

1 Honorable Colleen A. McNally  
2 Juvenile Court Presiding Judge  
3 Superior Court of Arizona, Maricopa County  
4 3131 W. Durango  
5 Phoenix, AZ 85009  
6 (602) 506-5961

7 IN THE SUPREME COURT OF THE STATE OF ARIZONA

8  
9 In the Matter of: } Supreme Court No. R-16-\_\_\_\_  
10 }  
11 PETITION TO AMEND RULE 19 }  
12 OF THE RULES OF PROCEDURE }  
13 FOR THE JUVENILE COURT }  
\_\_\_\_\_

14 Pursuant to Rule 28, Rules of the Supreme Court of Arizona, the Presiding  
15 Judge of the Juvenile Court of the Superior Court of Arizona in Maricopa  
16 County respectfully petitions this Court to adopt the attached proposed  
17 amendment to Rule 19 of the Rules of Procedure for the Juvenile Court.

18 Rule 19 of the Rules of Procedure for the Juvenile Court govern juvenile  
19 court records. While Rule 19(A)(1) establishes that the juvenile court’s legal file  
20 (pleadings, motions, minute entries, orders, etc.) is open to public inspection,  
21 Rule 19(A)(2) designates the juvenile’s social file—maintained by the probation  
22 department—as confidential and not open to public inspection (unless upon  
23 order of the court). This petition seeks to amend Rule 19 to clarify that the  
24 juvenile court, including the court’s probation department, may share juvenile  
25 court records, including the social file, with other juvenile probation departments  
26 both within and outside of Arizona.

27 Arizona Revised Statutes § 8-208 currently provides that “[o]n the request  
28 of an adult probation officer or state or local prosecutor, the juvenile court shall

1 release to an adult probation department or prosecutor all information in its  
2 possession concerning a person who is charged with a criminal offense.” The  
3 superior courts in seven counties in Arizona have a combined probation  
4 department to handle both youth and adults; but in eight Arizona counties the  
5 superior courts have separate adult and juvenile probation departments—with  
6 the juvenile probation department falling within the juvenile court. The proposed  
7 rule change to Rule 19 allows for a juvenile probation officer to seek and receive  
8 juvenile court records much the same way that an adult probation officer or  
9 prosecutor may pursuant to A.R.S. § 8-208(B). This insures the timely exchange  
10 of information when, for example, a juvenile relocates from one county to  
11 another and the juvenile’s supervision is transferred from one juvenile probation  
12 department to another.

13 For the foregoing reasons, the Presiding Judge of the Juvenile Court of the  
14 Superior Court in Maricopa County respectfully requests this Court amend Rule  
15 19 of the Rules of Procedure in Juvenile Court as detailed in Exhibit A to allow  
16 the juvenile court and its probation department to share juvenile court records,  
17 including both the legal file and the social file, with other probation departments.

18 Respectfully submitted this 5<sup>th</sup> day of January, 2016.

19  
20 /s/ Colleen A. McNally  
21 Hon. Colleen A. McNally  
22 Juvenile Court Presiding Judge  
23 Superior Court of Arizona, Maricopa County

24 Electronic copy filed with  
25 the Clerk of the Supreme  
26 Court of Arizona this 5<sup>th</sup>  
27 day of January, 2016.  
28

Exhibit A

Rules of Procedure for the Juvenile Court

Rule 19. Records and Proceedings.

**A. Contents of Juvenile Court Files.**

**1. Legal File.** The legal file of the juvenile court shall consist of all pleadings, motions, minute entries, orders, or other documents as the court may order. The legal file shall be open to public inspection without order of the court, except upon a finding by the court of a need to protect the welfare of the victim, another party or a clear public interest in confidentiality. The court shall state its reasons for withholding the legal file, or portions thereof, from public inspection.

**2. Social File.** The social file shall be maintained by the probation department and may consist of all social records, including diagnostic evaluations, psychiatric and psychological reports, treatment records, medical reports, social studies, Department of Child Safety records, police reports, predisposition reports, detention records, and records and reports or work product of the probation department for use by the court in formulating and implementing a rehabilitation plan for the juvenile and his or her family. The social file of the juvenile shall be confidential and withheld from public inspection except upon order of the court.

**B. Proceedings.** Delinquency, incorrigibility, diversion involving delinquent acts and transfer proceedings shall be open to the public, except upon the court's written finding of a need to protect the best interests of a victim, the juvenile, a witness, the state, or a clear public interest in confidentiality.

**1. Request to Close Hearing.** Any person requesting that a hearing or portion thereof be closed to the public shall give notice of such request to the parties, or to any other person designated by the court, which may include one or more media representatives. The court shall hold a hearing, prior to the proceeding, to determine whether the proceeding should be closed and shall consider the positions of the parties. In determining whether to close a hearing or any portion

1 thereof, the judge may consider any relevant factors, including the likelihood that  
2 an open hearing may:

- 3 a. Be emotionally harmful to a participant, or
- 4
- 5 b. Inhibit testimony or the disclosure or discussion of information material  
6 to the truth-finding or rehabilitation process, or
- 7 c. Otherwise interfere with the emotional well-being of the victim.
- 8

9 **C. Release of Juvenile Court Files**

10 **1. Release to Juvenile Probation Departments.** In addition to records open to  
11 public inspection, the juvenile court may release all records in its possession to a  
12 juvenile probation department when necessary for supervision of a juvenile.

13 ~~C.~~ **2. Release to Federal Authorities.** Upon request of the United States  
14 Attorney's Office, the juvenile court shall promptly release to that office for  
15 presentment to a federal magistrate judge any records concerning a juvenile who  
16 is arrested for a criminal offense, pursuant to 18 U.S.C. 5032.