

applied to WIC 346. In addition, in *San Bernardino County Dept. of Public Social Services v. Superior Court* (1991), *Id.*, at 205, the court of appeal provides the most complete instructions as to how dependency court judges must apply this statute. The appellate court held that the “constitutional right of access does not extend to dependency proceedings.” *Id.*, at 197. However, after noting that public or press access is within the dependency court’s discretion, the appellate court constrained and guided that discretion, as follows:

First, and foremost, the court’s discretion must be directed at determining what is in the best interests of the minors, for that obviously is its primary concern at all times in the juvenile proceedings. At the same time, the court should give proper consideration to the important social values which are fostered by allowing public or press access to the proceedings. The legislature in enacting 346 has clearly endorsed the view that ‘the press can assist juvenile courts in becoming more effective instruments of social rehabilitation by providing the public with greater knowledge of juvenile court processes, procedures and unmet needs.’

Id., at 207, citing *Brian W. v. Superior Court* (1978) 20 Cal. 3d 618, 623.

The appellate court references both the public “or” press access in this part of its decision. Further, in applying the statute, the appellate court instructs trial courts to consider the following:

[P]ublic access serves an important educative function which is no less compelling in the context of the juvenile court. The public’s ability to understand how the system operates and, in turn, its ability to make informed decisions regarding the need for positive changes to the system will be enhanced by allowing access to the proceedings. (*Matter of N.H.B.*, *supra*, 769 P.2d 844, 849: ‘[P]ublic awareness and understanding of the juvenile court system ... would promote public involvement in the governmental processes and might deter inappropriate actions on the part of some participants.’) Accordingly, we believe

that public access can play ‘a significant positive role in the functioning’ of juvenile court dependency proceedings.

Id., citing *Press Enterprise Co. v. Superior Court* (1986) 478 U.S. 1, 8.

Checking judicial abuse is another benefit to public openness, according to the appellate court. *Id.*, at 202. Moreover, “[p]ublic access to juvenile dependency proceedings can serve ‘an important prophylactic purpose, providing an outlet for community concern, hostility, and emotion.’” *Id.*, at 203, citing *Richmond Newspapers, Inc. v. Virginia* (1980) 448 U.S. 555, 571.

Finally, the court instructed as to how to apply this reasoning to the facts of each case:

In attempting to balance these competing interests, the court should attempt to apply these broad principles to the unique facts of this case and may properly consider such factors as the age of each child, the nature of the allegations, the extent of the present and/or expected publicity and its effect, if any, on the children and on family reunification. (*Div. of Youth & Fam. Serv. v. J.B.*, *supra*, 576 A.2d 261, 269.) Although not constitutionally required, the court should consider whether it would be feasible to allow press access to portions of the proceedings and excluding the press from other portions.

Id., at 207.

Interpreting WIC 346, the appellate court instructs that the press does have a legitimate interest in access to Dependency Court hearings and that a trial court “should allow press access unless there is a reasonable likelihood that such access will be harmful to the child’s or children’s best interest in this case.” *Id.*, at 208.

On the other hand, as WIC 346 essentially states, without the request or consent of the child, the public shall not be admitted to a hearing unless the court finds that “such persons have direct and legitimate interest in the particular case or the work of the court.” However, consistent with the authorities cited, once that threshold is met, the court may still exclude the public if there is a “reasonable likelihood that such access will be harmful to the child’s or children’s best interest in the case.”

ORDER

Following the authorities and reasoning above, and to provide guidance to the parties, the press and members of the public as to how the Los Angeles Juvenile Dependency Court will apply Welfare and Institutions Code section 346, the following orders and procedures shall apply:

1. Members of the press are deemed to have a legitimate interest in the work of the court.
2. Members of the press shall be allowed access to Juvenile Dependency Court hearings unless there is a reasonable likelihood that such access will be harmful to the child’s or children’s best interests.
3. Members of the public shall be admitted to Juvenile Dependency Court hearings at the request of or with the consent of a child about whom a petition has been filed. Other members of the public may enter the courtroom and be present at a hearing if the court finds that such persons have a direct or legitimate interest in the case or the work of the court. Upon request of the court, such persons shall specifically articulate the purpose of their presence.
4. Any party may object to access by the public or the press. As the only issue to be decided is whether there is a reasonable likelihood that such access will be harmful to the child’s or children’s best interests, and as the party making the objection will base the objection on their knowledge about the circumstances of child, the party objecting must demonstrate

that harm or detriment to the minor child is reasonably likely to occur in the case as a result of permitting the public or press access to the proceeding.

5. Upon such an objection being made, the court will consider such factors as the age of each child, the nature of the allegations, the extent of the present or expected publicity and its effect, if any, on the children and on family reunification.
6. The court's finding at one hearing or one portion of the hearing shall not prejudice a party or the court from making a similar motion at a subsequent hearing or later in the same hearing.
7. No member of the public or press shall be denied access to a courtroom until an objection has been made and the court has found, based on the evidence and argument presented, that there is a reasonable likelihood that access will be harmful to the child's or children's best interest.¹
8. No party, member of the public or press shall be permitted to record, videotape or photograph any proceeding without complying with California Rules of Court, Rule 1.150.

IT IS SO ORDERED.

DATED: _____

MICHAEL NASH
PRESIDING JUDGE OF JUVENILE COURT

¹ This does not apply to a motion to exclude a witness or potential witness from a hearing.