EXHIBIT REVIEW PROCESS

BY

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De-Mystifying the Exhibit Review Process

by

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I. INTRODUCTION

In the Fourth Appellate District, procedures for reviewing exhibits 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 procedures, including applicable rules of court.¹ Always check with the exhibit custodian as procedures can change. For contact information for the superior courts' appellate clerks and exhibit custodians, see [Superior Courts within Fourth District Court of Appeal](#).²

To promote efficiency and reduce travel expenses, out-of-county appointed counsel should first attempt to secure exhibits from the trial attorney, who may have a copy. Appellate Defenders, Inc. (“ADI”) may also help obtain copies of exhibits on behalf of out-of-county appointed counsel. To make a request for ADI to obtain a copy, email the case-assigned staff attorney. Provide the case name, appeal number, superior

¹ This information can change at any time within the particular court. If the reader learns of a material departure from this guide, please contact the author at amj@adi-sandiego.com.

² http://www.adi-sandiego.com/practice/court_attorney_contacts.asp
Click on the corresponding Division link and scroll down to access the superior contact information list for each county superior court.

court county case number, and the specific exhibits to be copied (the exhibit number, whether the exhibit is a People's, Defense's, or court exhibit, and the type of exhibit [photos, documents, CD, DVD, audio recording, video recording]). [Staff attorney e-mail addresses](#) are located on ADI's website.

If it is necessary for out-of-county appellate counsel to go to the superior court to view the exhibits, contact your ADI case-assigned staff attorney beforehand,³ check the superior court website, and contact the exhibit clerk for any updated health precautionary measures, hours, appointment scheduling, and procedure for viewing media exhibits and obtaining a copy of exhibits. For specific procedure in obtaining a copy of exhibits from a superior court, some of which require a motion by appointed counsel in either the superior court or the Court of Appeal, see *post*, "Viewing Exhibits" pertaining to the specific Court of Appeal Division.

A. California Rules Of Court

Transmission of Exhibits to the Reviewing 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

³ See [Claims Manual](#) - Exhibits: "counsel should call the project for advice on whether the travel is appropriate, whether preauthorization is required, or whether another option might be available." <https://www.adi-sandiego.com/panel-attorneys/claims/>

copy. If you miss the deadline, a motion requesting transmittal must be filed in the reviewing court.⁴ (Rule 8.224(c).)

Division Two has a [modified procedure](#).⁵ It sends to the appointed attorney, early in the case and usually with the appointment order, a form stating 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 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.

B. A Note About Confidential Or Sealed Exhibits

The rules concerning sealed⁶ and confidential⁷ records in the Supreme Court and Court of Appeal set forth the procedure for transmission to the reviewing court, specify

⁴ See ADI's [Motion Practice Guide](#), which provides a comprehensive overview of motions, useful resources, and practical tips. See ADI's [Form's and Samples](#): "Exhibits Transmission, Late."

⁵ http://www.adi-sandiego.com/practice/fourth_dist_div2.asp#superior2

⁶ "A 'sealed' record is a record that is closed to inspection by the public or a party by order of a court under rules 2.550-2.551 or rule 8.46." (Rule 8.45(b)(3).)

⁷ "A 'confidential' record is a record that, in court proceedings, is required by statute, rule of court, or other authority except a court order under rules 2.550-2.551 or rule 8.46 to be closed to inspection by the public or party." (Rule 8.45(b)(5).)

who can receive copies of these records, and outline how a party can discuss these records in a brief, petition, or other filing in an appellate court proceeding. The provisions are set forth at rules 8.45 to 8.47 and cover appeal and writ proceedings.

Sealed and confidential records include exhibits. (Rule 8.45(b)(1), (3) & (5).)

Appointed counsel may personally view and obtain a copy of a confidential or sealed exhibit without a court order, as long as the party, or the party's trial counsel, had access to the record in the trial court. (Rule 8.45(d)(2), (3), & (5); see also rule 8.10(3) [“Party’ includes any attorney of record for that party”].) If neither the party nor trial counsel had access, then a court order will be needed.

Although rule 8.45(d)(1), (2), (3) & (5) requires that the “record” be transmitted to the Court of Appeal and to the party who had access to the record in the trial court, an exhibit would not be initially transmitted to the Court of Appeal or appointed counsel when the transcripts are filed with the court and sent to the attorney.⁸ Contact the superior court exhibit custodian ahead of time to make arrangements to view and obtain a copy of an exhibit. Many courts prefer email requests to review exhibits in general. Some do not. If the exhibit is sealed or confidential, please inform the exhibits clerk before going to the courthouse that, under rule 8.45, you are now authorized to view the exhibits

⁸ Except for transcripts of recordings furnished to the jury or to the court under (rule 8.320(b)(11)) and documents “admitted in evidence to prove a prior juvenile adjudication, criminal conviction, or prison term” (rule 8.320(b)(13)(c)).

without a court order. If there is a disagreement about your right to access without a court order, contact the ADI case-assigned staff attorney.

II. VIEWING EXHIBITS IN DIVISION ONE

A. San Diego County⁹

In the past, ADI has been able to obtain a copy of case related “materials,” which includes exhibits, as well as confidential and sealed documents,¹⁰ on behalf of out-of-county appointed attorneys who deem it necessary to obtain and review the exhibits. However, the superior court has limited ADI’s ability to continue that practice. All panel attorneys who accept an appeal from San Diego will likely need to travel to view/obtain copies of exhibits if the case necessitates. First, try to obtain the exhibits from trial counsel. If that is unsuccessful, send a request to the ADI case-assigned staff attorney with the specific information identified, *ante*, at “Email request to ADI.” If travel is necessary, contact the case-assigned staff attorney to seek pre-approval.

There are four superior courts in which exhibits relating to adult felony cases are contained: central court in downtown San Diego and the branch courts in Vista, Chula Vista, and El Cajon. Branch courts will not transfer exhibits to central court. There is a

⁹ www.sdcourt.ca.gov

¹⁰ See court miscellaneous order 112812: <http://www.courts.ca.gov/documents/4dca-div1-112812-ADI-access-to-superior-court-rec-ords.pdf>. It applies to criminal, juvenile delinquency, juvenile dependency cases, as well as other cases, in both San Diego County and Imperial County Superior Courts.

fifth court that maintains the exhibits relating to juvenile cases in Kearny Mesa. To view an exhibit, you must go to the respective courthouse.

Dependency Cases in Div. 1 Only: The court issued a miscellaneous order which directs the clerk to make exhibits received and filed part of the normal record on appeal. It provides the record should include, “All documents in the juvenile dependency file, including all documentary exhibits admitted in evidence or refused, when creating the record for this court.” As a result of this rule, exhibits in San Diego dependency cases can be obtained through an augment/correction request.¹¹

(1) **County Courthouse, Central Division Exhibit Room MS-C44:** 1100 Union St., San Diego, CA 92101; (619) 844-2574. Hours: 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:15 p.m., Monday through Friday.

The appointed attorney must call in advance and make an appointment. Bring identification and the appellate appointment order in the event the exhibit room has not yet received the appointment order from the court. Only the attorney of record is permitted to view exhibits. A court order is required for all others, except for ADI.

The exhibit room is located in the basement, accessible only by elevator. From the lobby, take elevator number 1, which is the only elevator that goes to the basement. Upon

¹¹ See Misc. Order No. 091515:
<https://www.courts.ca.gov/documents/4dca-div1-Juvenile-Transcripts.pdf>

exiting into a small corridor, you will see a phone. When the receiver is lifted, a list of departments shows up. Press exhibits.

If copies of paper documents are needed, the exhibit technician will, as a courtesy, copy up to 10 pages. If the copy request is for greater than 10 pages or the size is larger, there are two options: (1) bring a copier or (2) obtain a superior court order to have a copy service come to the exhibit room and make the copies.¹² Photographic exhibits can be photocopied by the exhibit technician for the attorney, as long as they are no larger than 8" x 11" size. Some photographic exhibits may be scanned by the technician on a thumb drive or flash drive, so bring either device.

Equipment is available to review media exhibits (CDs, DVDs, audiotapes, and videotapes). The exhibit custodian can make a copy of a digital media exhibit but bring a thumb drive or flash drive. Counsel can also use a smartphone or camera to take a photo of an exhibit. For making a copy of other exhibits, speak to the custodian to make arrangements.

(2) North County Superior Court: 325 S. Melrose Dr., Room C021, Vista, CA 92081; (760) 201-8285. Hours: 8:00 a.m. to 12:00 p.m. and 1:00 p.m. to 4:15 p.m., Monday through Friday.

¹² Motions filed in superior court must conform to rule 2.100, et seq. and be printed on pleading paper. See [ADI Forms & Samples](#): “Exhibits, Request to Copy.”

Call to make an appointment. The exhibit room is located in the single-story, old court building in the basement. While in the lobby, call the exhibit room, and you will be escorted to the room.

The same procedures outlined in section (1) above concerning viewing and copying exhibits apply.

(3) East County Superior Court: 50 E. Main St., El Cajon, CA 92020; (619) 456-4240. Hours: 8:00 a.m. to 12:00 p.m and 1:00 p.m. to 4:15 p.m. Exhibits are available for viewing only on Monday, Wednesday, and Friday. Call to make an appointment.

The same procedures outlined in section (1) above apply. The only equipment that is available to review media exhibits is a laptop; you must give notice ahead of time that you will need this computer. If you wish to bring your own equipment for viewing, scanning, or copying exhibits, inform the custodian ahead of time.

(4) South County Superior Court: 500 3rd Ave., Chula Vista, CA 91910; (619) 746-6198. Hours: 8:00 a.m. to 12:00 p.m and 1:00 p.m. to 4:15 p.m. Exhibits are available for viewing only on Tuesday and Thursday. Call to make an appointment.

The same procedures outlined in section (1) above apply. The equipment that is available is a tape player, a television to view VHS tapes, and a laptop. If you wish to bring your own equipment for viewing, scanning, or copying exhibits, inform the custodian ahead of time.

(5) **Juvenile Court:** 2851 Meadow Lark Drive, San Diego, CA 92123; (858) 634-1537. **Hours:** 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding 12:00 to 1:00 p.m. Call to make an appointment. The same procedures outlined in section (1) above apply with the following modifications. Only the appointed attorney of record or ADI is permitted to view these confidential exhibits, and an appointment order must be presented.

Equipment is not available to review media exhibits. Therefore, appointed counsel will need to bring equipment to view the exhibit or present a court order for permitting a copy service to make a copy in the business office.¹³

B. Imperial County¹⁴

ADI does not travel to Imperial County to obtain exhibits. In an effort to keep costs down, appointed counsel should first request trial counsel to secure the exhibits. If that is not fruitful, ask the exhibit custodian to send copies of documentary exhibits to you. Mailing a copy of an exhibit is not an option in death penalty cases. Traveling to the superior court to view exhibits is a last resort for any case.¹⁵

Main Court: 939 W. Main St., El Centro, CA 92243; (760) 482-2240, ext 2372; America.Sanchez@imperial.courts.ca.gov. **Hours:** 8:00 a. m. to 4:00 p.m., Monday to Friday. The main court contains the exhibits for felony adult and juvenile cases.

¹³ See footnote 12, *ante*.

¹⁴ www.imperial.courts.ca.gov

¹⁵ See footnote 3, *ante*.

In lieu of travel to the court for review of documentary exhibits, appointed counsel can request by letter or email that a copy be mailed. Follow up with a phone call if no response is received after a reasonable amount of time.

To view exhibits, call or email at least two days before the visit to make an appointment to view exhibits. Ask if there is a separate appointment that must be made to allow you to enter the courthouse due to any health precautionary measures and the process for securing an appointment.

On the day of your appointment, go to the clerk's office of the civil department. Viewing exhibits is not limited to attorneys of record; however, only appointed counsel or ADI can view confidential or sealed exhibits. An Exhibit Viewing Request Form must be submitted and state-issued identification, a State Bar card, and the Court of Appeal appointment order must be presented.

Copies of documentary exhibits can be made by the custodian; if there are time constraints, then request that copies be mailed.

No equipment is available to review media exhibits, and no equipment is available to make copies. To make copies, a superior court order is required.¹⁶ Make sure the motion and 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. Appointed counsel can

¹⁶ See footnote 12, *ante*.

bring equipment to make copies but two days' advance notice must be given to the exhibit clerk.

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

III. VIEWING EXHIBITS IN DIVISION TWO

Appointed counsel should first try to obtain the exhibits from trial counsel. Division Two's miscellaneous order¹⁷ permits ADI access to court "files," including confidential and sealed "documents," which includes exhibits.¹⁸ Under this order, ADI can help obtain the needed exhibits, as more fully explained *post*.

If the case necessitates a hands-on review of exhibits by appointed counsel or there is a large number of exhibits, contact your ADI case-assigned staff attorney to seek pre-approval for travel¹⁹ and then contact the superior court in advance to make arrangements, to obtain guidance on the exhibit review procedure for the particular court, and to ascertain the location of the needed exhibits, as some may be stored off site. Exhibit custodians

¹⁷ See court order 22-4 at http://www.adi-sandiego.com/practice/fourth_dist_div2.asp which applies to criminal, juvenile delinquency, juvenile dependency cases, as well as other cases. The order applies to all counties under the jurisdiction of Division Two.

¹⁸ Although the order does not expressly identify "exhibits," the Court of Appeal has informally informed ADI that the term "files" includes exhibits.

¹⁹ See footnote 3, *ante*.

prefer attorneys to email their requests, but for some email is not available. For more information, see [ADI's Fourth District, Division Two page](#).²⁰

San Bernardino County Cases Only: Out-of-county counsel can file a motion in the Court of Appeal to transmit media exhibits to the Court of Appeal for copying and transmission to counsel.²¹ For documentary exhibits, counsel can file an augment motion in the Court of Appeal, but should make clear that the request is for transmission and copying of exhibits to augment the record in a San Bernardino case. These procedures are not available for Riverside or Inyo County cases.

A. Riverside County²²

Exhibit department hours are 8:00 a.m. - 4:00 p.m., Monday to Friday. Requests to view exhibits are by appointment only and should be made 2 to 5 days in advance. Call or email the exhibits department for details on viewing exhibits and/or obtaining a copy of an exhibit. Personal identification (e.g., driver's license) or an appointment order is required. Only the attorney of record or ADI can view confidential or sealed exhibits. Equipment to view media exhibits is not available at any of the exhibit department locations.

²⁰ http://www.adi-sandiego.com/practice/fourth_dist_div2.asp#superior2

²¹ See ADI [Forms & Samples](#): “Exhibits, Transmission for Copying (San Bernardino only).”

²² <https://www.riverside.courts.ca.gov/>

(1) **Riverside County Court:** Historic Court, 4050 Main St., Riverside, CA 92501; (951) 777-3098/3148; RiversideExhibits@riverside.courts.ca.gov. The exhibit room is located in the basement. This location maintains exhibits for Hall of Justice, Historic Courthouse, Riverside Juvenile Court, Riverside Family Law, Banning Justice Center, Corona Court, and Moreno Valley Court.

(2) **Juvenile Court:** 9991 County Farm Rd., Riverside, CA 92503; (951) 777-3147. Contact the Riverside County Superior Court exhibit department, *ante*, to make arrangements for viewing exhibits.

(3) **Indio Court:** Larson Justice Center, 46-200 Oasis St., Indio, CA 92201; (760) 393-2345; DesertExhibits@riverside.courts.ca.gov. Closed from 12:00 p.m. to 1:00 p.m.

(4) **Murrieta Court:** Southwest Justice Center, 30755-D Auld Rd., Murrieta, CA 92563; (951) 704-7647; riversideexhibits@riverside.courts.ca.gov.

B. San Bernardino County²³

San Bernardino Superior Court does not have equipment for making a copy of media exhibits, such as a CD, DVD, audiotape, or videotape. If out-of-county counsel needs a media exhibit, counsel may file a motion in the Court of Appeal requesting an order to the superior court to transmit exhibits to the Court of Appeal. The Court of Appeal will make a copy and mail it to appointed counsel.²⁴ For documentary or

²³ www.sb-court.org

²⁴ See ADI [Forms & Samples](#): “Exhibits, Transmission for Copying (San Bernardino only).”

photographic exhibits, counsel can file in the Court of Appeal a motion to augment. The motion should state that the request is for transmission and copying of exhibits to augment the record in a San Bernardino case.

Because of various court closures, felony cases and the corresponding exhibits of those courts have relocated. The Appeals and Appellate Division is located at 8303 Haven Avenue, Rancho Cucamonga, California 91730. For general information on viewing exhibits see: <https://www.sb-court.org/divisions/exhibits>.

If out-of-county counsel must go to the courthouse to see the exhibits, after obtaining pre-approval by the case-assigned staff attorney, call or email at least one week in advance to make an appointment to view exhibits. Transfer of exhibits from one courthouse to another to accommodate the viewer is not permitted unless ordered by the court.

If a documentary exhibit is voluminous, give advance notice if you plan on making a copy request. The copies may be provided the day the attorney views the exhibit if time allows; otherwise, they can be mailed to the attorney.

(1) **San Bernardino Superior Court:** 247 West 3rd Street, San Bernardino, CA 92415; (909) 521-3349 or (909) 708-8724; progers@sb-court.org and tperez@sb-court.org. Viewing hours: 8:00 a.m. to 12:00 p.m., Monday to Thursday.

(2) **Barstow Court:** 235 E. Mountain View Street, Room 118, Barstow, CA 92311; (760) 718-3396 or (760) 718-3734; Hours: 8:00 a.m. to 4:00 p.m., Monday through Friday.

Email contact information is not available. Call 24 hours in advance to arrange exhibit review and determine location of exhibits. Exhibits involving active cases have been sent to different courthouses, mainly Victorville Superior Court. All closed cases are stored in Barstow.

(3) **Fontana Court:** 17780 Arrow Route, Fontana, CA 92335; (909) 320-5045 or (909) 350-9322. As of May 2014, Fontana court only handles infractions. All criminal exhibits pertaining to cases prior to May 2014 are at the Rancho Cucamonga Superior Court or the San Bernardino Superior Court.

(4) **Joshua Tree Court:** 6527 White Feather Rd., Joshua Tree, CA 92252; (760) 974-3030 or (760) 974-3031; dhanna@sb-court.org. Hours: 8:00 a.m. to 12:00 p.m., Monday to Friday.

(5) **Juvenile Delinquency Court - Central:** 900 East Gilbert St., San Bernardino, CA 92415; (909) 269-8840 (press 1, then 8); mwhite-penright@sb-court.org. Hours: 8:00 a.m. to 12:00 p.m., Monday to Friday. An appointment order and identification are required to view juvenile case exhibits.

(6) **Juvenile Dependency Court:** 860 E. Gilbert Street, San Bernardino, CA 92415; (909) 269-8840 (press 1, then 8); mwhite-penright@sb-court.org. Hours: 8:00 a.m. to 12:00 p.m., Monday to Friday. An appointment order and identification are required to view juvenile case exhibits.

(7) **Rancho Cucamonga Court:** 8303 N. Haven Ave., Rancho Cucamonga, CA 91730; (909) 285-3534. Hours: 8:00 a.m. to 12:00 p.m., Monday to Friday.

(8) **Victorville Court:** 14455 Civic Dr., Victorville, CA 92392; (760) 269-4863. Hours: 8:00 a.m. to 12:00, Monday to Friday.

The location of exhibits of courts that have closed are as follows:

(a) Big Bear Court: All cases have moved to San Bernardino Superior Court or Victorville.

(b) Chino Court: All cases have moved to Victorville or San Bernardino.

(c) Needles Court: All cases have moved to Victorville Court.

(d) Redlands Court: All cases have moved to San Bernardino Superior Court.

(e) Twin Peaks Court: All cases have moved to San Bernardino Superior Court.

C. Inyo County²⁵

Only the main courthouse contains felony criminal adult and juvenile case exhibits: 168 N. Edwards St., Independence, CA 93526; (760) 872-2859; Gina.Ellis@inyocourt.ca.gov and Alyse.Caton@inyocourt.ca.gov. Hours: 8:00 a.m. to 12:00 and 1:00 p.m. to 4:00 p.m., Monday to Friday.

Contact the exhibit department three to five days in advance to make an appointment. The exhibit room is located on the top floor. Generally, there is no

²⁵ <https://www.inyo.courts.ca.gov/>

requirement that only attorneys are allowed to view exhibits. However, only attorneys are allowed to view and obtain a copy of a confidential or sealed exhibit.

There is no limit on copying of regular-sized paper exhibits. If you need a copy of a media exhibit, such as a CD, DVD, audiotape, or videotape, speak to the custodian ahead of time to make arrangements.

IV. VIEWING EXHIBITS IN DIVISION THREE

Division Three jurisdiction covers Orange County.²⁶ Appointed counsel should first attempt to obtain exhibits from trial counsel. If that proves unfruitful, ADI can help obtain copies of documents in the superior court file and documentary and electronic media exhibits from the exhibits custodian and forward them to counsel. ADI cannot access confidential and sealed exhibits in the Orange County Superior Courts.

For non-documentary exhibits that the custodian cannot photocopy (e.g., physical exhibits or large charts), out-of-county counsel can make an appointment with the custodian and travel to the court to view and copy or photograph. The custodian may be contacted at CJCExhibits@occourts.org or by phone at (657) 622-7564. If it is determined an in-person visit by counsel is necessary to see any exhibit,²⁷ counsel should obtain approval from the case-assigned staff attorney.

²⁶ www.occourts.org

²⁷ See footnote 3, *ante*.

All felony and delinquency case exhibits are reviewed at Central Justice Center, regardless of where trial proceedings were held. Central Justice Center is located at 700 Civic Center Dr. West, Santa Ana, CA 92701. The Exhibits Room is on the first floor, room 1D110, window 69. Bring an appointment order and driver's license.

For dependency appeals, contact your case-assigned staff attorney. Juvenile court is located at 341 City Drive, Rm. C207, 2nd Flr., Orange, CA 92868.