



Judicial Council of California

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 25-168

For business meeting on October 24, 2025

Title

Juvenile Law: Racial Justice Act Forms

Report Type

Action Required

Rules, Forms, Standards, or Statutes Affected

Approve forms JV-720, JV-720-INFO, JV-721, JV-722, and JV-723

Effective Date

January 1, 2026

Date of Report

October 10, 2025

Recommended by

Family and Juvenile Law Advisory
Committee

Hon. Tari L. Cody, Cochair

Hon. Stephanie E. Hulsey, Cochair

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Executive Summary

Juvenile courts expect more claims under the Racial Justice Act to be filed since Assembly Bill 256 (Kalra; Stats. 2022, ch. 739) expanded the retroactive application of the act, enabling more individuals to file claims for relief. The Family and Juvenile Law Advisory Committee proposes five new forms for optional use to assist litigants and juvenile courts with claims under the act.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council approve five new forms, effective January 1, 2026, for claims in juvenile court under the act:

- *Request for Relief Under the Racial Justice Act—Juvenile Adjudication* (form JV-720)
- *The Racial Justice Act in Juvenile Court* (form JV-720-INFO)
- *Preliminary Orders After Request for Relief Under the Racial Justice Act—Juvenile Adjudication* (form JV-721)
- *Findings and Orders After Initial Hearing on Request for Relief Under the Racial Justice Act—Juvenile Adjudication* (form JV-722)

- *Findings and Orders After Evidentiary Hearing on Request for Relief Under the Racial Justice Act—Juvenile Adjudication* (form JV-723)

The proposed new forms are attached at pages 9–20.

Relevant Previous Council Action

To implement the Racial Justice Act in criminal cases, the Appellate Advisory Committee and the Criminal Law Advisory Committee jointly proposed amendments to three California Rules of Court and revisions to two Judicial Council forms, effective September 1, 2024.¹ The Judicial Council has not previously taken action regarding the implementation of the act in juvenile court.

Prior Circulation

The Family and Juvenile Law Advisory Committee circulated a prior version of this proposal for public comment during a special cycle from June 4 through July 10, 2024.² The initial proposal consisted of four forms: a request form, an information sheet, and two findings and orders forms, one for use at the prima facie stage of the case and the other for use after a prima facie case has been established. Based on the comments received regarding the content and organization of the forms, the committee decided to make changes and recirculate the proposal for comment. Commenters noted that the prior version of forms did not address situations in which a case started in juvenile court but was transferred to adult criminal court or was initiated in one county but transferred to a different county. In response, the committee added instructions to the proposed information sheet to address these situations.

Commenters also requested more information regarding discovery and appeals. The committee added content on these topics to the information sheet and revised one of the proposed findings and orders forms to include space for the court to grant or deny a discovery request, order redaction, or impose protective orders.

Finally, commenters suggested format changes to the prior version of the forms. These suggestions led the committee to develop a new proposed form for courts to make preliminary orders, as appropriate, including appointment of counsel and setting additional hearings on discovery. The form for orders after initial hearing was reorganized and now includes space to order a further hearing on a prima facie case. A chart of the comments received from the prior circulation, and the committee’s responses thereto, is attached at pages 66–116.

Analysis/Rationale

The Racial Justice Act of 2020 (Assem. Bill 2542 (Kalra); Stats. 2020, ch. 317) prohibits the state from seeking or obtaining a criminal conviction or sentence on the basis of race, ethnicity, or national origin. The act also applies to wardship adjudications (the equivalent of a conviction)

¹ Judicial Council of Cal., Advisory Com. Rep., *Criminal Procedure: Racial Justice Act* (Sept. 1, 2024), jcc.legistar.com/View.ashx?M=F&ID=12870891&GUID=E9B6569C-6089-48C2-B898-6A9FA49A83D4.

² Judicial Council of Cal., *Juvenile Law: Racial Justice Act* (SP24-07), courts.ca.gov/system/files/itc/sp24-07.pdf.

and dispositions (the equivalent of a sentence) in juvenile court and to motions to transfer a juvenile case to adult criminal court. (Pen. Code, § 745(f).)³ When initially enacted, the act applied prospectively to all cases in which judgment had not yet become final as of January 1, 2021. The Racial Justice for All Act (Assem. Bill 256 (Katra); Stats. 2022, ch. 739) subsequently authorized the retroactive application of the act in certain cases.

Because this legislation enables more individuals to file claims for relief under the act, the Family and Juvenile Law Advisory Committee proposes five new forms for optional use to assist litigants and juvenile courts.

Request for Relief Under the Racial Justice Act—Juvenile Adjudication (form JV-720)

The committee recommends form JV-720 as an optional form to request relief from a juvenile court based on a violation of the act in either pending or closed juvenile court cases. The committee expects that the form will most commonly be used by self-represented litigants to request retroactive relief in closed cases because youth in pending proceedings are represented by counsel until their cases are ultimately dismissed. (Welf. & Inst. Code, §§ 633–634; Cal. Rules of Court, rules 5.534(d)(2)(A), 5.663(c).) The form is recommended as optional to provide litigants flexibility so that counsel in pending cases may choose to raise claims through written motions rather than by filing the form, for example.

Because retroactive claims in juvenile cases are limited to those in which a juvenile disposition resulted in a commitment to the Division of Juvenile Justice or in which an individual is subject to actual or potential immigration consequences related to their juvenile court case, the committee expects that most claims under the act will be filed as motions to vacate under section 1473.7. Although retroactive claims may also be filed as petitions for habeas corpus under section 1473(f), the committee has not included such procedures in this proposal because the number of individuals eligible to file these petitions in juvenile cases is exceedingly small.

Item 1 on form JV-720 asks the applicant to indicate the procedural posture of their juvenile case to determine whether they are eligible to file a claim under the act (i.e., whether their juvenile case is either still pending or meets the criteria for a retroactive claim or if the applicant faces actual or potential immigration consequences as a result of their juvenile case).

Item 2 allows an unrepresented applicant to request that the juvenile court appoint counsel to assist them in pursuing a claim under the act. Although the statute itself is silent regarding appointment of counsel, unrepresented youth in juvenile delinquency proceedings have the right to appointed counsel, regardless of indigency. (Welf. & Inst. Code, §§ 633–634; Cal. Rules of Court, rules 5.534(d)(2)(A), 5.663(c).) Because claims are filed either in pending or reopened juvenile delinquency matters, unrepresented youth are entitled to appointed counsel as a matter of right, if they so choose. In the committee’s view, because these claims implicate an

³ Unless otherwise specified, all further statutory references are to the Penal Code.

individual's substantial rights, appointing counsel for all unrepresented applicants would serve the purpose of the act.

Item 3 asks the applicant to indicate which categories of violations their claim falls under.⁴

Item 4 asks the applicant to explain their claim in detail and to indicate what facts support their allegations. Item 4 also asks the applicant whether their claim is based on a statement or conduct by a judge. If so, that judge must recuse themselves from the matter.⁵

Item 5 allows the applicant to request discovery to support their claim.⁶ An applicant may file a motion requesting disclosure to the defense of "all evidence relevant to a potential violation of [the act] in the possession or control of the state."⁷ Item 5 also allows the applicant to defer a request for discovery until after the appointment of counsel.

Item 6 allows an applicant to request the assistance of an interpreter at any hearings regarding their claim, as is common practice in juvenile and criminal courts.

Although counsel filing claims under the act are expected to serve the application form on behalf of their clients, because the act itself is silent regarding service, the committee discussed whether self-represented applicants should be required to serve these requests themselves. Consistent with other juvenile forms that self-represented litigants may submit (such as *Request to Change Court Order* (form JV-180), *Request to Vacate Disposition and Dismiss Penal Code Section 647f Adjudication* (form JV-742), *Request to Reduce Juvenile Marijuana Offense* (form JV-744), and *Request to Expunge Arrest or Vacate Adjudication (Human Trafficking Victim)* (form JV-748)), this form is designed to be sent by the court clerk to the probation department, prosecuting attorney, and the applicant's attorney of record after filing. The committee decided that facilitating this process will assist unrepresented applicants in these proceedings, consistent with juvenile court practice in other cases, such as juvenile record sealing.

The Racial Justice Act in Juvenile Court (form JV-720-INFO)

Form JV-720-INFO would be an information sheet to supplement form JV-720. Because individuals filing claims in juvenile court under the act may be youth, the committee felt that an information sheet could be helpful to assist them in filing claims. In addition to providing instructions on how to complete form JV-720, form JV-720-INFO includes background information about the act and explains how and when a claim under the act may be filed and what happens after a claim is filed.

⁴ § 745(a)(1)–(4).

⁵ § 745(b).

⁶ § 745(d).

⁷ *Ibid.*

A new order form and two new forms for findings and orders

To assist juvenile courts, the committee recommends three optional forms for findings and orders under the act. The act itself contemplates a three-part process: first, the court must determine whether the applicant is eligible for relief (and whether the applicant should be appointed counsel. Second, the court must determine whether the applicant has established good cause for release of discovery, made a prima facie showing of a violation under the act, or both. If the applicant establishes a prima facie showing, the court must then hold an evidentiary hearing. Finally, if an evidentiary hearing is held, the court must make findings and orders, including the final adjudication of the matter.

Preliminary Orders After Request for Relief Under the Racial Justice Act—Juvenile Adjudication (form JV-721)

Form JV-721 would be an optional form for a juvenile court to use in making preliminary orders after the initial submission of a claim. The form can also be used to order a further hearing on discovery or a prima facie showing or to set an evidentiary hearing.

Findings and Orders After Initial Hearing on Request for Relief Under the Racial Justice Act—Juvenile Adjudication (form JV-722)

The committee recommends form JV-722 as an optional form for a juvenile court to make findings and orders after an initial hearing on the applicant's request. The form can be used to indicate whether the applicant is eligible for relief under the act, to grant or deny a request for discovery, and to indicate whether a prima facie showing has been made.

Findings and Orders After Evidentiary Hearing on Request for Relief Under the Racial Justice Act—Juvenile Adjudication (form JV-723)

The committee recommends form JV-723 as an optional form for a juvenile court to make findings and orders after an evidentiary hearing, including final adjudication of the matter. The form can be used to grant or deny a claim, explain the court's reasoning, and order relief under the act.

Policy implications

The proposed forms advance judicial branch strategic plan Goal IV, Quality of Justice and Service to the Public.

Comments

This revised proposal circulated for public comment from April 15 to May 23 during the spring 2025 invitation-to-comment cycle. Ten commenters responded, the majority of which agreed with the proposal as drafted or if modified. Although some commenters did not indicate a position on the proposal, no commenter disagreed with the proposal as a whole. Substantive comments were received from the California Youth Defender Center; the Haywood Burns Institute; Judge Steven Ipson; the Office of the District Attorney for the County of San Diego; the Orange County Bar Association; the Superior Courts of Los Angeles, Orange, and San Diego Counties; and the Youth Law Center. A chart of the comments received, and the committee's responses thereto, is attached at pages 21–65.

Comments received from the California Youth Defender Center, the Haywood Burns Institute, and the Youth Law Center were very similar and suggested changes in six areas: (1) eligibility for relief under the act, (2) timeliness of claims under the act, (3) appointment of counsel, (4) supporting facts, (5) requests for discovery, and (6) notice to former counsel. The San Diego County District Attorney's Office also suggested changes regarding the timeliness of claims under the act and requests for discovery.

Regarding eligibility for relief under the act, commenters were concerned that youth in custody or placement may not understand that their cases are still pending and thus may refrain from filing applications because of a mistaken belief that they are ineligible for relief. To clarify eligibility, the committee recommends the addition of "I am in custody or placement because of a juvenile delinquency case" to "My juvenile court case is still pending [or] I am currently on juvenile probation" to form JV-720.

Regarding timeliness of claims under the act, commenters were concerned that an assessment of timeliness may not be adequately developed, especially if counsel has not yet been appointed. In response, the committee recommends the removal of this question from form JV-720 so the timeliness issue could be presented after the potential appointment of counsel. The committee also recommends removal because the act itself does not require a court to affirmatively make a finding of timeliness in every case.

Regarding the appointment of counsel, commenters were concerned that counsel may not be consistently appointed in cases in which an applicant requests appointed counsel. In response, the committee recommends adding a reference to rule 5.534 of the California Rules of Court on form JV-721. Rule 5.534 provides that counsel shall generally be appointed in all juvenile matters (including those requesting relief under the act) unless an explicit waiver of the right to counsel is entered.

Regarding supporting facts, commenters were concerned that applicants would refrain from filing applications because of a mistaken belief that a fully developed recitation of facts is required to initiate a claim under the act. In response, the committee recommends adding the following language to form JV-720:

Describe what happened to the best of your knowledge. You are not expected to have access to all facts or evidence at this time. After the court appoints counsel or grants discovery, you will have an opportunity to amend this statement of facts. *(You may attach declarations, records, or other such documents if available, but they are not required to submit this form. You may use form MC-025, titled as Attachment 4a, for any additional pages.)*

Regarding discovery, commenters were concerned that self-represented applicants may not be able to adequately articulate or address requests for discovery at the outset of a claim. In response, the committee recommends that litigation of discovery issues take place after the

appointment of counsel and that the applicant also be expressly given the option of making a discovery request after counsel is first appointed.

The committee did not recommend the routine service of completed application forms on former counsel because it was concerned that disclosure of a completed JV-720 form on prior counsel may violate confidentiality rules set forth under Welfare and Institutions Code section 827.

Finally, the committee disagreed with one commenter's concern that form JV-723 may be misleading in regard to remedies that may be imposed on a violation of the act. In the committee's view, form JV-723 does not suggest that the imposition of a remedy is required upon the finding of a violation of the act, nor does the form suggest the imposition of a remedy not authorized by law.

Alternatives considered

The committee considered taking no action but rejected this option because it expects the number of claims filed in the juvenile courts to increase going forward. These optional forms will assist litigants in accessing relief under the act and assist the courts in making required findings and ruling on these claims.

The committee considered developing separate forms for seeking relief under section 745 depending on the procedural posture of the request—whether as a motion made in a pending case, a petition for habeas corpus, or a motion to vacate. Upon further discussion, however, the committee decided to propose a single form for requesting relief under the act for simplicity. Since claims for relief in pending cases may more commonly be filed as motions drafted by counsel and because petitions for habeas corpus are rarely filed in juvenile court, the committee anticipates that the form will most often be used to request to vacate a prior adjudication or disposition.

The committee also considered proposing a single findings and orders form. Upon further discussion, however, the committee decided to propose three separate forms for clarity: one for use after the filing of a claim, which could also be used to provide notice of a hearing; another for use after a hearing on discovery or prima facie showing; and a third form for use after an evidentiary hearing on a claim filed under the act.

The committee also discussed whether new rules are necessary to implement the act in juvenile court. As noted above, the proposal to implement the act in criminal court cases included rule amendments, specifically, to trial court and appellate court rules on habeas corpus proceedings. However, there are no existing habeas corpus rules in juvenile court. The committee concluded that the proposed forms appear to be sufficient and that rules are not currently needed, but it will monitor the process going forward and consider rules in the future if they would be helpful.

After the prior circulation, the committee also reconsidered the language on form JV-720 regarding eligibility. The act applies prospectively “[t]o all cases in which judgment is not

final.”⁸ In *People v. Esquivel* (2021) 11 Cal.5th 671, the California Supreme Court held that “[a] case in which a defendant is placed on probation with imposition of sentence suspended is not yet final for this purpose if the defendant may still timely obtain direct review of an order revoking probation and imposing sentence.”⁹ In the committee’s view, based on *Esquivel*, the case of a youth on juvenile probation is a case “in which judgment is not final” within the meaning of the act. In juvenile delinquency matters, a youth typically remains on juvenile probation until their case is ultimately dismissed; therefore, a youth would generally be eligible to file a claim under the act at any time prior to the dismissal of their case.

To better explain eligibility in a juvenile case, the committee rephrased “Judgment in my case is not final” to “My juvenile court case is still pending or I am currently on juvenile probation.” After the spring 2025 circulation, the committee further rephrased “Judgment in my case is not final” to “My juvenile court case is still pending, I am currently on juvenile probation, or I am in custody or placement because of a juvenile delinquency case.”

Fiscal and Operational Impacts

Fiscal and operational impacts to the courts are largely attributable to the legislation authorizing retroactive juvenile claims under the Racial Justice Act. Expected costs as identified by commenters include training, updating case management systems, and producing new forms. The proposal aims to mitigate workload by making the application for relief under the act more efficient, consistent, and easier to navigate for self-represented litigants and the courts.

Attachments and Links

1. Forms JV-720, JV-720-INFO, JV-721, JV-722, and JV-723, at pages 9–20
2. Chart of comments (SP25), at pages 21–65
3. Chart of comments (SP24), at pages 66–116
Link A: Pen. Code, § 745,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=745.&lawCode=PEN
4. Link B: Pen. Code, § 1473,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1473.&lawCode=PEN
5. Link C: Pen. Code, § 1473.7,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1473.7.&lawCode=PEN

⁸ § 745(j)(1).

⁹ 11 Cal.5th at p. 673.

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (name):		STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:			
CASE NAME:			
REQUEST FOR RELIEF UNDER THE RACIAL JUSTICE ACT—JUVENILE ADJUDICATION		CASE NUMBER:	

Instructions—Read Carefully

- Use this form if you are going or went to court because you allegedly committed an offense when you were under the age of 18 and you believe your case was affected by discrimination on the basis of race, ethnicity, or national origin.
- For more information about the Racial Justice Act and how to fill out this form, see *The Racial Justice Act in Juvenile Court* (form [JV-720-INFO](#)).
- If this form asks for information that you do not have, contact your attorney. If you don't have an attorney, the public defender's office in the county where you went to court may be able to help you get the information.
- File this form in the county where you are going or last went to court for your case.
- The court will serve this form for you on the district attorney, the probation department, and your current attorney. If your current attorney completed this form, your current attorney must serve the form.

1. Eligibility

I am eligible to file this request because (*check all that apply*):

- a. ☐ My juvenile court case is still pending, I am currently on juvenile probation, or I am in custody or placement because of a juvenile delinquency case.
- b. ☐ My juvenile court case may affect my immigration status (including Deferred Action for Childhood Arrivals (DACA), asylum, visa or green card application, removal, or potential deportation).
- c. ☐ I was committed to the California Department of Corrections and Rehabilitation, Division of Juvenile Justice (DJJ) or the California Youth Authority (CYA) based on this case.

2. ☐ Appointment of counsel

I request that the court appoint an attorney to represent me.

3. Basis for violation

I believe the Racial Justice Act was violated because (*check all that apply, then provide details in item 4*):

- a. ☐ The judge, an attorney, a law enforcement officer, or an expert witness in the case exhibited bias or animus towards me because of my race, ethnicity, or national origin.
- b. ☐ During in-court trial proceedings, the judge, an attorney, a law enforcement officer, or an expert witness used discriminatory language about my race, ethnicity, or national origin. (Racially discriminatory language does not include repeating language used by someone else that is relevant to the case or giving a racially neutral and unbiased physical description of a suspect.)

CASE NAME:	CASE NUMBER:
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3. c. ☐ I was charged with or found responsible for a more serious offense than people of other races, ethnicities, or national origins who have engaged in similar conduct and are similarly situated, **and** the prosecution more frequently sought or obtained adjudications (convictions) for serious offenses against people who share my race, ethnicity, or national origin in the county where the adjudications (convictions) were sought or obtained.
- d. ☐ I received a longer or more severe disposition (sentence) compared to similarly situated individuals for the same offense, **and** (check all that apply):
- (1) ☐ Longer or more severe dispositions (sentences) were more frequently imposed for the same offense on people who share my race, ethnicity, or national origin than on people of other races, ethnicities, or national origins in the county in which this case occurred.
- (2) ☐ Longer or more severe dispositions (sentences) were more frequently imposed for the same offense on people in cases with victims of one race, ethnicity, or national origin than in cases with victims of other races, ethnicities, or national origins in the county in which this case occurred.

4. Supporting facts

- a. Describe what happened to the best of your knowledge. You are not expected to have access to all facts or evidence at this time. After the court appoints counsel or grants discovery, you will have an opportunity to amend this statement of facts. (You may attach declarations, records, or other documents if available, but you are not required to in order to submit this form. You may use form [MC-025](#), titled as Attachment 4a, for any additional pages.)

☐ Additional documents attached.

- b. Is your request based on a statement or conduct by a judge? ☐ Yes ☐ No

If yes, please fill in the judge's name if you know it and a different judge will hear your request: _____

CASE NAME:

CASE NUMBER:

5. Disclosure of evidence

- a. ☐ I request disclosure of evidence relevant to a potential violation of the Racial Justice Act. *(If you checked the box, complete items (1) and (2) below. You can add to this request after counsel is appointed.)*

(1) I need the following types of records or information:

(2) I need the records or information because:

- b. ☐ I will request disclosure of evidence after an attorney is appointed to represent me.

6. ☐ **Request for interpreter**

If there is a hearing, I will need an interpreter for *(language)*: _____

Date: _____

(NAME OF APPLICANT OR ATTORNEY)

 _____
(SIGNATURE OF APPLICANT OR ATTORNEY)

What is the Racial Justice Act?

The Racial Justice Act (RJA) is a law that prohibits the state from prosecuting or punishing someone based on race, ethnicity, or national origin. If you have, or ever had, a juvenile delinquency case, this law may apply to you.

Why was the RJA passed?

The RJA was passed because the California Legislature recognized that “[d]iscrimination in our criminal justice system based on race, ethnicity, or national origin ... has a deleterious effect not only on individual[s] but on our system of justice as a whole.” (Assem. Bill 2542 (Katra); Stats. 2020, ch. 317.) Such discrimination denies Californians equal justice under the law. The intent of the RJA is to “eliminate racial bias from [our] criminal justice system.”

How do I know if the RJA applies to my case?

The RJA may apply to your juvenile case if:

- You believe a judge, attorney, law enforcement officer, or expert witness was biased against you because of your race, ethnicity, or national origin;
- You believe a judge, attorney, law enforcement officer, or expert witness used racially discriminatory language about your race, ethnicity, or national origin;
- You believe (1) you were charged or found to have committed a more serious offense because of your race, ethnicity, or national origin; and (2) people in the same county who share your race, ethnicity, or national origin are charged or found to have committed more serious offenses than people of a different race, ethnicity, or national origin;
- You believe (1) you received more severe consequences because of your race, ethnicity, or national origin; and (2) people in the same county who share your race, ethnicity, or national origin receive more severe consequences than people of a different race, ethnicity, or national origin; or
- You believe (1) you received more severe consequences based on the race, ethnicity, or national origin of the victims in your case; and (2) people in the same county whose victims share the same race, ethnicity, or

national origin as people in your case receive more severe consequences than people whose victims are of a different race, ethnicity, or national origin.

Who can file a request under the RJA?

You can file a request under the RJA in juvenile court if:

- Your juvenile court case is still pending, you are currently on juvenile probation, or you are in custody or placement because of a juvenile delinquency case;
- Your juvenile court case may affect your immigration status (including Deferred Action for Childhood Arrivals (DACA), asylum, visa or green card application, removal, or potential deportation); or
- You were sent to the California Department of Corrections and Rehabilitation, Division of Juvenile Justice (DJJ), also known as the California Youth Authority (CYA), as a result of your juvenile court case.

If none of the above apply, you cannot file a request in juvenile court; however, if you had a court date in adult court, you may still be eligible to file a request there.

Where should I file a request under the RJA?

File your request in the last county where you went to court for your case.

When can I file a request under the RJA?

You should file a request as soon as you can after you learn that there may have been a violation of the act in your case.

Do I need an attorney?

No. You can file a request yourself or you can ask an attorney to file a request for you. If you do not have an attorney, you can ask the court to appoint an attorney to represent you. If you need information to file a request yourself, you can contact the attorney or public defender’s office who previously represented you.

How do I file an RJA request?

You or your attorney may file a request in juvenile court by filling out *Request for Relief Under the Racial Justice Act — Juvenile Adjudication* (form [JV-720](#)).

Fill out the form by putting your name and contact information in the box at the top of the form and the address of the court in the box below your name and address. You can get the court's address from the court papers in your case. Then:

- Check the boxes in item 1 that apply to your case.
- Check the box in item 2 if you are asking the court to appoint an attorney to represent you.
- Check the boxes in item 3 that explain why you believe the RJA was violated.
- Fill in item 4a with facts that support why you believe the RJA was violated.
- Check the box in item 4b if you believe the RJA was violated because of something a judge said or did, and fill in the name of the judge if you know it. If so, a different judge will hear your request.
- Check the box in item 5a if you are requesting disclosure of evidence relevant to a potential violation of the RJA. Check the box in item 5b if you will request such evidence after an attorney is appointed to represent you.
- If you checked the box in item 5a, complete items 5a(1) and 5a(2). In item 5a(1), fill in the types of records or information you are asking for. In item 5a(2) fill in why you need the records or information you are requesting.
- If you are asking for records or information that can be used to support your request, you might request a transcript of a prior hearing to show that a witness used discriminatory language about your race, ethnicity, or national origin. Or, you might request records of people charged with offenses similar to yours in the same county to show that people who share your race, ethnicity, or national origin tend to be charged with more serious offenses.
- If you will need an interpreter, ask for one in item 6.

Once you have filled out form JV-720, take or mail it to the court clerk's office in the court where the last court date was held. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed.

If your last court date was in adult criminal court, file your request in criminal court instead by filling out *Petition for Writ of Habeas Corpus* (form [HC-001](#)) or *Motion to Vacate Conviction or Sentence* (form [CR-188](#)).

What happens after I file a request under the RJA?

If you have asked for an attorney, the court will first decide whether to appoint an attorney to your case. If the court appoints an attorney, the attorney will have the opportunity to change or add to ("amend") your request.

If you requested records or information to support your request (known as "discovery"), your attorney can amend your request. The court will then decide whether you have established "good cause" for the release of discovery. If so, the court may order that confidential information be protected.

The court will then review your request and decide whether you have presented enough facts to establish a substantial likelihood that a violation of the RJA occurred. A "substantial likelihood" requires more than a mere possibility. If the court decides you have met this standard, it must then hold an "evidentiary hearing."

If the court holds an evidentiary hearing, you may present evidence and testimony to support your request. The district attorney will also be able to present evidence and testimony. To win, you must prove a violation of the RJA by a "preponderance of the evidence." That means you must prove it is more likely than not that the RJA was violated. After the hearing, the court will decide if you have proven a violation by a preponderance of the evidence. If the court finds that you have not proven a violation, it is required to explain why not.

What happens if my RJA request is granted?

If you prove a violation, the court can make orders to repair the harm. This can include starting your case over, reducing the charges against you, or reducing your disposition (sentence). The court can also make other orders, depending on the circumstances.

What happens if my RJA request is denied?

If your request is denied, you have the right to appeal the denial by filing a notice of appeal.

1. ☐ Appointment of counsel

2. ☐ **Discovery**

Name and address of court if different from above:

3. ☐ Prima facie showing

Name and address of court if different from above:

Date: _____ Time: _____
Dept.: _____ Room: _____

CASE NAME:	CASE NUMBER:
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4. ☐ **Evidentiary hearing**

A prima facie case having been shown, the court orders the matter set for an evidentiary hearing on a violation of the Racial Justice Act:

Name and address of court if different from above:

Date: Time:
 Dept.: Room:

5. ☐ **Additional orders**

The court also orders the following:

Date: _____

 JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CASE NAME:		
FINDINGS AND ORDERS AFTER INITIAL HEARING ON REQUEST FOR RELIEF UNDER THE RACIAL JUSTICE ACT—JUVENILE ADJUDICATION		CASE NUMBER:

1. This proceeding was heard
 on (date): _____ at time: _____ in Dept.: _____
 by judge (name): _____ ☐ temporary judge
- a. ☐ Applicant ☐ Attorney (name): _____
 b. ☐ District Attorney (name): _____
 c. ☐ Probation (name): _____
 d. ☐ Other party (name): _____

FINDINGS

2. ☐ **Discovery**
 The court finds that applicant ☐ has ☐ has not shown good cause for production of discovery.
3. ☐ **Prima facie showing**
 The court finds that applicant ☐ has ☐ has not made a prima facie showing of a violation of Penal Code section 745(a).

ORDERS

4. **Discovery**
- a. ☐ The court orders that applicant's request for discovery is granted or granted in part.
- (1) Good cause having been shown, the court orders the following discovery be produced:
- (2) Discovery is subject to the following redactions:
- (3) Discovery is subject to the following protective orders:

CASE NAME:	CASE NUMBER:
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4. b. ☐ The court orders that applicant's request for discovery is denied or denied in part.

(1) Applicant has not shown good cause for discovery of the following evidence:

(2) Applicant has shown good cause for discovery of the following evidence, but a statutory privilege cannot be adequately protected by redaction or a protective order:

(3) Applicant has shown good cause for discovery of the following evidence, but a constitutional privacy right cannot be adequately protected by redaction or a protective order:

5. Ruling on further hearing

a. ☐ The court orders the matter set for a hearing on a showing of a prima facie case:

Name and address of court if different from above:

Date:

Time:

Dept.:

Room:

b. ☐ A prima facie case having been shown, the court orders the matter set for an evidentiary hearing on a violation of the Racial Justice Act:

Name and address of court if different from above:

Date:

Time:

Dept.:

Room:

c. ☐ A prima facie case not having been shown, the court orders that applicant's request for relief is denied.

6. ☐ Additional orders

The court also orders the following:

Date: _____

JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: FIRM NAME: STREET ADDRESS: CITY: TELEPHONE NO.: EMAIL ADDRESS: ATTORNEY FOR (name):	STATE BAR NUMBER: STATE: ZIP CODE: FAX NO.:	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:		
CASE NAME:		
FINDINGS AND ORDERS AFTER EVIDENTIARY HEARING ON REQUEST FOR RELIEF UNDER THE RACIAL JUSTICE ACT—JUVENILE ADJUDICATION		CASE NUMBER:

1. This proceeding was heard
 on (date): _____ at time: _____ in Dept.: _____
 by judge (name): _____ ☐ temporary judge
- a. ☐ Applicant ☐ Attorney (name): _____
- b. ☐ District Attorney (name): _____
- c. ☐ Probation (name): _____
- d. ☐ Other party (name): _____

FINDINGS

2. Violation

- a. ☐ The court finds by a preponderance of the evidence that the following violation or violations of Penal Code section 745(a) have been established (*check all that apply*):
- (1) ☐ The judge, an attorney, a law enforcement officer, or an expert witness in the case exhibited bias or animus against the applicant because of the applicant's race, ethnicity, or national origin. (Pen. Code, § 745(a)(1).)
- (2) ☐ During in-court trial proceedings, the judge, an attorney, a law enforcement officer, or an expert witness used discriminatory language about the applicant's race, ethnicity, or national origin. (Racially discriminatory language does not include repeating language used by someone else that is relevant to the case or giving a racially neutral and unbiased physical description of the suspect.) (Pen. Code, § 745(a)(2).)
- (3) ☐ The applicant was charged with or adjudicated for a more serious offense than people of other races, ethnicities, or national origins who have engaged in similar conduct and are similarly situated, **and** the prosecution more frequently sought or obtained adjudications for more serious offenses against people who share the applicant's race, ethnicity, or national origin in the county where the adjudications were sought or obtained. (Pen. Code, § 745(a)(3).)
- (4) ☐ The applicant received a longer or more severe disposition compared to similarly situated individuals adjudicated for the same offense, and (*check all that apply*):
- (a) ☐ Longer or more severe dispositions were more frequently imposed for the same offense on people who share the applicant's race, ethnicity, or national origin than on people of other races, ethnicities, or national origins in the county in which this case occurred. (Pen. Code, § 745(a)(4)(A).)
- (b) ☐ Longer or more severe dispositions were more frequently imposed for the same offense on people in cases with victims of one race, ethnicity, or national origin than in cases with victims of other races, ethnicities, or national origins in the county in which this case occurred. (Pen. Code, § 745(a)(4)(B).)
- b. ☐ The court finds that a violation of Penal Code section 745(a) has not been established by a preponderance of the evidence.

CASE NAME:	CASE NUMBER:
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3. Factual findings

The court makes the following factual findings in support of the above, as required by Penal Code section 745(c)(3):

ORDERS

4. Ruling on request

- a. ☐ The court orders that applicant's request for relief is granted.
- b. ☐ The court orders that applicant's request for relief is denied.

5. Remedies

- a. ☐ Judgment not being final, the court orders the following (*check all that apply*):
- (1) ☐ At applicant's request, a mistrial.
 - (2) ☐ The following enhancement or enhancements dismissed:

 - (3) ☐ The following special allegation or allegations dismissed:

 - (4) ☐ The following charge or charges reduced:
- b. ☐ Judgment being final, the court orders the following (*check all that apply*):
- (1) ☐ The adjudication was sought or obtained in violation of Penal Code section 745. The court orders the adjudication and disposition vacated, declares them legally invalid, and orders the following new proceedings:

 - (2) ☐ Only Penal Code section 745(a)(3) (*see item 2a(3)*) was violated, and the violation may be rectified by a modification of the adjudication. The court orders the adjudication modified to the following lesser-included or lesser-related offense or offenses:

 - (3) ☐ Only the disposition was sought, obtained, or imposed in violation of Penal Code section 745. The court vacates the disposition, declares it legally invalid, and imposes the following new disposition:
- c. ☐ The court orders the following additional remedies:

CASE NAME:	CASE NUMBER:
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6. ☐ **Additional orders**
The court also orders the following:

Date: _____

_____ JUDICIAL OFFICER

SP25-18

Juvenile Law: Racial Justice Act Forms (approve forms JV-720, JV-720-INFO, JV-721, JV-722, and JV-723)

All comments are verbatim unless indicated by an asterisk (*)

	Commenter	Position	Comment	Committee Response
1.	California Youth Defender Center by Rhyzan Croomes, Director of Capacity Building and Training	NI	I write on behalf of the <i>California Youth Defender Center</i> (CYDC)—formerly the Pacific Juvenile Defender Center (PJDC)—and submit these comments in response to the Invitation to Comment SPR25-18 regarding the proposed Judicial Council forms implementing California’s Racial Justice Act (RJA) in juvenile court. We commend the Committee’s effort to ensure access to RJA relief for system-involved youth and appreciate the opportunity to offer feedback. CYDC is a statewide nonprofit dedicated to advancing justice for youth through policy advocacy, defender training, and leadership development. Since our founding in 1999, we have worked to ensure that children and youth—particularly those most impacted by systemic racism and poverty—receive fair and developmentally appropriate treatment in the juvenile legal system. Our organization has trained hundreds of youth defenders across California, led statewide convenings on juvenile justice reform, and played a central role in the implementation of legislative protections such as the Racial Justice Act. Our transition from PJDC to CYDC marks an expanded commitment to centering youth voices, investing in community-based responses to harm, and fighting for racial equity at every stage of the legal process. We believe the RJA offers a powerful tool to confront bias and dismantle structural racism embedded in California’s legal systems. But this promise can only be realized if youth and former system-involved youth can meaningfully access the rights and relief it affords. We are committed to supporting implementation of the RJA in a way that affirms the dignity and agency of youth, ensures procedural safeguards, and accounts for the realities of litigating these claims in juvenile court. Our comments focus on the need to safeguard due process for youth, align the forms with the Legislature’s intent to provide broad access to RJA relief, and support pro per applicants with clear, developmentally appropriate guidance. We offer the following recommendations: A. RJA Eligibility: Clarifying the Scope of Relief and Preventing Exclusion a. <u>Issues of Concern:</u>	The committee appreciates this comment. No response needed. No response needed.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SP25-18

Juvenile Law: Racial Justice Act Forms (approve forms JV-720, JV-720-INFO, JV-721, JV-722, and JV-723)

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	Commenter	Position	Comment	Committee Response
			We appreciate the Committee’s careful reconsideration of the eligibility language on Form JV-720 and the rationale provided in light of <i>Esquivel</i>¹. We understand that the revised phrasing “My juvenile court case is still pending or I am currently on juvenile probation” is intended to reflect the RJA’s applicability to cases in which “judgment is not final,” as defined in Penal Code section 745(j)². While we recognize the intent ¹ People v. Esquivel (2021) 11 Cal.5th 671. behind this revision, the current language in Forms JV-720 (“Request for Relief Under the Racial Justice Act”) and JV-720-INFO (“Information Sheet”) may still unintentionally narrow the perceived scope of who is eligible to seek relief under the RJA in juvenile court. The Committee’s analysis correctly concludes that, under <i>Esquivel</i>, youth remain eligible to file an RJA claim as long as the juvenile court retains jurisdiction, including while on probation. However, the revised language may not be intuitive or accessible for youth and unrepresented applicants. Many Youth, or former Youth, who are in court ordered placements, residential programs, or community-based supervision do not conceptualize their circumstances as “pending” or view themselves as “on probation,” even though they remain under the jurisdiction of the juvenile court. Without more inclusive and concrete language, applicants who are otherwise eligible under the statute may mistakenly assume they are not. ² Judicial Council of Cal., Invitation to Comment, SP25-18, at p. 7–8 (discussing the Committee’s rationale for revising Form JV 720’s eligibility language based on <i>People v. Esquivel</i>, 11 Cal.5th 671 (2021)). Similarly, JV-720-INFO currently states that if none of the listed criteria apply, “you cannot file an RJA request,”³ without indicating that some applicants may instead qualify to file in adult criminal court. This omission may be particularly confusing for youth whose cases were transferred to adult court or directly filed there. Without clear guidance, individuals with viable claims under Penal Code section 745(j) may incorrectly conclude that they are entirely ineligible for RJA relief. Lastly, we note that the current phrasing on immigration consequences, “I face actual or potential immigration consequences (such as deportation) based on this case,” may inadvertently discourage applicants from disclosing relevant information. By focusing	The committee appreciates this comment and is recommending that item 1a on form JV-720 now read “My juvenile court case is still pending, I am currently on juvenile probation, or I am in custody or placement because of a juvenile delinquency case.” and that the first bullet point under “Who can file a request under the RJA?” on form JV-720-INFO now read “Your juvenile court case is still pending, you are currently on juvenile probation, or you are in custody or placement because of a juvenile delinquency case.” See committee response to specific comment above. See committee responses to specific comments below.

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	Commenter	Position	Comment	Committee Response
			solely on deportation, the language centers only the most severe outcome and may evoke fear, especially among youth or families with mixed-status backgrounds. This framing risks both misunderstanding and silence. A more balanced and developmentally appropriate explanation, one that includes a broader range of potential impacts such as DACA; asylum eligibility; or green card renewal, would promote clarity and encourage transparency. ³ Id. at p.13 (JV-720-INFO). <u>Recommendations</u> 1. Clarify Eligibility Language in Form JV 720 (p.10) Replace the current checkbox (a) with the following: <i>“My juvenile court case is still pending, I am currently on juvenile probation, or I am otherwise under the jurisdiction of the juvenile court (for example, if I am in a court-ordered placement or under supervision).”</i> 2. Revise Immigration Status Language in JV-720 Revise checkbox (c) to read: <i>“This case may affect my immigration status, (including DACA, asylum, visa applications, green card renewal, or potential deportation).”</i>	See committee response to specific comment above. The committee appreciates this comment and is recommending that item 1b on form JV-720 now read “My juvenile court case may affect my immigration status (including DACA, asylum, visa or green card application, or potential deportation)” and that the second bullet point under “Who can file a request under the RJA?” on form JV-720-INFO now read “Your juvenile court case may affect your immigration status (including DACA, asylum, visa or green

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	Commenter	Position	Comment	Committee Response
			3. Revise Form JV-720-INFO Replace exclusionary sentence with: <i>“If none of the above apply, you may not be eligible to file an RJA request in juvenile court; however, you may still be eligible to file in adult criminal court.”</i>	card application, removal, or potential deportation)”. The committee appreciates this comment and is recommending that the first sentence under “Who can file a request under the RJA?” on form JV-720-INFO now read “You can file a request under the RJA in juvenile court if:” and that the last sentence under “Who can file a request under the RJA?” on form JV-720-INFO now read “If none of the above apply, you cannot file an RJA request in juvenile court; however, if you had a court date in adult criminal court, you may still be eligible to file an RJA request in that court.”
			B. Timeliness of RJA Claim: Postponement Until After Appointment of Counsel The question of whether a claim under the Racial Justice Act (RJA) is timely is a legally complex and fact-specific inquiry that often requires contextual interpretation of statutory language. As the Committee notes in its request for comment,⁴ timeliness must be evaluated under one of two legal standards, depending on the procedural posture of the case. For claims filed in an open case under Penal Code section 745(c), the request must be submitted “as soon as practicable” after the applicant learns of the violation. For motions to vacate a judgment under Penal Code section 1473.7(c), the claim must be brought “without undue delay from the date the moving party discovered or could have discovered with the exercise of due diligence” the basis of the violation. Neither standard offers a bright-line rule and both require a fact-intensive, case-specific inquiry.	See committee responses to specific comments below.

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			⁴ <i>Invitation to Comment, at p.4</i> (referencing Penal Code section 745(c), a request must be filed “as soon as practicable” after the applicant learns of a violation; Penal Code section 1473.7(c) requires that a motion be filed “without undue delay from the date the moving party discovered or could have discovered with the exercise of due diligence” the basis of the violation.) Despite the complexity of these standards, the proposed JV-720 form asks applicants to provide a date they learned of the “grounds described in Item 3,”⁵ and Form JV-721 invites the court to assess timeliness⁶—potentially before counsel has been appointed. While we understand the intent behind including a single date field for clarity, and we appreciate the Committee’s effort to incorporate youth-centered language, this structure effectively frames timeliness as a threshold screening question. This places youth at risk of having valid claims denied before they have had the opportunity to fully understand or develop them. This concern is especially acute for youth and unrepresented individuals, who often lack the legal tools or context to recognize racial bias as it occurs or to understand its relevance under the RJA. Many may not recall a specific discovery date, may have misunderstood the legal significance of what happened in their case, or may only recently have learned about the RJA through counsel, reentry services, or community education. Requiring a precise date at the outset—without explanation, flexibility, or legal support—creates a significant risk of procedural default in otherwise valid claims. ⁵ Id. JV-720 Proposed Form at p.11. ⁶ Id. at p.16. The proper assessment of timeliness under either section 745(c) or 1473.7(c) requires legal analysis, factual investigation, and strategic framing—functions that fall squarely within the role of appointed counsel. Whether a delay is justified may depend on newly discovered evidence, barriers to access, or an evolving understanding of systemic racial bias. These are not arguments that a pro per youth should be expected to make, nor should negative inferences be drawn from their inability to do so.	See committee responses to specific comments below. See committee responses to specific comments below.

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	Commenter	Position	Comment	Committee Response
			Timeliness is an important factor in RJA litigation, but it should not operate as a preliminary screening tool—especially not in youth-led filings. Addressing it at the outset undermines the flexible, multi-phase process the Committee has outlined and risks excluding the very applicants the RJA was intended to protect. Deferring this determination until after counsel is appointed and the record is developed will better reflect legislative intent and promote fair access to relief. In the event the Committee cannot defer this inquiry, the following recommendations are proposed: <u>Recommendations</u> 1. Remove the “Discovery of Violation” question (Item 4) from Form JV-720 2. If language must be retained, revise the language in Item 4 to reflect flexibility and provide context. Revise to read: <i>“To the best of your ability, provide the date you learned of the grounds described in Item 3. If you are unsure, please check any of the following that apply:”</i> ☐ <i>I do not know the date of the alleged violation (I have provided an estimate above).</i> ☐ <i>I only recently learned this information may support an RJA claim.</i> <i>Or</i> <i>Revise to read: “To the best of your ability, provide the date you learned of the grounds described in Item 3. Providing an approximate date does not automatically prevent the court from reviewing your case</i>	See committee responses to specific comments below. The committee appreciates this comment and is recommending the proposed change because the issue of timeliness is more complex than the date that an applicant believes they discovered or should have discovered the alleged violation. The committee appreciates this comment. The suggestion is moot based on the removal of item four from form JV-720.

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	Commenter	Position	Comment	Committee Response
			3. Revise Form JV-722 to defer any court findings related to timeliness until after counsel has been appointed. Add language indicating: “The court finds there is insufficient information to determine timeliness at this stage and refers the matter for further development after the appointment of counsel.”	The committee appreciates this comment. The committee did not recommend the suggested change because it removed the issue of timeliness from the form based on its belief that timeliness is not an affirmative finding that need be made in every case. As a result, the suggestion is moot.
			C. Appointment of Counsel: Clarify Standards and Ensure Consistent Protection Appointment of counsel is fundamental to ensuring that Racial Justice Act (RJA) claims in juvenile court are meaningfully litigated and that applicants receive the due process the statute envisions. We appreciate the Committee’s recognition that appointing counsel furthers the purpose of the RJA, and we strongly support embedding this principle consistently across the proposed forms. Currently, Form JV-721 directs the court to assess timeliness in Item 1, before considering appointment of counsel in Item 3. This structure creates a significant risk that the court will make a threshold finding that could bar relief—before the youth has had the benefit of legal representation. As discussed above, timeliness under Penal Code section 745(c) or 1473.7(c) is a complex legal determination that should not be made without counsel. No youth should lose the opportunity for RJA relief based on a pro per filing alone. Additionally, while JV-721 does include appointment of counsel before the court addresses prima facie sufficiency or discovery, appointment is not guaranteed. Instead, it is left to the court’s discretion without clear reference to the governing legal standard. That standard already exists: Rule 5.534 of the California Rules of Court requires that counsel be appointed in all juvenile proceedings unless the youth has made a knowing and intelligent waiver. This must apply to RJA claims as well. RJA litigation in juvenile court presents procedural and evidentiary challenges that make legal representation not just helpful, but essential.	See committee responses to specific comments below. See committee responses to specific comments below. See committee responses to specific comments below. See committee responses to specific comments below.

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	Commenter	Position	Comment	Committee Response
			Discovery will often involve records of other youth, institutional data, and comparative analysis—none of which are accessible or usable by pro per applicants. The right to counsel under Welfare and Institutions Code sections 633, 634, and 700 must be carried through clearly and explicitly in the RJA context to prevent inequities in access to relief. To better ensure consistent protection and procedural fairness, we recommend the following: <u>Recommendations</u> 1. Revise Form JV-721 to move appointment of counsel above all findings, including timeliness. 2. Amend the appointment of counsel section to reflect Rule 5.534. Amend to include: <i>“Appointment of Counsel</i> ☐ <i>The court grants the request for appointment of counsel pursuant to Rule 5.534 of the California Rules of Court.</i> ☐ <i>The court finds that the applicant has made a knowing and intelligent waiver of counsel</i> ☐ <i>Additional Orders:</i>	The committee appreciates this comment and is recommending the removal the findings (formerly items 1 and 2) from form JV-721, which makes the appointment of council item 1 in the order section. The committee is also recommending renaming the form “Preliminary Orders After Request for Relief Under the Racial Justice Act—Juvenile Adjudication.” The committee appreciates this comment and is recommending the proposed change, but replacing the word “pursuant” to “under” and changing “made a knowing and intelligent waiver of counsel” to “has knowingly and intelligently waived appointed counsel” to improve readability.

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	Commenter	Position	Comment	Committee Response
			D. Supporting Facts: Prevent Misunderstanding and Protect Access to Relief Supporting facts are a vital part of any Racial Justice Act (RJA) claim. They allow applicants—particularly youth impacted by racial bias in the system—to share their experiences and begin the process of substantiating their claims. But when the form miscommunicates what is required, it risks turning this gateway into a barrier. The current design of Form JV-720 does just that. As written, the “Supporting Facts” section directs applicants to “Give details” and lists types of records they could attach, such as declarations and transcripts. This section appears before “Disclosure of Evidence,” creating the impression that applicants must already possess detailed factual support to proceed. For many youth—especially those filing without counsel or from within juvenile facilities—this structure sends a clear but incorrect message: if you don’t already have evidence, your claim won’t be considered. That misunderstanding not only discourages meritorious filings; it runs directly counter to the intent and structure of the RJA. In <i>Young v. Superior Court</i> (2022) 79 Cal.App.5th 138, 147, the Court of Appeal made clear that an RJA claim does not require proof at the application stage. The threshold question is whether the applicant has alleged facts that, if true, would establish a violation. The law anticipates that claims will evolve—and that evidence will be developed through discovery and legal investigation. But the language and placement of the “Supporting Facts” section may mislead youth into believing they must build their entire case before they even gain access to records, data, or legal support. This burden falls disproportionately on pro per applicants who face extraordinary barriers: limited legal knowledge, no access to institutional records, and no training to identify coded language or systemic bias that courts may recognize as racialized harm. Worse, these youth may understate or omit critical facts—not because they are untruthful, but because they don’t yet realize the legal or cultural significance of what they experienced. The need for counsel at this stage is essential. Forming a viable RJA claim often depends on identifying legally cognizable patterns or markers of racial bias that are not self-evident to the youth experiencing them. Counsel plays a critical role in framing these facts within the statutory framework, ensuring the claim is fully and fairly presented to the court.	See committee responses to specific comments below. See committee responses to specific comments below. See committee responses to specific comments below.

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	Commenter	Position	Comment	Committee Response
			To prevent confusion and better align the form with both the law and the realities of youth-led filings, the “Supporting Facts” section must be revised. It should appear after the “Disclosure of Evidence” section to reflect the actual progression of a claim, and it must include clear language affirming that the statement is preliminary and may be amended following the appointment of counsel or receipt of discovery. <u>Recommendations</u> 1. Reorder the “Supporting Facts” and “Disclosure of Evidence” sections in Form JV-720. Move “Disclosure of Evidence” above “Supporting Facts” to reflect the procedural reality that applicants often require discovery before they can explain what supports their claim 2. Amend the “Supporting Facts” instructions to prevent confusion and reduce barriers to filing Revise language: “<i>Describe what happened to the best of your knowledge. You are not expected to have access to all facts or evidence at this time. After the court appoints counsel and/or grants discovery, you will have an opportunity to amend this statement of facts. (You may attach declarations, records, or other documents if available, but they are not required to submit this form.)</i>”	See committee responses to specific comments below. The committee appreciates this comment but chose not to recommend this change because it believes amending the instructions to the “Supporting Facts” section, as recommended below, adequately addresses the commenter’s stated concern. The committee appreciates this comment and is recommending the proposed change, with minor edits. The committee recommends rewording the second sentence to read: “<i>(You may attach declarations, records, or other documents if available, but you are not required to in order to submit this form.)</i>” to improve readability. The committee recommends adding an additional sentence to provide more information to the applicant: “<i>You may use</i>

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Commenter	Position	Comment	Committee Response
			<i>form MC-025, titled as Attachment 4a, for any additional pages.)”</i>
		E. Enabling Pro Per Applicants to Make an Effective Discovery Request As per our comment in #C above, we believe that discovery requests under the RJA are highly sensitive and that appointment of counsel will be necessary in order for the court to properly evaluate the discovery request and fashion appropriate orders. For this reason, we would suggest limiting the question on the application to simply prompt the applicant to check the box indicating that they want to make a request for discovery. That said, we understand that the Committee may still decide to include a detailed discovery request in the application form to enable applicants who have waived the right to counsel to present such a request. If a discovery request is to be included in the application form (JV-720), we believe that it is necessary to provide much more detailed guidance to enable the applicant to make an effective request. Ideally, a detailed discovery request would provide checkboxes for each of the types of arrest records, case records, and statistical records that are needed for each of the possible RJA claims. We believe that such a detailed list would be highly beneficial, but would require input from researchers and statisticians with expertise in this area. Given the complexity of such a detailed list, it would likely be helpful that it be provided in a standalone discovery request form that the applicant could attach. If a separate, detailed discovery form is not possible, we recommend that the discovery request in the application form offer at least general categories of records to enable a <i>pro per</i> applicant to initiate a request for consideration by the court. <u>Summary of Recommendations:</u> a. Amend the “Disclosure of Evidence” section in JV-720 (p. 12) by deleting subsections (a) and (b), so that the applicant is only required to check the request box and no additional information is solicited at the application stage.	See committee responses to specific comments below. See committee responses to specific comments below. See committee responses to specific comments below. The committee appreciates this comment and is recommending the addition of a second checkbox under “Disclosure of evidence” on form JV-720 that reads “I will request disclosure

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		b. Alternatively, develop a standalone discovery request form that includes a detailed list of checkboxes to enable a <i>pro per</i> applicant to make an effective discovery request. c. Alternatively, provide a list of checkboxes in JV-720 (p. 12) to prompt the applicant to indicate the broad categories of evidence that they wish to request in discovery: “6. Disclosure of evidence ☐ I request disclosure of evidence relevant to a potential violation of the Racial Justice Act (<i>If you checked the box, complete items a and b below. You can add to this request after counsel is appointed.</i>) a. I need the following types of evidence ☐ I don’t know what type of evidence I need and request discovery upon appointment of counsel. ☐ I request all evidence relevant to a potential violation of the Racial Justice Act in the possession or control of the state. ☐ Transcripts ☐ Police Reports ☐ Records from my juvenile case file ☐ De-identified or redacted arrest records or juvenile case file records of other youth who were similarly situated to me, disaggregated by race of the youth. ☐ De-identified or redacted arrest records or juvenile case file records of other youth who were similarly situated to me, disaggregated by race of the victim ☐ Statistical data related to my claim from the juvenile court, district attorney’s office, probation department, or law enforcement agency, disaggregated by race ☐ Other:	of evidence after an attorney is appointed to represent me.” No response needed. No response needed.

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			F. Notifying Counsel or Former Counsel of Pro Per Claim We believe that it would be beneficial to both the <i>pro per</i> applicant and the court to include the applicant's counsel or former counsel in the list of individuals to be served with a copy of an application filed by a <i>pro per</i> petitioner. As stated above, we firmly believe that counsel should be appointed in RJA cases, and this process can be expedited if the applicant's current or former attorney receives notice when an RJA claim is filed. The court clerk could include the attorney of record, along with the probation department and prosecuting attorney, in the list of individuals to be served a <i>pro per</i> application. The courts follow a similar procedure for petitions filed pursuant to Welf. & Inst. Code section 827, which is served by the clerk on the attorney of record (<i>see</i> JV-569) when the petitioner is unable to do so. If it is not possible to require the clerk to serve the attorney of record when the petitioner is <i>pro per</i>, then we would suggest at a minimum that the applicant be advised in the "information" form (JV-720-INFO) that it would be a good idea to send a copy to their attorney or former attorney. <u>Summary of Recommendations:</u> a. Provide directions to the court clerk that, for <i>pro per</i> applicants, the application should be served on the probation department, the prosecuting attorney, and the attorney of record for the case. b. Alternatively, amend the language in JV-720-INFO (p. 14) to advise the applicant to provide a copy to their attorney on the case: "Once you have filled out form JV-720, take or mail it to the court clerk's office in the court where the last court date was held. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed. It is also a good idea to provide a copy of the form to the lawyer who represented you in your case, or to the Public Defender's Office in the county where you filed your application."	See committee responses to specific comments below. The committee appreciates this comment and is recommending that the first sentence of the fifth bullet point on page one of JV-720 read "The court will serve this form for you on the district attorney, the probation department, and your current attorney." The committee appreciates this comment but chose not to recommend this change because the release of a completed form JV-720 to a prior attorney or to the public defender's office may violate the confidentiality rules

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			We want to thank you again for the opportunity to provide comments on these very important forms. We hope you will take our recommendations into consideration, and we would be happy to discuss them with you. Please do not hesitate to contact us if we can be of any further assistance.	set forth in Welfare and Institutions Code section 827. No response needed.
2.	Haywood Burns Institute by Laura Ridolfi, Director of Policy	NI	I commend the Family and Juvenile Law Advisory Committee for its thoughtful work in developing these important forms for Racial Justice Act claims in juvenile court. I write on behalf of Haywood Burns Institute, whose mission is to eliminate racial hierarchy in the administration of justice. From this perspective, the importance of accessible and effective RJA forms in juvenile court cannot be overstated. Young people of color have historically faced disproportionate treatment throughout the juvenile justice system, from initial contact with law enforcement through final disposition. The Racial Justice Act represents a vital tool for addressing these longstanding inequities, but its promise can only be realized if youth and their advocates can meaningfully access relief. These forms will serve as the primary gateway for RJA claims in juvenile court, making their clarity, comprehensiveness and accessibility essential for advancing racial justice for youth. Given the significant structural barriers facing potential RJA claimants - particularly youth who are often unrepresented, incarcerated, or otherwise marginalized - these forms must be designed to maximize access to relief. Youth, in particular, face significant challenges in navigating the complex legal processes, often lacking the resources, legal knowledge, developmental capacity or supports necessary to understand and meet complex procedural requirements. The forms therefore play a crucial role in advancing the Racial Justice Act's fundamental goal of eliminating racial bias from our justice system. The following comments are submitted in response to the invitation to comment on the proposed Racial Justice Act forms for juvenile proceedings. The recommendations are guided by an overarching goal of ensuring the broadest possible access for filing RJA claims in juvenile court. To date, there have been relatively few juvenile court RJA claims, and these forms represent a critical opportunity to encourage access to this important remedy. Given that many users will be young, potentially unrepresented, and	The committee appreciates this comment. See committee responses to specific comments below. See committee responses to specific comments below.

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			unfamiliar with legal procedures, particular care should be taken to ensure that a misunderstanding of form requirements or incorrect checkbox selection does not inadvertently bar valid claims. The recommendations therefore prioritize approaches that preserve options for claimants and ensure the forms serve their intended purpose of providing meaningful access to relief. 1. RJA Eligibility Concern: The proposed forms appear to set forth an overly narrow view of eligibility under the Racial Justice Act in two key areas. First, the "Request for Relief" form (JV-720) allows applicants to check eligibility boxes that do not clearly capture all cases eligible under the RJA, which applies to "all cases in which judgment is not final" (PC 745(j)(1)). A youth whose case has been adjudicated and who is currently serving a dispositional commitment may not consider their case to be "pending," but their case is also not yet final as it remains under juvenile court jurisdiction. Second, the "Information" form (JV-720-INFO) has a misleading explanation related to RJA eligibility that fails to direct potential applicants to adult court if their claim does not fall under juvenile court review. Recommendations: a. Amend language under "Eligibility" (p. 10) to read: "My juvenile court case is still pending or I am currently on juvenile probation <u>or my court case is currently under the jurisdiction of the juvenile court.</u>"	See committee responses to specific comments below. The committee appreciates this comment and is recommending that item 1a on form JV-720 now read "My juvenile court case is still pending, I am currently on juvenile probation, or I am in custody or placement because of a juvenile delinquency case" and that the first bullet point under "Who can file a request under the RJA?" on form JV-720-INFO now read "Your juvenile court case is still pending, you are currently on juvenile probation,

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			b. Amend language under "Who can file a request under the RJA?" (p. 13) to read: "Who can file a request under the RJA <u>in juvenile court?</u>" ... "If none of the above apply, you cannot file an RJA request <u>in juvenile court; however, you may be eligible to file in adult court.</u>"	or you are in custody or placement because of a juvenile delinquency case." The committee appreciates this comment and is recommending that the first sentence under "Who can file a request under the RJA?" on form JV-720-INFO now read "You can file a request under the RJA in juvenile court if:" and that the last sentence under "Who can file a request under the RJA?" on form JV-720-INFO now read "If none of the above apply, you cannot file an RJA request in juvenile court; however, if you had a court date in adult criminal court, you may still be eligible to file an RJA request in that court."
			2. Timeliness of the RJA Claim Concern: Determining the timeliness of an RJA claim requires a nuanced, fact-specific analysis that should not be conducted at the preliminary stage. An RJA claim may be subject to a requirement to file "as soon as practicable" after the applicant learns of the violation (PC § 745(c)), or "without undue delay from the date the moving party discovered or could have discovered with the exercise of due diligence" the basis of the violation (PC § 1473.7(c)). These standards demand careful factual analysis, especially given the significant risk that valid claims could be dismissed if incorrectly deemed untimely. The current structure of both JV-720 and JV-721 treats timeliness as a threshold issue suitable for early resolution, rather than allowing for the thorough examination this complex determination requires.	See committee responses to specific comments below.

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		Recommendations: a. Remove or amend language in JV-720 regarding "Discovery of violation" (p. 11): Discovery of violation (<i>check one</i>): ☐ I discovered that the RJA was violated in my case on or about (date) ____ <i>Or</i> ☐ <i>I am unsure of the date that I learned that the RJA was violated in my case."</i> b. Remove timeliness from preliminary findings and amend language in JV-721 to focus on case status: <i>Timeliness Case Status:</i> ☐ <u><i>The court finds that the applicant's case is pending before the juvenile court or otherwise subject to the jurisdiction of the juvenile court.</i></u> ☐ The court finds the applicant's case is no longer pending and does /does not qualify for retroactive application under Penal Code section 745(j)." c. Add timeliness findings and orders to JV-722: FINDINGS: <i>Timeliness:</i> ☐ <u><i>The court finds that the applicant's request was or was not filed in a timely manner.</i></u> ☐ <u><i>The court does not have sufficient information to make a timeliness determination.</i></u> ORDERS:	The committee appreciates this comment and is recommending that the "Discovery of violation" item on JV-720 be removed in its entirety because the issue of timeliness is more complex than the date an applicant discovered or should have discovered the alleged violation. The committee appreciates this comment but did not recommend the suggested change. Because a finding of timeliness is not affirmatively required under the RJA, the issue of timeliness was removed from the form. As a result, the suggestion is moot. The committee appreciates this comment but did not recommend the suggested change. Because a finding of timeliness is not affirmatively required under the RJA, the issue of timeliness was removed from the form.

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			<u>Timeliness:</u> ☐ <i>The court orders that the applicant provide additional information with respect to the timeliness of the claim.</i>	
			3. Appointment of Counsel for Pro Per Applicants Concern: A proper discovery request and review will necessitate the appointment of counsel because of both the lack of publicly available information on juvenile cases and the sensitive nature of discovery into juvenile case files. The complexity and sensitivity of juvenile court records support the need for appointment of counsel prior to or along with discovery orders. a. Amend JV-721 preliminary court findings on appointment of counsel: Appointment of Counsel ☐ The court grants the request for appointment of counsel <i>pursuant to Rule 5.534 of the California Rules of Court.</i> ☐ <i>The court finds that the applicant has made a knowing and intelligent waiver of counsel because:</i>	See committee responses to specific comments below. The committee appreciates this comment and is recommending the proposed change, with minor edits, in item 1 of form JV-721.
			4. Pro Per Applicants and Statement of Facts Concern: The current design of the "Supporting Facts" section in JV-720 may discourage valid claims by creating the impression that applicants must provide comprehensive evidence at filing. The section's instruction to "Give details" and its emphasis on attaching supporting records could mislead pro per applicants into thinking they need complete documentation before submitting their request, potentially deterring them from pursuing legitimate claims when they lack immediate access to all relevant materials. To address these concerns, the form should be restructured to clarify that initial fact-gathering is just the beginning of the process, with opportunities to supplement through discovery and later proceedings. Recommendation: a. Amend the language for the "Supporting Facts" section in JV-720 (p. 11):	See committee responses to specific comments below. The committee appreciates this

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			Describe what happened to the best of your knowledge. For each violation you claim in item 3 above, explain the facts that support it, and include any details you currently have. <u>It is not necessary for you to have all of your supporting facts at this stage of your application. After your initial application and after you receive any discovery ordered by the court, you will have an opportunity to amend this statement of facts.</u> (If necessary, attach additional pages. You may use Attachment to Judicial Council Form (form MC-025) for any additional pages. <u>If you have them,</u> you can attach declarations, relevant records, transcripts, or other documents supporting your request.)" b. Reverse the order of "Supporting Facts" and "Disclosure of evidence" in JV-720, so that discovery comes first in the form.	comment and is recommending language similar to the proposed change in item four of form JV-720. The committee appreciates this comment but chose not to recommend the change because it felt that the proposed change did not improve the useability of the form.
			5. Enabling Pro Per Applicants to make an Effective Discovery Request Concern: Pro Per applicants may mistakenly believe they must already possess all relevant facts to support their claims before filing. Pro Per applicants may also lack the expertise to know what types of additional facts are needed. The specificity suggested may deter applicants who are unsure what types of discovery they can seek. Additionally, formulating effective discovery requests for RJA claims can be extraordinarily complex—even statisticians and researchers require extensive consultation to develop appropriate requests. Having participated in such discussions, I can attest that determining the right discovery questions can require hours-long conversations among experts to properly frame requests that will yield meaningful and statistically valid data. Recommendation: Consider one of the following approaches to address the complexity of the discovery request: a. Include simplified discovery options that simply indicate intention for discovery request:	See committee responses to specific comments below. The committee appreciates this comment and is recommending

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			☐ <u><i>Records sufficient to show different outcomes for youth of color and white youth in cases similar to mine.</i></u> Or ☐ <u><i>I request discovery upon appointment of counsel</i></u> b. Include a detailed checklist, while recognizing that the iterations of what statistical evidence may be needed are virtually innumerable, making it challenging to create a comprehensive list that covers all potential scenarios while remaining useful and accessible. Any such checklist should be vetted by researchers or statisticians with expertise in this area to ensure the requests will yield meaningful and legally relevant data. An example of a detailed checklist is included in Appendix A.	the addition of a second checkbox under item 5, “Disclosure of evidence”, on form JV-720 that reads “I will request disclosure of evidence after an attorney is appointed to represent me.” The committee appreciates this comment but chose not to recommend this change because it would be impractical to “create a comprehensive list that covers all potential scenarios while remaining useful and accessible.”
			6. Notifying Counsel of Former Counsel of Pro Per Application Counsel: The appointment of counsel would be facilitated by ensuring that there is notice to counsel of former counsel when a Pro Petition is filed, similar to procedures for petitions filed pursuant to WIC 827. Recommendation: a. Include instructions directing the court clerk to serve pro per applications to all relevant parties, including the probation department, prosecuting attorney, and attorney of record or former counsel for the case. I appreciate the Committee's work on these important forms. These recommendations are intended to ensure that the forms effectively serve their purpose of providing meaningful access to relief under the Racial Justice Act for all eligible youth. Appendix A: Disclosure of Evidence Checklist Sample (For form JV-720) 6. Disclosure of evidence ☐ <u><i>I don't know what type of evidence I need and may request discovery upon</i></u>	See committee responses to specific comments below. The committee appreciates this comment and is recommending that the court clerk serve applications made by self-represented litigants on the probation department, prosecuting attorney, and attorney of record. The committee declines to recommend the further suggestion to serve former counsel because the release of

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			<u>appointment of counsel.</u> ☐ I request disclosure of evidence relevant to a potential violation of the Racial Justice Act <u>in the county of my arrest, filing, adjudication and/or disposition.</u> <u>The time period for the request should be determined by the court, based on the time period of my adjudication and assuring a statistically significant sample size.</u> (If you checked the box, complete items a and b below. <u>You can add to this request after counsel is appointed:</u> a. I need the following types of records or information <u>(check all that apply):</u> ☐ <u>Transcripts</u> ☐ <u>Police Reports</u> ☐ <u>Records from my juvenile case file</u> ☐ <u>County level statistical reports or analyses from the juvenile court, probation department or other agencies in the county of my adjudication showing all dispositions by race/ethnicity for offenses similar to the most serious offense I was adjudicated for.</u> ☐ <u>De-identified individual case records of juveniles in the county of my adjudication whose most serious sustained offense was similar to mine, including court disposition and race/ethnicity of each individual.</u> ☐ <u>Records of cases where the District Attorney filed the same or similar offenses to mine, showing which offenses were initially referred by Probation to the District Attorney, disaggregated by race/ethnicity, in the county of my adjudication.</u> ☐ <u>Court records showing charges initially filed by the District Attorney compared to charges ultimately sustained, broken down by race/ethnicity, for juveniles in the county of my adjudication.</u> ☐ <u>Court minute orders, probation reports, and disposition hearing transcripts for White juveniles whose most serious sustained offense was similar to mine but who received a less severe disposition than I did.</u> ☐ <u>Statistical reports of analyses showing disposition patterns based on the race, ethnicity, or national origin of victims in cases with offenses similar to mine in the county of my adjudication.</u> ☐ <u>Other:</u> b. I need the records or information because:	form JV-720 to a former counsel may violate confidentiality rules under Welfare and Institutions Code section 827.

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3.	Hon. Steven Ipson Superior Court of Los Angeles County	AM	I believe the use of the forms should be mandatory. This will ensure that the petitioner, represented or not, imparts the correct information to the court and that the court provides a complete response.	The committee appreciates this comment but chose not to recommend mandatory forms to allow counsel the opportunity to make RJA claims either orally or through individually drafted motions.
4.	Office of the District Attorney County of San Diego by Sara Staniger, Deputy District Attorney	NI	Thank you for the opportunity to comment on the proposed Racial Justice Act form. The San Diego County District Attorney's Office recently reviewed the revised set of proposed forms to assist litigants and the juvenile courts with claims brought under the Racial Justice Act ("RJA") as codified in Penal Code sections 745 and 1473.¹ Last year, we submitted a comment to the prior versions of the proposed forms. We have updated our Comment letter and continue to identify several issues with the forms that would ¹ All further statutory references will be to the Penal Code unless otherwise indicated. benefit from clarification. Based upon our participation in RJA litigation for several years, we are concerned that the forms oversimplify many of the legal issues related to RJA, including discovery, timeliness, and remedies. Given the complexity and novelty of RJA law, we do not believe any standardized forms will be sufficient to address the multitude of legal standards and nuances that the litigants and courts must follow. But if the Committee is inclined to continue with the use of forms, we provide the following concerns and comments to encourage that the forms adequately reflect the current state of the law. <u>The Proposed Forms' Discovery Provisions</u> This Office has two primary concerns with the proposed forms as they relate to RJA discovery. First, the forms are misleading as to the applicable legal standard for such discovery. Section 745, subdivision (d) states: A defendant may file a motion requesting disclosure to the defense of all evidence relevant to a potential violation of subdivision (a) in the possession or control of the state. A motion filed under this section shall describe the type of records or information	The committee appreciates this comment. See committee responses to specific comments below. See committee responses to specific comments below.

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			the defendant seeks. Upon a showing of good cause, the court shall order the records to be released. Upon a showing of good cause, and in order to protect a privacy right or privilege, the court may permit the prosecution to redact information prior to disclosure or may subject disclosure to a protective order. If a statutory privilege or constitutional privacy right cannot be adequately protected by redaction or a protective order, the court shall not order the release of the records. The statute thus has three crucial requirements: 1) the evidence sought must be relevant to a potential violation of the RJA; 2) a court may order the release of records or information only upon a showing of good cause; and 3) the court must account for privacy rights and privileges, including denying the release of records altogether if privacy rights cannot be adequately protected by redactions or protective orders. The form merely directs a litigant to explain what <i>types of</i> records or information they “need” and why they “need” them. But a litigant “needing” records is not the same thing as a litigant showing good cause to receive the records. As explained in the first case interpreting the discovery provisions of the RJA: the Act “permit[s] discovery only upon leave of court, rather than through self-executing party initiated discovery.” (<i>Young v. Superior Court of Solano County</i> (2022) 79 Cal.App.5th 138,168 (<i>Young</i>).) The <i>Young</i> case then determined that the “good cause” standard articulated in the statute required courts to conduct a multi-factored balancing test. (<i>Id.</i> at pp. 144-145.) The court must initially determine the threshold issue of whether a “plausible justification” for the requested records or information has been made; in other words, there must be specific facts that give rise to a plausible case that any of the violations enumerated in section 745, subdivision (a)(1)-(4) occurred. (<i>Ibid.</i>) Then, against that plausible justification the court must balance six remaining factors prior to deciding whether the discovery should be disclosed: “ ‘[s]pecifically ... (1) whether the material requested is adequately described, (2) whether the requested material is reasonably available to the governmental entity from which it is sought (and not readily available to the defendant from other sources), (3) whether production of the records containing the requested information would violate (i) third party confidentiality or privacy rights or (ii) any protected governmental interest, (4) whether the defendant has acted in a timely manner, (5) whether the time	See committee responses to specific comments below. See committee responses to specific comments below. See committee responses to specific comments below. See committee responses to specific comments below.

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			required to produce the requested information will necessitate an unreasonable delay of defendant's trial, [and] (6) whether the production of the records containing the requested information would place an unreasonable burden on the governmental entity involved.' ” (<i>Ibid.</i>) The good cause standard mandated by <i>Young</i> is not adequately conveyed by language used in Items 6(a) and 6(b) of the proposed JV-720 form. The form merely directs a litigant to explain what <i>types of</i> records or information they “need” and why they “need” them. But a litigant “needing” records is not the same as a litigant showing good cause to receive the records.	The committee appreciates this comment but chose not to make this change because discovery would be best addressed by case-specific litigation after the potential appointment of counsel rather than requiring the applicant to proactively address applicable legal standards. The commenter notes that under <i>Young v. Superior Court of Solano County</i> (2022) 79 Cal.App.5th. 138, the good cause requirement for discovery under the act is analyzed using the six-part test adopted from <i>City of Alhambra v. Superior Court</i> (1988) 205 Cal. App.3d 1118. Asking the applicant to address each of the <i>Alhambra</i> factors prior to the appointment of counsel would likely lead to many fewer discovery requests being filed in the first instance. As to the standard the court should evaluate to determine whether to order discovery, form JV-722 explicitly conditions the approval of a

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			A petitioner is not merely supposed to describe the “types” of records or information they would like to receive; they are required to adequately describe the specific materials so that the state—i.e., the District Attorney’s Office—can accurately assess what must be disclosed if ordered. It is for this very reason that in <i>City of Alhambra v. Superior Court</i> (1988) 205 Cal.App.3d 1118—the case that <i>Young</i> relied upon in interpreting good cause for RJA discovery—the Court cautioned against categorizing discovery requests based on broad or vague language: For example, information characterized by such broad descriptions as “all other similar crimes” or “all crimes [e.g., murders] committed during [a certain time frame] with a similar modus operandi,” may be so inadequate as to make the discovery and location of such information an unreasonable burden on the governmental entity. As we have seen occur in many discovery requests in San Diego County, a litigant who is unaware of the good cause factors may resort to overbroad and general language to request discovery. For example, one petitioner simply asked for “data of convictions and sentences from the San Diego District Attorney’s Office” to “show the racial disparity in sentencing black males and Caucasian males who were convicted for a PC245(a)(2) violation.” This request was, expectedly, denied for failure to show good cause. A litigant relying on this form will likely be unaware of their need for specificity in what information they are requesting. Additionally, simply asking a petitioner to state why they “need” the records will also lead to overly general explanations that do nothing to establish the good cause burden. The good cause analysis does not focus on why a person needs the records; it centers on whether the person has shown sufficient justification to receive the records. Petitioners will likely resort to vague language such as, “I need these records to prove my RJA claim,” instead of showing the specific facts that demonstrate an RJA violation occurred, as required by <i>Young</i>. The misleading language in Item 6 will likely result in unnecessary litigation and consumption of judicial resources. Litigants, unless represented by an attorney familiar with <i>Young</i>, will likely not know that they must state their plausible justification for the	discovery request on a finding of good cause. See committee responses to specific comments above. See committee responses to specific comments above. See committee responses to specific comments above. See committee responses to specific comments above.

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			records and address the six other factors. Numerous baseless motions would be filed that the court will need to read and deny. Additionally, this Office is concerned that the forms incorrectly suggest that in a final judgment, a freestanding motion for RJA discovery could be filed even though there is no on-going criminal action. “ ‘[T]here is no statutory authority for a trial court to entertain a postjudgment motion that is unrelated to any proceeding then pending before the court. [Citation.] Indeed, a motion is not an independent remedy. It is ancillary to an on-going action and implies the pendency of a suit between the parties and is confined to incidental matters in the progress of the cause. As the rule is sometimes expressed, a motion relates to some question collateral to the main object of the action and is connected with, and dependent on, the principal remedy. [Citation.] In most cases, after the judgment has become final, there is nothing pending to which a motion may attach.’ ” (<i>People v. Picklesimer</i> (2010) 48 Cal.4th 330, 337, quoting <i>Lewis v. Superior Court</i> (2008) 169 Cal.App.4th 70, 76-77, internal quotation marks omitted.) Exceptions to this rule do exist “where the Legislature has expressly authorized such a motion.” (<i>Ibid.</i>, fn. 2.) But, as one Court of Appeal has held, “The Legislature did not create an exception to the general rule for discovery motions under the RJA.” (<i>In re Montgomery</i> (2024) 104 Cal.App.5th 1062, 1069, review granted Dec. 11, 2024, S287339, 559 P.3d 613; but see <i>People v. Serrano</i> (2024) 106 Cal.App.5th 276, 291, review granted Jan. 15, 2025, S288202, 561 P.3d 847 [holding the Legislature did create a statutory exception under the RJA for freestanding discovery motions].) The RJA “does not authorize a freestanding motion for discovery; it only authorizes discovery in a pending proceeding in which the defendant has alleged a violation [of the RJA].” (<i>Montgomery, supra</i>, at p. 1071.) Thus, in postjudgment cases, a litigant would not be entitled to request RJA discovery until the court has otherwise regained jurisdiction over the case, such as through an order to show cause on a petition for writ of habeas corpus. (<i>Ibid.</i>) Notably, there is a split of authority on this issue, and the California Supreme Court has granted review on both <i>Montgomery</i> and <i>Serrano</i> to resolve it. Until this split is resolved, trial courts have the discretion to follow whichever case it finds more persuasive. (<i>Auto Equity Sales v. Superior Court</i> (1962) 57 Cal.2d 450, 456). Indeed,	See committee responses to specific comments below. See committee responses to specific comments below. See committee responses to specific comments below. The committee appreciates this comment but chose not to recommend this change because the current split of authority as

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Juvenile Law: Racial Justice Act Forms (approve forms JV-720, JV-720-INFO, JV-721, JV-722, and JV-723)

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			many trial courts in our jurisdiction are either following <i>Montgomery</i> or denying freestanding discovery motions without prejudice with leave to file again after the Supreme Court's decision. Accordingly, because this issue is in active pending litigation, it may be premature to issue the form until the California Supreme Court's renders a decision. Accordingly, while an RJA discovery motion can certainly be filed at any point during a pending case not yet reduced to final judgment (subject to the statute's timeliness provision), the same cannot be said in cases reduced to final judgment. The ability to file such a motion in a final judgment will require that the judgment first be "re-opened," either by the filing of a motion pursuant to section 1473.7 or the issuance of an order to show cause in a petition for writ of habeas corpus. Prior to those circumstances, there is no ability to file a motion for discovery in a final case because there is no on-going action. The forms do not make this clear to litigants and again will cause unnecessary litigation and consumption of resources to address. <u>The Proposed Forms' Timeliness Provisions.</u> With respect to Item 4 in Proposed Form JV-720, we would ask that this item be expanded. As it currently is written, it only asks the petitioner to state when they learned of the alleged violation. It does not ask them to elaborate on any reason for a delay between discovering the violation and filing the motion. The forms again oversimplify a complex legal analysis and incorrectly inform both litigants and the juvenile courts as to the proper standard. Section 745, subdivision (c) states that an untimely RJA motion may be deemed waived by the court. The statute does not itself define timeliness. Timeliness, however, has long been a point of analysis in a writ of habeas corpus. Given that RJA claims will be pursued by such a writ petition, the discussion of timeliness in the habeas corpus context is certainly relevant.	noted by the commenter remains unresolved. To the extent that the resolution of the issue may require changes to the forms, they can be revised in the future, if necessary. The committee appreciates this comment but chose not to recommend this change because the commenter's concern appears to be unwarranted. Form JV-720 is designed to be submitted either in a pending case or in a case in which the applicant is requesting vacatur of their adjudication; accordingly, a situation in which a freestanding motion for discovery would be filed without an on-going juvenile proceeding is unlikely to occur. See committee responses to specific comments below. See committee responses to specific comments below.

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			“A criminal defendant, like any other party to an action, may not sit on his or her rights.” (<i>In re Seaton</i> (2004) 34 Cal.4th 193, 199-200.) A petition for writ of habeas corpus is timely if it filed without “substantial delay,” which is measured from the time the petitioner knew, or reasonably should have known of the legal claim and the information offered in support of that claim. (<i>In re Reno</i> (2012) 55 Cal.4th 428, 460-461.) If there is substantial delay in the filing of the petition, the court then determines whether the petitioner has shown good cause for the delay. (<i>Ibid.</i>) If there is no good cause, the petition is barred as untimely unless the petitioner can show one of four very narrow exceptions applies to the case. (<i>Ibid.</i>) This analysis applies to all petitions for writ of habeas corpus and provides useful guidance for evaluating timeliness in pending cases as well. Thus, in contradiction to what the proposed form suggests, the inquiry of timeliness is much greater than the date a person learned about the alleged RJA violation. The timeliness component considers also when the petitioner <i>should have</i> known about the claim and why it was not pursued sooner. It considers the diligence with which the claim was brought to court. The reasonableness of this diligence will turn on the complexity of both the facts and legal issues in the case. Accordingly, it is this Office’s position that there is no concrete definition of a “timely motion” that can be applied in every case. Though this Office believes that this provision would best be addressed in separate pleadings where this analysis is fully fleshed out, if this Committee is inclined to include a timeliness component on the forms, they should prompt the litigant to explain and justify the diligence with which they pursued their claim and why it could not have been brought sooner. <u>The Proposed Forms’ Provisions on Remedies</u> This Office further observes that Proposed Form JV-723 may confuse judges because it does not properly articulate the legal standards for remedies under the RJA. Item 5 lists the remedies articulated in section 745, subdivision (e). However, in Item 5(c), the form states: “The court orders the following additional remedies.” This provision should be stricken from the form because the court has no authority to impose a remedy outside of those specifically listed in section 745, subdivision (e).	See committee responses to specific comments below. The committee appreciates this comment and is recommending the deletion of item four, “Discovery of violation,” from form JV-720 and its corresponding reference to timeliness. The current forms are designed for the parties to litigate the issue of timeliness in separate pleadings. See committee responses to specific comments below. The committee appreciates this comment but chose not to recommend this change because Penal Code section 745(e)(4)

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			In a recent decision, <i>R.D. v. Superior Court</i> (2025) 108 Cal.App.5th 1227, 1233, the Court of Appeal addressed section 745, subdivision (e)(4) which states, “The remedies available under this section do not foreclose any other remedies available under the United States Constitution, the California Constitution, or any other law.” The defense argued that this provision allowed a court to dismiss a case even though dismissal is not specifically delineated in section 745, subdivisions (e)(1)-(2). (<i>Id.</i> at p. 1239.) The Court rejected that argument and instead held: “Considering the language of section 745, subdivision (e)(4) and the statute as a whole, we conclude the RJA does not authorize dismissal of one or more charges as a remedy. Rather, subdivision (e)(4) clarifies that the remedies provided for by the RJA do not preclude the minor from seeking relief under other statutes or constitutional provisions.” (<i>Id.</i> at p. 1242.) Thus, dismissal may only be a remedy “if requested under the authority of the state or federal constitution or ‘any other law’ and accompanied by the requisite showing under that authority.” (<i>Id.</i> at p. 1244.)	states that a court may impose additional remedies “available under the United States Constitution, the California Constitution, or any other law.” The committee appreciates this comment. As noted by the commenter, in <i>R.D. v. Superior Court</i> (2025) 108 Cal.App.5th 1227, the defense argued that section 745(e)(4) authorized the dismissal of one or more charges as a remedy for a violation of the act. Although the court rejected that argument, it held that “the remedies provided for by the RJA do not preclude the minor from seeking relief under other statutes or constitutional provisions.” Thus, even if dismissal of charges is not a specific remedy a court may consider, other remedies “available under “other statutes or constitutional provisions” may nevertheless be ordered. As drafted, nothing on form JV-723 mandates a court to order a remedy upon finding of a violation of the act; instead, the checkboxes on the form allow a court to order remedies if it finds the imposition of a remedy appropriate.

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			Also importantly, the Court of Appeal held that section 745, subdivision (e) does not even require a trial court to impose a remedy for a prejudgment RJA violation if there is not a remedy applicable to the specific violation. (<i>R.D., supra</i>, 108 Cal.App.5th at pp. 1246-1248.) For example, if the case has not gone to trial, the remedy of declaring a mistrial will not be an available option. (<i>Ibid.</i>) And, for dismissing enhancements or reducing charges, the statute conditions those remedies on a finding of it being in the interests of justice to do so; thus, the court has discretion not to reduce charges or dismiss enhancements. (<i>Ibid.</i>) Accordingly, Proposed Form JV-723 is misleading as it is currently written. Item 5(c) suggests that the court can provide a remedy <i>under the RJA</i> outside of those specifically listed in section 745, subdivision (e), such as a dismissal, when it cannot. Items 5(a) does not reflect the court's discretion to refrain from providing a remedy if there is not one specific to the violation. Item 5(a)(2)-(4) also does not provide for the interests of justice finding the court must make when deciding whether to impose one of those remedies. The forms do not adequately reflect the legal standards the trial court must follow in providing a remedy. Again, by oversimplifying the court's obligations, the use of the form as written will likely lead to erroneous rulings. In sum, this Office continues to have significant concerns about the proposed forms given their incorrect or incomplete articulation of the application legal standards. Their current state will likely result in a high volume of frivolous motions and could mislead both litigants and courts as to the appropriate analysis, further congesting our already impacted courts.	See committee responses to specific comments above. See committee responses to specific comments above. The committee appreciates this comment and has recommended the refinements identified in its responses, above.
5.	Orange County Bar Association by Mei Tsang, President	A	Amends forms for Racial Justice Act motion in juvenile court. 1) Yes the proposal appropriately addresses the stated purpose 2) Yes the language is clear for self-represented litigants	No response required.
6.	Superior Court of Los Angeles County by Stephanie Kuo	A	In response to the Judicial Council of California's ITC, "Juvenile Law: Racial Justice Act Forms," the Court agrees with the proposal and its ability to appropriately address its stated purpose. The Court also finds that the language in forms JV-720 and JV-720-INFO is clear and accessible for self-represented litigants.	The committee appreciates this comment. No response needed.

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			Although the Court does not see any cost savings from the proposal, it anticipates minimal implementation requirements, which include but are not limited to: Training for staff, Updating policies and procedure, Updating macros, event codes, and forms in the case management system Lastly, the Court agrees that three to six months from Judicial Council approval of this proposal until its effective date will provide sufficient time for implementation and that this proposal would work well in courts of different sizes.	The committee appreciates this comment. These implementation requirements are noted in the report. The committee appreciates this comment. The committee notes that, under this year's calendar, courts will have two months to implement, and, based on comments from other courts, anticipates that this will be sufficient.
7.	Superior Court of Orange County (no name provided)	A	<u>Does the proposal appropriately address the stated purpose?</u> Yes, the proposal appropriately addresses the stated purpose. <u>Is the language in forms JV-720 and JV-720-INFO clear for self-represented litigants?</u> <u>Please provide any specific suggestions for improvements.</u> Yes, the language as presented in the proposed JV-720 and JV-720-INFO forms appears to be clear for self-represented litigants. <u>Would the proposal provide cost savings? If so, please quantify.</u> No, the proposal does not appear to provide cost savings. <u>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</u> Implementation will require providing communication to judicial officers and court staff, revising current procedures, and updating the case management system. <u>Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</u>	The committee appreciates this comment. No response needed. No response needed. The committee appreciates this comment. These implementation requirements are noted in the report.

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			Yes, two months would provide sufficient time for implementation in Orange County.	No response needed.
			<i>How well would this proposal work in courts of different sizes?</i> Our court is a large court, and this could work for Orange County.	No response needed.
8.	Superior Court of California, County of San Diego by Mike Roddy, Executive Officer	AM	Q: Does the proposal appropriately address the stated purpose? A: Yes. Q: Is the language in forms JV-720 and JV-720-INFO clear for self-represented litigants? Please provide any specific suggestions for improvements. A: Mostly, yes. Please see suggestions below. Q: Would the proposal provide cost savings? If so, please quantify. A: No. Q: What would the implementation requirements be for courts for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? A: Updating internal procedures and local packets, preparing for new service requirements for self-represented litigants, training staff, and notifying judicial officers. Q: Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? A: Yes, provided the final versions of the forms are provided at that time. Q: How well would this proposal work in courts of different sizes? A: It appears the proposal would work for courts of all sizes. General Comments JV-720-INFO: “Or, you might request records of people charged with offenses similar to yours in the same county to show that people that share your race, ethnicity, or	The committee appreciates this comment. No response needed. See committee responses to specific comments below. No response needed. The committee appreciates this comment. These implementation requirements are noted in the report. No response needed. No response needed. The committee appreciates this comment but chose not to

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			national origin tend to be charged with more serious offenses.” This should be part of the prior bullet, rather than its own bullet. Also, it suggests that a person can obtain records of other juveniles, which would not be allowed under WIC 827. Maybe it should say “data regarding” instead of “records of.”	recommend this change because it would result in readability issues. The committee notes that even if the current language of the form suggests that confidential records under Welfare and Institutions Code section 827 may be discoverable, form JV-722 provides that a court may decline to order the production of records if “a statutory privilege cannot be adequately protected by redaction or a protective order.”
			JV-721: Add an item to deny the request if the court finds it is untimely or the applicant is not eligible for relief. Maybe change the name of the form to “Ex Parte,” rather than “Preliminary.”	The committee appreciates this comment but chose not to recommend this change because issues of timeliness and eligibility are best addressed after the potential appointment of counsel.
			JV-722: Add a place for a finding in item 2 that the information sought is/is not in the possession or control of the state. Add a place in 4b for an order denying the request for discovery because the information sought is not in the possession or control of the state.	The committee appreciate this comment but chose not to recommend this change because the issue identified by the commenter is already encompassed within the requirement of establishing good cause for the disclosure of discovery.

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9.	Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee (TCPJAC/CEAC) Joint Rules Subcommittee (JRS)	A	JRS: Position: Agree with proposed changes. The JRS notes that the proposal is required to conform to a change of law. The JRS also notes the following impact to court operations: • Impact on existing automated systems. ○ Case management systems will need to be updated to include the either the new forms, a link to the forms, or both. • Results in additional training, which requires the commitment of staff time and court resources. ○ Clerical staff will need to learn how to locate and process the forms. Training will also be needed on how to send the form to the DA and Probation. For courts with Self Help attorneys for RJA motions - they will need to learn to navigate the forms so that they can assist petitioners. If the court prints the forms, there will be a cost. If the forms can be filled out online and printed by petitioners, that cost could be borne by petitioners. Request for Specific Comments Two months to implement the proposal may be short. Depending upon a court's case management system and resources, three months may be better.	The committee appreciates this comment. No response needed. The committee appreciates this comment. These implementation requirements are noted in the report. The committee appreciates this comment. The committee notes that, under this year's calendar, courts will have two months to implement.
10.	Youth Law Center by Meredith Desautels, Directing Attorney	NI	I write on behalf of the Youth Law Center to comment on the revised proposed forms for juvenile court claims under the Racial Justice Act. We're grateful for the opportunity to comment on these proposed forms. They're detailed and extensive and reflect the great amount of time and effort that must have gone into their development. We offer the comments below to address a few select issues regarding the revised proposed forms.	The committee appreciates this comment.

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			The Youth Law Center (YLC) is a public interest law firm that advocates on behalf of children in the foster care and juvenile delinquency systems to ensure they have the supports and services they need to become healthy and productive adults. Since its inception, California’s juvenile delinquency system has disproportionately impacted youth of color, an injustice that YLC has worked for decades to address. We believe that ensuring that youth can pursue Racial Justice Act (RJA) claims in juvenile court is essential to advancing justice in California. The following comments are intended to increase clarity regarding RJA claims, and to ensure that all youth with RJA claims can pursue relief in juvenile court. <u>A. RJA Eligibility</u> In two places, the proposed forms appear to set forth an overly narrow view of eligibility under the Racial Justice Act. First, the “Request for Relief” form (JV-720) allows the applicant to check one of three boxes under “Eligibility.” The first box is “a. My juvenile court case is still pending or I am currently on juvenile probation.” This language does not clearly capture all eligibility under the RJA, which applies to “all cases in which judgment is not final” (Penal Code § 745(j)(1)). For example, a youth whose case has been adjudicated and who is currently serving a dispositional commitment likely would not consider their case to be “pending,” but their case is also not yet final, as it remains under juvenile court jurisdiction. We recommend adding language to be inclusive of all cases currently under the jurisdiction of the juvenile court (as specified below). Second, the “Information” form (JV-720-Info) has a misleading explanation related to RJA eligibility under the section “Who can file a request under the RJA?” This section states that if the applicant does not fall under one of the three listed categories, the applicant cannot file an RJA request. This statement is overbroad because it does not consider the possibility that an applicant who may be ineligible to file in juvenile court could be eligible to file in adult criminal court instead. We recommend adding language to advise the applicant that if they’re ineligible for a juvenile court RJA claim, they might still be eligible to file an adult court RJA claim. <u>Summary of Recommendations:</u> 1. Amend language in JV-720 under “Eligibility” (p. 10):	No response needed. See committee responses to specific comments below. See committee responses to specific comments below. The committee appreciates this

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			“My juvenile court case is still pending or I am currently on juvenile probation or my case is currently under the jurisdiction of the juvenile court.” 2. Amend language in JV-720-INFO under “Who can file a request under the RJA?” (p. 13): “Who can file a request under the RJA <u>in juvenile court?</u>” If none of the above apply, you cannot file an RJA request in juvenile court; <u>however, you may be eligible to file in adult court.”</u>	comment and is recommending that item 1a on form JV-720 now read “My juvenile court case is still pending, I am currently on juvenile probation, or I am in custody or placement because of a juvenile delinquency case.” and that the first bullet point under “Who can file a request under the RJA?” on form JV-720-INFO now read “Your juvenile court case is still pending, you are currently on juvenile probation, or you are in custody or placement because of a juvenile delinquency case.” The committee appreciates this comment and is recommending that the first sentence under “Who can file a request under the RJA?” on form JV-720-INFO now read “You can file a request under the RJA in juvenile court if:” and that the last sentence under “Who can file a request under the RJA?” on form JV-720-INFO now read “If none of the above apply, you cannot file an RJA request in juvenile court; however, if you had a court date in adult criminal court, you may still be

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			eligible to file an RJA request in that court.”
		B. Timeliness of RJA Claim The question of whether an RJA claim is timely is a complex, fact-dependent question that is inappropriate for the court to resolve in the preliminary findings. As described on page 4 in the Committee’s request for comment, an RJA claim will be subject to a timeliness requirement of filing “as soon as practicable” after the applicant learns of the violation (PC § 745(c)), or “without undue delay from the date the moving party discovered or could have discovered with the exercise of due diligence” the basis of the violation. (PC § 1473.7(c).) Applying these standards will require a nuanced factual inquiry, particularly because of the high stakes of a potential waiver of valid claims if the court concludes that the application is untimely. As currently drafted, both the application form (JV-720) and the preliminary findings form (JV-721) prevent the court from giving fair and appropriate consideration to the question of timeliness and waiver. Instead, the proposed forms present timeliness essentially as a screening question that can be posed and disposed of as a preliminary matter. Amendments to both forms are needed to delay the timeliness inquiry until after appointment of counsel and to ensure that the court is presented with the necessary facts to make a proper determination of timeliness under the law. First, the application form must be amended so that <i>pro per</i> applicants do not mistakenly waive valid RJA claims. The current draft uses confusing language to ask the applicant to provide the date they learned of the “grounds described in item 3,” and also does not solicit any other relevant facts. Youth are unlikely to understand how to identify a specific date, or how to present relevant facts that could serve as grounds to justify the passage of time between learning of the violation and filing the application. Because of the complexity of this issue, we recommend that the question regarding “Discovery of the violation” be removed from the form so that it can be addressed after the appointment of counsel. In the alternative, the language should be modified, both to clarify the question being asked to mirror the same language used in JV-720-INFO (p. 14), and to allow the applicant to state that they are not yet able to answer the question (as specified below).	See committee responses to specific comments below. See committee responses to specific comments below. See committee responses to specific comments below.

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			Second, the timeliness findings to be made by the court should be removed from the “preliminary” findings form (JV-721) and instead added to the “findings and orders after initial hearing” form (JV-722). The current placement of the timeliness finding suggests that the question of timeliness is simple and can be disposed of even before the appointment of counsel. By moving the timeliness question to the findings made after an initial hearing, the applicant will have the benefit of counsel, and the court can ensure that there is sufficient factual basis before it on which to make its timeliness determination. The court should also have the option to hold that additional facts are needed to make its determination (as specified below). Summary of Recommendations: - Remove, or in the alternative, amend language in JV-720 regarding “Discovery of violation” (p. 11): Discovery of violation (<i>check one</i>) ☐ <u>I discovered that the Racial Justice Act was violated in my case on or about (date): _____.</u> <u>Or</u> ☐ <u>I am unsure of the date that I learned that the Racial Justice Act was violated in my case.</u> - Remove timeliness language from JV-721 (p.16): <u>Case Status</u>Timeliness ☐ <u>The court finds that the applicant’s case is pending before the juvenile court or otherwise subject to the jurisdiction of the juvenile court.</u> ☐ The court finds that applicant’s request was / was not filed in a timely manner. ☐ The court finds the applicant’s case is no longer pending and does/does not qualify for retroactive application under Penal Code section 745(j).	See committee responses to specific comments below. The committee appreciates this comment and is recommending the proposed change by removing the question regarding “Discovery of the violation.” The committee appreciates this comment and decided to remove the timeliness section from form JV-721 because a finding of timeliness is not affirmatively required under the RJA. The further proposed amendments are moot given the removal of this section.

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			3. Add modified timeliness language to findings and orders in JV-722 (p. 18): FINDINGS ☐ <u>Timeliness</u> ☐ The court finds that the applicant’s request was or was not filed in a timely manner. ☐ The court does not have sufficient information to make a timeliness determination. ORDERS ☐ <u>Timeliness</u> ☐ <u>The orders [sic] the applicant to provide additional information with respect to the timeliness of the claim.</u>	The committee appreciates this comment but did not recommend the suggested change. Because the RJA does not affirmatively require a court to make a finding of timeliness, the issue of timeliness was removed from the forms.
			C. Appointment of Counsel for Pro Per Applicants The appointment of counsel for RJA claims is uniquely necessary in juvenile court. Youth are unlikely to have the expertise needed to effectively present their claims, request discovery, or conduct the comparative or statistical analysis needed to support their claims without the assistance of counsel. In addition, discovery motions and orders will be needed because juvenile court records are not public and cannot be obtained without court orders. The discovery required to litigate juvenile court RJA claims will be highly confidential, typically involving juvenile records from other similarly situated youth. To put it more simply, juvenile court RJA claims entail all the same complexities as every other juvenile court proceeding, and there is a clear statutory right to counsel for juvenile court proceedings at every stage, including for RJA claims (<i>See</i> Welf. & Inst. Code, §§ 633, 634, 700). Given the importance of counsel for these claims and the statutory basis for appointment of counsel, we recommend that the preliminary findings form (JV-721) be amended to reflect the same standard for appointment that is set forth	See committee responses to specific comments below. See committee responses to specific comments below.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

SP25-18

Juvenile Law: Racial Justice Act Forms (approve forms JV-720, JV-720-INFO, JV-721, JV-722, and JV-723)

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	Commenter	Position	Comment	Committee Response
			in Rule of Court 5.534. Under this standard, counsel is to be appointed absent a knowing and intelligent waiver. <u>Summary of Recommendations:</u> - Amend language in JV-721 regarding appointment of counsel (p. 16): ☐ Appointment of Counsel ☐ The court grants the request for appointment of counsel <u>pursuant to Rule 5.534 of the California Rules of Court.</u> ☐ <u>The court finds that the applicant has made a knowing and intelligent waiver of counsel because:</u>	The committee appreciates this comment and is recommending the proposed change, with minor edits.
			D. Supporting Facts The “Supporting Facts” section of the proposed application form is likely to create confusion and should be amended to ensure that <i>pro per</i> applicants understand that they are not required to prove their claim at the initial application stage. (<i>See Young v. Superior Court</i> (2022) 79 Cal.App.5th 138, 147). As currently drafted, the “Supporting Facts” section prompts the applicant to explain the facts supporting their claim. This section directs the applicant to “Give details,” then lists the types of records the applicant could attach to support their request. The wording of this section is very likely to mislead a <i>pro per</i> applicant into believing that they must have detailed evidence at the application stage in order to succeed, and as a result may serve as a deterrent to filing meritorious claims. To ensure that <i>pro per</i> applicants are not dissuaded from filing an application, changes should be made to the application form (JV-720) to de-emphasize the need for supporting facts at the first step. Specifically, the “Supporting facts” section should be moved below the “Disclosure of evidence” section, so that there is a clearly communicated expectation that the applicant will be requesting additional facts to support their claim. In addition, language should be added to give context for the statement of facts, ensuring that the applicant understands that they will be able to add to their supporting facts through discovery and at subsequent stages in the adjudication of their claim.	See committee responses to specific comments below. See committee responses to specific comments below.

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			Summary of Recommendations: - Reverse the order of “Supporting Facts” and “Disclosure of evidence” in JV-720 (p. 11-12), so that “Disclosure of evidence” comes first in the form. - Amend the language for the “Supporting Facts” section in JV-720 (p. 11): “Describe what happened <u>to the best of your knowledge</u>. For each violation you claim in item 3 above, explain the facts that support it, <u>and include any details you currently have</u>. It is not necessary for you to have all of your supporting facts at this stage of your application. After your initial application, and after you receive any discovery ordered by the court, you will have an opportunity to amend this statement of facts. (If necessary, attach additional pages. You may use Attachment to Judicial Council Form (form MC-025) for any additional pages. If available you have them, you can attach declarations, relevant records, transcripts, or other documents supporting your request.)	The committee appreciates this comment. The committee chose not to recommend this change and instead is recommending amending the instructions to the “Supporting Facts” section, as suggested in 2. The committee appreciates this comment. The committee recommends amending the language for the “Supporting Facts” section as follows: “Describe what happened to the best of your knowledge. You are not expected to have access to all facts or evidence at this time. After the court appoints counsel or grants discovery, you will have an opportunity to amend this statement of facts. (You may attach declarations, records, or other documents if available, but you are not required to submit this form. You may use form MC-025, titled as Attachment 4a, for any additional pages.).
			E. Discovery Request As per our comment above, we believe that discovery requests under the RJA are highly sensitive and that the appointment of counsel will be necessary for the court to properly evaluate the discovery request and fashion appropriate orders. For these reasons, we	See committee responses to specific comments below.

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			suggest limiting the discovery question on the application to simply prompt the applicant to check the box indicating that they want to make a request for discovery, and deleting the subsections following this question. That said, we understand that the Committee may still decide to include a space in the application form for a detailed discovery request to enable applicants who have waived the right to counsel to present such a request. If a discovery request is to be included in the application form, we believe that more detailed guidance is needed to enable the applicant to make an effective request. Ideally, an effective discovery question would provide checkboxes for each of the types of arrest records, case records, and statistical records that are needed for each of the possible RJA claims. We believe that such a detailed list would be highly beneficial, but that it would require input from researchers and statisticians with expertise in this area. Also, given the complexity of such a detailed list, it might work best as a standalone discovery request form that the applicant could attach to their application. If a separate, detailed discovery form is not possible, we recommend that the discovery request in the application form offer at least general categories of records, which would enable a <i>pro per</i> applicant to initiate a request for consideration by the court. <u>Summary of Recommendations:</u> 1. Amend the “Disclosure of Evidence” section in JV-720 (p. 12) by deleting subsections (a) and (b), so that the applicant is only required to check the request box and no additional information is solicited at the application stage. 2. Alternatively, develop a standalone discovery request form that includes a detailed list of checkboxes to enable a <i>pro per</i> applicant to make an effective discovery request.	See committee responses to specific comments below. The committee appreciates this comment and is recommending the addition of a second checkbox under “Disclosure of evidence” on form JV-720 that reads “I will request disclosure of evidence after an attorney is appointed to represent me.” No response needed.

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		3. Alternatively, provide a list of checkboxes in JV-720 (p. 12) to prompt the applicant to indicate the broad categories of evidence that they wish to request in discovery: “6. Disclosure of evidence ☐ I request disclosure of evidence relevant to a potential violation of the Racial Justice Act <i>(If you checked the box, complete items a and b below. You can add to this request after counsel is appointed.)</i> a. I need the following types of evidence: ☐ <u>I don’t know what type of evidence I need and request discovery upon appointment of counsel</u> ☐ <u>I request all evidence relevant to a potential violation of the Racial Justice Act in the possession or control of the state</u> ☐ <u>Transcripts</u> ☐ <u>Police Reports</u> ☐ <u>Records from my juvenile case file</u> ☐ <u>De-identified or redacted arrest records or juvenile case file records of other youth who were similarly situated to me, disaggregated by race of the youth</u> ☐ <u>De-identified or redacted arrest records or juvenile case file records of other youth who were similarly situated to me, disaggregated by race of the victim</u> ☐ <u>Statistical data related to my claim from the juvenile court, district attorney’s office, probation department, or law enforcement agency, disaggregated by race</u> ☐ <u>Other:</u>	No response needed.
		F. Notifying Counsel of Former Counsel of Pro Per Application We believe that it would be beneficial to both the <i>pro per</i> applicant and the court to include the applicant’s counsel or former counsel in the list of individuals to be served	See committee responses to specific comments below.

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			with a copy of a <i>pro per</i> application. As stated above, we firmly believe that counsel should be appointed in RJA cases, and this process can be expedited if the applicant's current or former attorney receives notice when an RJA claim is filed. The court clerk could include the attorney of record, along with the probation department and prosecuting attorney, in the list of individuals to be served a <i>pro per</i> application. The courts follow a similar procedure for petitions filed pursuant to Welf. & Inst. Code section 827, which is served by the clerk on the attorney of record (<i>see</i> JV- 569) when the petitioner is unable to do so. If it is not possible to require the clerk to serve the attorney of record when the application is filed <i>pro per</i>, then we would suggest at a minimum that the applicant be advised in the "information" form (JV-720-INFO) that it would be a good idea to send a copy to their attorney or former attorney. <u>Summary of Recommendations:</u> a. Provide directions to the court clerk that, for <i>pro per</i> applicants, the application should be served on the probation department, the prosecuting attorney, and the attorney of record for the case. b. Alternatively, amend the language in JV-720-INFO (p. 14) to advise the applicant to provide a copy to their attorney on the case: "Once you have filled out form JV-720, take or mail it to the court clerk's office in the court where the last court date was held. It is a good idea to take or mail an extra copy to the clerk and ask the clerk to stamp it to show that the original has been filed. <u>It is also a good idea to provide a copy of the form to the lawyer who represented you in your case, or to the Public Defender's Office in the county where you filed your application.</u>"	The committee appreciates this comment and is recommending that the first sentence of the fifth bullet point on page one of JV-720 read "The court will serve this form for you on the district attorney, the probation department, and your current attorney." The committee appreciates this comment but chose not to recommend the proposed change. Given the amendment above, the alternative suggestion is moot.

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			We want to thank you again for the opportunity to provide comments on these very important forms. We hope you will take our recommendations into consideration, and we would be happy to answer any questions you may have about our comments. Please do not hesitate to contact us if we can be of any further assistance.	The committee appreciates this comment.

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1.	Rose D. Angulo, Deputy Public Defender – Racial Justice Act Attorney, Orange County Public Defender’s Office	AM	Hello, I am a deputy public defender in Orange County. I am currently doing full-time Racial Justice Act litigation. I have read the proposed form and request for comments. After having worked on RJA issues for a year, my position is that counsel should be appointed in all juvenile RJA cases, unless the petition seems frivolous on its face. There are a number of reasons why counsel is important. Preparing a viable RJA claim requires working with academic experts in sociology, statistics, ethnic studies, data science, sociolinguistics, etc. It requires educating academics on how to properly format a document that will be acceptable by a court. It requires access to social science research data bases to supplement briefs with current peer-reviewed journal articles. And that is often just to make it past a prima facie showing. I imagine it would be extremely difficult for someone who does not have access to the proper resources to develop a strong petition, EVEN IF THEY HAVE A RIGHTEOUS RJA CLAIM. Given that issues of race are inextricably intertwined with socioeconomics, not appointing counsel could exacerbate the racial disparities the RJA seeks to remedy. Another comment on the forms is that as currently proposed, it would be almost impossible for any litigant to obtain discovery necessary for a 745(a)(3) or (a)(4) claim. The form should have a specific box requesting county-specific prosecution data. The only agency that keeps data showing the race of juveniles who were arrested but NOT charged with a crime is the district attorney's office. Without having access to this data, there is no way to make the required showing under (a)(3) and (a)(4). This problem is magnified on the juvenile level due to WIC 827 privacy issues. While not directly related to the language on the judicial council form, we need to think seriously about requiring each county to anonymize the prosecution data related to arrest, charging decisions, plea bargains, diversion, convictions, sentences, etc, and to make the data available to	The committee appreciates this comment. The committee appreciates this comment but did not recommend it in the proposal that was recirculated for comment because it expects that applicants will be generally represented by appointed counsel who will be better able to address the complexity of this issue through case-specific litigation. The committee appreciates this comment.

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			any RJA litigant. Without that, the RJA becomes mere performative legislation.	
2.	Fatherly Freedom Inc., Twain Harte by Nathanael Smith	N	[Comment submitted not relevant to proposal or Racial Justice Act.]	No response necessary.
3.	Office of the State Public Defender by Galit Lipa, State Public Defender, Christina Spaulding, Chief Deputy State Public Defender, Caneel Fraser, Director, Indigent Defense Improvement Division, Lisa M. Romo, Racial Justice Attorney, Brooke L. McCarthy, Non-Capital Racial Justice Act Attorney	NI	The Office of the State Public Defender (OSPD) submits these comments in response to the Invitation to Comment SP24-07. Our comments address several of the Advisory Committee's requests for specific comments and emphasize the importance of appointment of counsel early in Racial Justice Act proceedings. Since the Racial Justice Act (RJA) was enacted in 2020, OSPD has provided numerous trainings on the RJA, filed several amicus briefs¹ concerning the proper interpretation of the statute, and is actively litigating RJA issues in our own cases. ----- ¹ <i>People v. Lashon</i> (2023) 93 Cal.App.5th 136, review granted Nov. 15, 2023, S282159, <i>Finley v. Superior Court</i> (2023) 95 Cal.App.5th 12, <i>Young v. Superior Court</i> (2022) 79 Cal.App.5th 138, <i>Harris v. Superior Court</i> (B313302) review den. July 1, 2021, S269619, and <i>Flores v. Superior Court</i> (G060445) review den. Nov. 10, 2021, S270692. <i>People v. Wilkins</i> (A169920), petition for review granted and transferred with directions to issue an order to show cause June 18, 2024, S284457. ... OSPD is concerned with ensuring that the RJA is implemented broadly, as the Legislature intended, to eradicate racial disparities in the criminal legal system. (Stats. 2020, ch. 317, § 2, subd. (i).) Additionally, our comments aim to address the practical barriers and challenges faced by youth in the legal system. According to the Office of Juvenile Justice Delinquency Prevention, approximately one-third of youth who are detained in juvenile	The committee appreciates the commentator's responses. The committee's specific responses are below. The committee appreciates this comment.

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			facilities have a disability.² Similarly, “studies of detained and committed youth have shown that their math and reading scores range from 3 to 6 years below their nominal grade level.”³ ----- ² Office of Juvenile Justice and Delinquency Prevention, <i>Literature Review: A Product of the Model Programs Guide</i> (May 2017) available at https://tinyurl.com/ojjdp-youth-disabilities, last accessed July 9, 2024. ³ Office of Youth and Community Restoration (OYCR), <i>Building Higher Education Pathways for Youth in Secure Treatment Facilities in California: A Call to Action</i> (2024) available at https://tinyurl.com/OYCR-BuildingHigherEdu, last accessed July 9, 2024. ... Recognizing these realities and the complexities posed by RJA litigation, early appointment of counsel to develop RJA claims is especially critical in the juvenile court setting. The following comments seek to ensure the Legislature’s intent of meaningful relief for individuals impacted by racial bias and disparities in the juvenile system is effectuated. Appointment of Counsel In its request for specific comments, the Advisory Committee (“the Committee”) asks whether the court should appoint counsel for all unrepresented litigants. (Invitation to Comment, at p. 8.) The Committee is clear that the RJA “implicate[s] an individual’s substantial rights” and that “appointing counsel for unrepresented applicants would serve the purpose of the act.”⁴ (Invitation to Comment, at p. 4.) ----- ⁴ Furthermore, under section 1473, subdivision (e), an applicant is entitled to the appointment of counsel if requested and after alleging facts that would establish a violation of the RJA or after the State Public Defender requests counsel be appointed. Because the Legislature gave the State	The committee appreciates this comment. The committee appreciates this comment.

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			Public Defender authority to request appointment of counsel for RJA petitioners, including those filed in juvenile court, OSPD has a particular interest in how this provision is applied. ... OSPD agrees with the Committee's assessment in light of the unique nature of juvenile proceedings and the disadvantages faced by unrepresented individuals trying to advance RJA claims in juvenile court. Furthermore, OSPD believes that consistent, early appointment of counsel will likely conserve judicial resources as exemplified through the implementation of former section 1170.95. As the California Supreme Court stressed in <i>People v. Lewis, supra</i>, 11 Cal.5th at p. 966, it was contrary to the remedial intent of the statute, and short-sighted, to create a two step process whereby many petitions were rejected, without counsel ever being appointed, only to have that determination reversed on appeal. (<i>Id.</i> at pp. 969-970.) As the high court recognized, both applicants and the courts benefit if counsel is appointed at the earliest opportunity, to help develop and present the claim to the trial court in the first instance. (<i>Lewis, supra</i>, at p. 970.) <i>Lewis's</i> holding was subsequently codified by Senate Bill 775 (Stats. 2021, ch. 551, § 1, subd. (b).) The considerations highlighted by <i>Lewis</i> carry even greater significance in the context of the RJA, particularly for youth seeking relief under the statute where procedural defaults or simple mistakes could leave the effects of racial bias intact. For example, establishing violations of section 745, subdivisions (a)(3) and (4) may require complex statistical evidence that a pro se applicant is ill-equipped to develop. The statute contemplates that to develop such claims applicants may request information pursuant to section 745, subdivision (d), and it may be necessary to retain an expert to analyze the data. The assistance of counsel is thus vital even at the preliminary stages of developing these claims.	The committee appreciates this comment. The committee appreciates this comment. The committee appreciates this comment.

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			Organization of Proposed Forms As a global comment, OSPD recommends that the organization of substantive items within each of the proposed forms mirror the steps of the RJA process as contemplated by the Legislature in Penal Code⁵ sections 745, 1473, subdivision (e), and 1473.7, subdivision (a)(3). ----- ⁵ All further statutory references are to the Penal Code unless otherwise noted. ... In enacting the RJA, the Legislature established very low thresholds for both appointment of counsel and disclosure of evidence, and specifically provided for the amendment of a petition by counsel before any prima facie determination is made - marked departures from typical habeas procedures. (§ 1473, subd. (e); § 745, subd. (d).) The Legislature also defined a prima facie case under the RJA as “facts that, if true, establish [more than a mere possibility, but less than a standard of more likely than not] that a violation of [the RJA] occurred.” (§ 745, subd. (h)(2).) Each of these decisions by the Legislature emphasizes its intent to remove barriers to relief that have allowed racial bias and disparities to remain unchallenged. Reflecting those decisions in the organization of the content of the proposed forms and reiterating the RJA-specific definitions of each stage therein would maximize clarity for both applicants and the juvenile courts. Specifically, the substantive items in each form should be organized to first address the appointment of counsel, and then requests for disclosure of evidence. Only after those two phases are addressed should the forms invite courts to engage with a prima facie determination, and, lastly, whether a violation itself has been proven by a preponderance of evidence after evidentiary hearing. (See, e.g., § 1473, subd. (e) [detailing order for	The committee appreciates this comment and has accordingly organized the substantive items within each of the proposed forms to be consistent with the steps of the RJA process as contemplated by Penal Code sections 745, 1473, and 1437.7(e) and 1437.7(a)(3). The committee appreciates this comment. The committee appreciates this comment and has organized the substantive items in <i>Preliminary Orders After Request for Relief Under the Racial Justice Act—Juvenile Adjudication</i> (form JV-721) and <i>Findings and Orders After Initial</i>

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			habeas petitions].) Organizing the forms in this way would remind individuals and courts of the “escalating burdens of proof that are evident within the statutory scheme” of the RJA. (<i>Young v. Superior Court</i> (2022) 79 Cal.App.5th 138, 160.) Beyond these global comments regarding the ordering/organization of the forms and the importance of the appointment of counsel, OSPD submits the following form-specific comments. <u>Proposed Form JV-720 – Request for Relief Under the Racial Justice Act</u> The Committee poses multiple “Request[s] for Specific Comments” (Invitation to Comment, at p. 8.) relevant to proposed Form JV-720, which we address here. <i>Item 1: Eligibility</i> The Committee asks whether this form should include a definition of a final “judgment” and whether it should be in Form JV-720 itself or on the information sheet. (Invitation to Comment, at p. 8.) OSPD recommends a simple, plain language explanation be included directly on Form JV-720, immediately following option (a) under Item 1. The language should be specific to juvenile procedures and written for a youth reader to understand.	<i>Hearing on Request for Relief under the Racial Justice Act—Juvenile Adjudication</i> (form JV-722) accordingly. The committee appreciates the commentator’s responses. The committee’s specific responses are below. The committee appreciates this comment. The committee appreciates this comment. The committee appreciates this comment. The committee did not endorse this suggestion in the proposal that was recirculated for comment as it was no longer applicable because the reference to final “judgment” was deleted from <i>Request for Relief Under the Racial Justice Act—Juvenile Adjudication</i> (form JV-720). The committee recommends using “My juvenile court case is still pending, I am currently on juvenile probation, or I am in custody or

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			<i>Item 4: Discovery of Violation</i> The Committee asks whether a definition of "not timely" should be provided and whether it should be in Form JV 720 itself or on the information sheet. (Invitation to Comment, at p. 8.) OSPD, however, would recommend that Item 4 be stricken in its entirety from Form JV-720 rather than the Committee adding a definition. It is not reasonable that a youth will understand the ramifications of this question or the relevant time or information to provide. For example, they are unlikely to understand if they should note when they learned about the RJA itself or when they learned of the facts that would support a violation. Furthermore, there can be several reasons that justify a delay in raising an RJA violation such as needing to investigate, time to retain an expert, etc. and these reasons are best explained by counsel once appointed. Considering the complexities of this inquiry, issues of timeliness and waiver are best left to the expertise of counsel once appointed on a case. <i>Item 5(b): Judicial Conduct</i> The Committee asks whether Item 5, subsection (b) on Form JV-720 should be a "separately numbered, standalone item to improve its visibility." (Invitation to Comment, at p. 8.) OSPD agrees to reconfigure current Item 5(b) as a standalone, separately numbered item that would properly emphasize the visibility/importance of this question and reduce inadvertent failure to complete this section.	placement because of a juvenile delinquency case" instead of "Judgment in my case is not final." The committee appreciates this comment. The committee appreciates this comment and has deleted the item in <i>Request for Relief Under the Racial Justice Act—Juvenile Adjudication</i> (form JV-720). The committee appreciates this comment. The committee appreciates this comment but chose not to endorse it in the proposal that was recirculated for comment because it deemed that the reconfiguration was ultimately unnecessary.

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			<i>Item 6: Disclosure of Evidence</i> Because youth are less familiar with the legal system and the types of discovery that may be relevant to establishing an RJA claim, OSPD suggests modifying Item 6, subsection (a) to include a checkbox list of commonly requested items, concluding with a catchall “Other” option where applicants could write in additional requests. The checkbox list could include options such as transcripts, probation reports, law enforcement reports, and statistical data, with space/lines under each option for the applicant to provide further specifics on their request. <i>Service Requirement</i> The Committee asks whether self-represented litigants should be required to serve their requests for relief beyond filing with the appropriate court. (Invitation to Comment, at p. 8.) OSPD wholeheartedly agrees with the Committee’s position that a self-represented applicant need only send the completed JV-720 form to the relevant court without further service requirements, consistent with juvenile practices in other contexts. (Invitation to Comment, at p. 5.) Such a procedure acknowledges the limitations on unrepresented applicants, particularly youth, and would reduce barriers to individuals initiating RJA claims, in accordance with the Legislature’s intent that access to relief be far-reaching. Additionally, the Committee indicates JV-720 is designed to be sent by the court clerk to probation and the prosecuting attorney after filing. (Invitation to Comment, at p. 5.) OSPD suggests this design be expanded with a requirement the court clerk additionally send a copy to the last	The committee appreciates this comment but did not recommend it in the proposal that was recirculated for comment because it felt that it would be impractical to develop an exhaustive list of commonly requested items and that the inclusion of such a list would make the form overly complex. Following the current circulation (SPR25-18), multiple commenters offered the same suggestion, which the committee again did not recommend for the same reasons. No response necessary. The committee appreciates this comment and has accordingly recommended the change in the applicable language in <i>Request for Relief Under the Racial Justice Act—Juvenile Adjudication</i> (form JV-720). The committee appreciates this comment but chose not to recommend the suggestion because of the possibility that it could raise confidentiality issues under

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			known counsel for the applicant, or, if unknown, to the Public Defender for the county. <u>Proposed Form JV-720 - INFO</u> OSPD provides the following comments regarding the proposed questions and explanations included on proposed Form JV-720-INFO. “Do I need an attorney?” Recognizing the importance of early appointment of counsel in RJA proceedings and the complexity involved in litigating these claims, OSPD recommends the answer to the “Do I need an attorney?” question be modified to properly emphasize the importance of requesting appointment of counsel, if unrepresented, or contacting prior/existing counsel, when that is an option. For example, JV-060-INFO’s answer to a similar question emphasizes that the “child has a right to an effective and prepared lawyer, who must have specific education and training in juvenile justice cases.” This same right attaches to any open juvenile matter and would encompass counsel’s assistance on an RJA request. Youth also generally benefit from being routinely reminded that they are represented and that they should consult with counsel before filing any pro per requests. Therefore, the answer to this question on JV-720 -INFO should: 1.) Affirm the right to request counsel if they do not currently have an attorney; and, 2.) Explicitly encourage youth to consult with their attorney before filing anything on their own, reminding them that if their case is still in court to reach out to counsel representing them.	Welfare and Institutions Code section 827 if prior counsel or the public defender’s office was no longer involved in the case. The committee appreciates the commentator’s responses. The committee’s specific responses are below. The committee appreciates this comment but chose not to recommend it in the proposal that was recirculated for comment because it felt that the proposed language was insufficiently neutral and appeared to overtly advocate for a specific position.

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			<i>“What happens after I file a request under the RJA?”</i> Unrepresented youth would benefit from a more thorough explanation of the procedure they can expect after filing a request. It is critical that a young person understands when they are entitled to counsel, that they may file a disclosure request before making a prima facie case, and that their newly appointed counsel may be able to amend their request. After clearly explaining the foregoing rights and procedures, the form can then address the prima facie and evidentiary hearing phases of RJA proceedings via the explanation currently included under this section in the proposed JV-720- INFO form. OSPD recommends these explanations are expanded in simple language to also explain that the court will be required to make findings on the record regarding its ruling on the RJA claim pursuant to section 745, subdivision (c) or section 1473, subdivision (e). <i>“What happens if my RJA request is denied?”</i> Considering the challenges and complications of seeking review of an RJA denial, OSPD recommends this question and corresponding answer be omitted in their entirety. The answer as currently proposed (i.e. that there is “no penalty” for filing an unsuccessful RJA request) could mislead readers when there could, in fact, be consequences to an unsuccessful petition, depending on the posture of the case and under what section the petition is made. What steps an individual should take after a denial are particular to their procedural posture, substantive claims, and collateral concerns. It is a complex decision through which counsel should guide a young person. The current answer creates a false impression that one can continuously file RJA requests with no repercussions—procedurally or substantively. Particularly considering the audience for this form – unrepresented youth and their loved ones – and the risk of forfeiting valid claims, OSPD urges	The committee appreciates this comment and has recommended its incorporation, with minor alterations, into the proposal that was recirculated for comment. The committee appreciates this comment and has recommended the deletion of the language in question in the proposal that was recirculated for comment. The committee appreciates this comment and has omitted the language in question in the proposal that was recirculated for comment. The committee appreciates the further suggestion to strengthen language regarding requesting, appointing, and

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			this section be omitted while language regarding requesting, appointing, and consulting with counsel be strengthened. <i>Additional Topic for Information Sheet: Clarifying in Which Court to File</i> A pro per applicant may not understand the distinction between juvenile and adult court or may not remember the procedural posture of their prior convictions. Many individuals prosecuted for crimes committed when they were under 18 had their cases heard in both juvenile and then adult court (e.g. individuals where transfer (or previously “fitness”) to adult court was granted). To help individuals better understand where they should file an RJA claim, OSPD recommends the Committee add a separate question and answer explaining how to determine whether adult or juvenile court is the appropriate venue. The following is provided only to the extent it aids the committee in drafting such a section: “In which court should I file my RJA claim?” RJA claims should be filed in the last court that made rulings on your case. Some cases arising from crimes committed by an individual under 18 are ultimately heard and sentenced in adult and not juvenile court. To determine where you should file your RJA claim, determine which court ultimately sentenced you - adult or juvenile - and file in that court. If your case is still in juvenile court or ended in juvenile court, use Form JV-720 to file your RJA claim. If you were sentenced in adult and not juvenile court, you should not utilize Form JV-720 and instead should file [Adult RJA Form] with the	consulting with counsel, but chose not to implement it felt that the proposed language was insufficiently neutral and appeared to overtly advocate for a specific position. The committee appreciates this comment. The committee appreciates this comment and has endorsed it in the proposal that was recirculated for comment by adding an additional paragraph to the answer to the question on the information sheet: “How do I file an RJA request?” The paragraph directs an applicant to file in criminal court if their last court date occurred in adult criminal court. The paragraph also includes hyperlinks to the adult application forms.

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			adult court that sentenced you. Adult court is the appropriate place to file your RJA petition if your case was directly filed in adult court, your case was transferred to adult court, or you were found “unfit” to stay in juvenile court (i.e., “fitted up” to adult court). <u>Proposed Form JV-722 and Form JV-723: Findings and Orders</u> As discussed on pages 2-3 of OSPD’s comments, the organization and ordering of substantive topics included in proposed Forms JV-722 and JV-723 send important signals to the court regarding how and at what time each determination should be made. Relatedly, the Committee specifically asks whether the two findings and orders forms, currently proposed JV-722 and JV-723, respectively, should be consolidated. (Invitation to Comment, at p. 8.) Considering the Committee’s desire to maximize clarity, OSPD recommends the Committee create three (3) order forms by separating the current JV-722 into two forms. This would result in: 1. a “Preliminary Orders” form addressing initial matters such as statutory eligibility, appointment of counsel, and disclosure of evidence requests; 2. a “Prima Facie Orders” form addressing prima facie findings and orders; and, 3. a “Findings and Orders After Hearing” form (current JV-723) for post evidentiary hearing findings and orders. At minimum, OSPD recommends reordering the items in Form JV-722 to ensure juvenile courts understand there are a series of steps to be undertaken in the RJA process rather than a collection of findings to be made all at once. The currently proposed Form JV-722 does not address the appointment of counsel until Item 6, placing this critical first step after boxes for findings on timeliness, prima facie showing, and good cause for disclosure of evidence, etc. However, as the Advisory Committee	The committee appreciates this comment. The committee appreciates this comment and has endorsed it in the proposal that was recirculated for comment by recommending the creation of three order forms. The committee recommends creating a new form, <i>Preliminary Orders After Request for Relief Under the Racial Justice Act</i> (form JV-721) and reorganizing <i>Findings and Orders After Initial Hearing on Request for Relief Under the Racial Justice Act—Juvenile Adjudication</i> (form JV-722). The reorganization moved the appointment of counsel order to form JV-721, while leaving the prima facie showing and good cause for disclosure of evidence

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			recognizes, unrepresented applicants should routinely be appointed counsel to “serve the purpose of the act.” (Invitation to Comment, at p. 4.) OSPD therefore strongly urges the section for appointment of counsel be moved to the top of proposed Form JV-722 (or a distinct “Preliminary Orders” form) to reflect the primacy of this determination in the RJA process. This will help to promote appropriate appointment of counsel for unrepresented applicants and further the Legislature’s intent <i>JV-722 Form Current Item 2: Prima Facie Showing</i> If the Committee does not create a separate “Preliminary Orders” form, it should consider modifying current Item 2 “Prima Facie Showing” on JV-722 to include the following options: a. The court reserves ruling on a prima facie showing because the appointment of counsel and/or disclosure of evidence has been ordered. The applicant shall provide the court with an amended RJA request by (date)_____ unless an extension is requested and granted. b. The court finds that the applicant has made a prima facie showing of a violation of Penal Code section 745(a). c. The court finds that the applicant has not made a prima facie showing of a violation of Penal Code section 745(a). This finding is without prejudice to the future development of claims by counsel. <i>JV-722 Form Current Item 7: Disclosure of Evidence</i> Recognizing that the development of a full request for disclosure of evidence is a significant challenge for unrepresented youth, OSPD recommends that proposed Form 722 provide an option to courts to refrain from ruling on any such disclosure requests until counsel is	findings on form JV-722 and post evidentiary findings and orders on <i>Findings and Orders After Evidentiary Hearing on Request for Relief Under the Racial Justice Act</i> (form JV-723). The committee appreciates this comment. Because the committee recommended the creation of a separate “Preliminary Orders” form in the proposal that was recirculated for comment, this alternative option was not considered. The committee appreciates this comment but has not recommended the suggested change to proposed form JV-722 in the proposal that was recirculated for

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			appointed. To the extent it assists the Committee in drafting, possible language for such a third option beyond the current 7(a) - denial of the request for disclosure, and current 7(b) - order of disclosure, is offered here: c. The court will not issue orders on the applicant's requests for disclosures until __ (date) to provide appointed counsel the opportunity to make any requisite amendments. Counsel shall provide any amendment requests to the court by __ (date) unless an extension is requested and granted. OSPD thanks the Committee for its work on this important topic and for its consideration of our comments. Please do not hesitate to contact us if there are any questions.	comment; however, the committee did recommend the addition of an additional response to proposed form JV-720, "I will request disclosure of evidence after an attorney is appointed to represent me" to address the commentator's concern. No response necessary.
4.	Orange County Public Defender's Office by Adam Vining, Assistant Public Defender	NI	On behalf of the Orange County Public Defender's Office: 1. Does the proposal appropriately address the stated purpose? • Yes. • However, on Page 13, the Info sheet, under "Who can file a request under the RJA" • The last statement is wrong ["If, however, your case is no longer pending and you were never committed to DJJ or CYA, you may <i>not</i> file an RJA request."]. In fact, a person facing an adverse immigration consequence may file for relief if the case is no longer pending even if they did not have a DJJ/CYA commitment. • In addition, after the first and second bullet point statements, please add "; or". 2. Is the language in the forms clear for self-represented litigants, especially for youth? Please provide any specific suggestions for improvements. • Yes.	The committee appreciates this comment and has incorporated it, with minor alterations, into the proposal that was recirculated for comment. The committee appreciates this comment.

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			3. Should the council develop forms for habeas corpus petitions in juvenile cases, including petitions based on RJA claims? No. This form is sufficient and should trigger appointment of counsel, who can then determine if other filings are necessary. This form is simple and will facilitate initiation of the legal process.	The committee appreciates this comment.
			4. Should the court appoint counsel for all unrepresented litigants? Yes. Unrepresented youth in delinquency proceedings have the right to an appointed attorney. The RJA is complicated and youth cannot be expected to handle it themselves.	The committee appreciates this comment.
			5. Should self-represented litigants be required to serve their requests for relief? It makes more sense for the court to forward a copy to the District Attorney.	The committee appreciates this comment.
			6. Should the single request form be split into multiple forms? No.	The committee appreciates this comment.
			7. Should the two findings and orders forms be consolidated into a single form? No.	The committee appreciates this comment.
			8. Are new rules relating to claims under the act in juvenile court necessary at this time? If so, what should the rules address? No.	The committee appreciates this comment.
			9. Should the information sheet address any other topics? On p. 13-14, the Info sheet, under “Do I need an attorney” or “What happens if my RJA request is denied” the form should have	The committee appreciates this comment, but chose not to implement it as the proposed language was insufficiently

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			a statement similar to: “Proceeding without an attorney may put you at a significant disadvantage in proving an RJA claim.” 10. Should item 1 on form JV-720 include a definition of a final “judgment,” and, if so, should that definition be added to the form itself or the information sheet? • Yes. It should read in plain language: “Judgment in my case is not final (my case is pre-trial OR my case is still being reviewed on appeal).” 11. Should item 4 on form JV-720 include a definition of “not timely,” and, if so, should that definition be added to the form itself or the information sheet? • Item 4 is problematic as written. Item 4 is probably actually entirely unnecessary. On page 4 of the proposal, the council recognizes that the timeliness language applies only to violations alleged to have been committed “during trial.” The statute actually reads “A motion made at trial shall be made as soon as practicable.” For RJA claims for alleged violations in trials that occurred prior to 1/1/23, the timeliness provision was not a requirement in the law. Prior to 1/1/21, there was no RJA so there was no basis for an objection. Timeliness could not have been required and no objection on RJA grounds could have been made “at trial.” In other words, the requirement of timeliness for motions made “at trial” is prospective only and not retroactive. • Since 1/1/23 and going forward, any RJA violation that occurs “during trial” will require some kind of objection by defense counsel. Since minors in delinquency trial must have counsel,	neutral and appeared to advocate for a specific position. The committee appreciates this comment and has endorsed it in the proposal that was recirculated for comment, in part, by removing the reference to “final judgment” from option (a) under Item 1 on form JV-720. The committee now recommends that option (a) instead read “My juvenile court case is still pending, I am currently on juvenile probation, or I am in custody or placement because of a juvenile delinquency case.” The committee appreciates this comment and has endorsed it in the proposal that was recirculated for comment by deleting former item 4 on <i>Request for Relief Under the Racial Justice Act—Juvenile Adjudication</i> (form JV-720).

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			counsel will simply need to make the objection/motion when the violation happens. - Item 4 is further problematic because the timeliness requirement for “at trial” violations is a claim under 745(a)(2) only. The form doesn’t distinguish between the types of claims. In other words, a person may have been aware of a racial slur used during a trial in 2015 [a 745(a)(2) violation] when it happened in 2015, but may become aware that the gang enhancement was only charged against Latinx persons in 2024. The form lumps everything together. Moreover, the timeliness provision doesn’t apply to (a)(1), (a)(3), or (a)(4) claims in the first place. You will have pro-pers confused by Item 4 and it will also confuse judges. Perhaps the discovery of violation in Item 4 should be combined with Item 3 to specify when the violation of each subdivision was discovered. 12. Should item 5b on form JV-720 be a separately numbered, standalone item to improve its visibility on the form and to reduce its chance of being overlooked? - No. But consider moving it to 5a. Then have 5b the description of what happened.	The committee appreciates this comment but chose not to endorse it in the proposal that was recirculated for comment because it deemed that the reconfiguration was ultimately unnecessary.
5.	Pacific Juvenile Defender Center, San Jose by Jonathan Grossman, Co-Chair of the Amicus and	A	The Pacific Juvenile Defender Center (PJDC) generally supports the proposal. PJDC is a statewide public interest, nonprofit organization that works to improve the quality of legal representation for youth in the justice system and to address important juvenile policy issues. We provide support to more than 1600 juvenile court lawyers, appellate counsel, and nonprofit lawyers to ensure quality representation for young people.	No response necessary.

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	Litigation Committee		It should be noted that a habeas corpus petition in juvenile court should be rare. If the youth is on probation, the youth can file a modification petition under Welfare and Institutions Code section 775 et seq. If the youth is no longer on probation, then a petition under Penal Code section 1473.7 would be necessary. For this reason, the questions in part 1 of the form should allow for the claim to be raised when the youth is on probation, regardless of whether the adjudication is final. A corresponding change should be made in the second column of the first page of the information sheet. The Judicial Council should not endeavor to define when a case is final, because this might still be up to interpretation by the courts. One court held in <i>In re Hunter W.</i> (2023) 88 Cal.App.5th 358 a juvenile matter becomes final when the time for appealing the disposition order passes. However, the Supreme Court has said a case is not final as long as the court still has jurisdiction over the matter. (<i>People v. Esquivel</i> (2021) 11 Cal.5th 671, 678.) Thus, a case is not final when the defendant is on probation, even with execution of sentence is suspended, though there is a final judgment. (<i>Ibid.</i>; see also <i>People v. McKenzie</i> (2020) 9 Cal.5th 40, 43.) Counsel should be appointed in all cases for two reasons that are unique to juvenile justice proceedings. First, the youth are usually under 18 years old and presumed not to be able to adequately represent themselves. Second, youth are already provided counsel for litigating existing delinquency petitions, issues concerning probation, and presenting modification petitions. In most cases, an RJA claim would only be one aspect of the representation counsel already provides. Counsel should be appointed in the few cases where the youth is otherwise unrepresented. The information form should encourage youth to contact their trial counsel or public defender before attempting to file the form.	The committee appreciates this comment and agrees that juvenile habeas petitions should be rare. The committee's response to the proposed change to the information sheet is addressed below. The committee appreciates this comment and endorsed it in the proposal that was recirculated for comment by adding "I am currently on juvenile probation" under Eligibility, item 1 on JV-720 and by making a corresponding change in the second column of the first page of the information sheet. The committee appreciates this comment.

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6.	San Diego County District Attorney's Office by Linh Lam, Chief, Appellate & Training Division	N	The San Diego County District Attorney's Office recently reviewed proposed forms to assist litigants and the juvenile courts with claims brought under the Racial Justice Act ("RJA") as codified in Penal Code sections 745 and 1473.¹ Based upon our participation in RJA litigation for several years, we wanted to provide some insight into two issues that the forms do not adequately address—and in fact may cause confusion and violate confidentiality of juvenile records. We are concerned that the forms oversimplify the legal issues of RJA discovery and timeliness and would ask that those two issues not be included in the forms, thus allowing for those issues to be fully litigated separately in court under separate pleadings—as is the current practice—or account for these concerns in the proposed forms. ----- ¹ All further statutory references will be to the Penal Code unless otherwise indicated. ... As you know, Welfare and Institutions Code section 827 governs the confidentiality of juvenile records and outline specific requirements for production of those records. Our experience with RJA discovery requests from defense, defendants, and minors often include requests for records for persons prosecuted in other cases, which is problematic for confidentiality when records of other minors are requested under the umbrella of RJA discovery. In our experience, we believe the forms' check the box format do not sufficiently account for the complexities of juvenile law, particularly the confidentiality of juvenile records, and may mislead both litigants and the courts as to the applicable legal standards. Because of the necessary confidentiality of juvenile records, neither litigants nor the courts should be under the impression that accessing RJA discovery—especially juvenile records—is simply a matter of checking the box. Litigation of RJA discovery requires complex analysis that involves the interests of many, including the confidentiality rights of minors and other	The committee appreciates the commentator's responses. The committee's specific responses are below. The committee appreciates this comment and endorsed it in the proposal that was recirculated for comment, in part, by deleting item 4, Discovery of Violation, from <i>Request for Relief Under the Racial Justice Act</i> (form JV-720) and its corresponding reference to timeliness. The committee appreciates this comment.

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			adult defendants whose records may be implicated by an RJA discovery request. In addition to confidentiality laws that may apply, litigation involving potential Evidence Code 1040 issues or sealing issues may be necessary. The current simplified check-the-box format gives the impression that it is a simple decision to be made without participation of both parties, rather than one that is complex and would benefit from the insights from both parties before the court can reach a thoughtful decision. The same thoughtfulness must be applied to the timeliness issue as well. <u>The Proposed Forms' Discovery Provisions</u> This Office has four primary concerns with the proposed forms as they relate to RJA discovery. First, the forms are misleading as to the applicable legal standard for such discovery. Section 745, subdivision (d) states: A defendant may file a motion requesting disclosure to the defense of all evidence relevant to a potential violation of subdivision (a) in the possession or control of the state. A motion filed under this section shall describe the type of records or information the defendant seeks. Upon a showing of good cause, the court shall order the records to be released. Upon a showing of good cause, and in order to protect a privacy right or privilege, the court may permit the prosecution to redact information prior to disclosure or may subject disclosure to a protective order. If a statutory privilege or constitutional privacy right cannot be adequately protected by redaction or a protective order, the court shall not order the release of the records. The statute thus has three crucial requirements: 1) the evidence sought must be relevant to a potential violation of the RJA; 2) a court may order the release of records or information only upon a showing of good cause; and 3) the court must account for privacy rights and privileges, including denying the release of records altogether if privacy rights cannot be adequately protected by redactions or protective orders.	The committee appreciates this comment. The committee appreciates this comment. The committee appreciates this comment.

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			As explained in the first—and, to date, only—case interpreting the discovery provisions of the RJA: the Act “permit[s] discovery only upon leave of court, rather than through self-executing party-initiated discovery.” (<i>Young v. Superior Court of Solano County</i> (2022) 79 Cal.App.5th 138, 168 (<i>Young</i>).) The <i>Young</i> case then determined that the “good cause” standard articulated in the statute required courts to conduct a multi- factored balancing test. (<i>Id.</i> at pp. 144-145.) The court must initially determine the threshold issue of whether a “plausible justification” for the requested records or information has been made; in other words, there must be specific facts that give rise to a plausible case that any of the violations enumerated in section 745, subdivision (a)(1)-(4) occurred. (<i>Ibid.</i>) Then, against that plausible justification the court must balance six remaining factors prior to deciding whether the discovery should be disclosed: “ ‘[s]pecifically ... (1) whether the material requested is adequately described, (2) whether the requested material is reasonably available to the governmental entity from which it is sought (and not readily available to the defendant from other sources), (3) whether production of the records containing the requested information would violate (i) third party confidentiality or privacy rights or (ii) any protected governmental interest, (4) whether the defendant has acted in a timely manner, (5) whether the time required to produce the requested information will necessitate an unreasonable delay of defendant's trial, [and] (6) whether the production of the records containing the requested information would place an unreasonable burden on the governmental entity involved.’ ” (<i>Ibid.</i>) The good cause standard mandated by <i>Young</i> is not adequately conveyed by the proposed JV-720 form. The form merely directs a litigant to explain what records or information they are seeking and why they “need” them.	The committee appreciates this comment. The committee appreciates the comment but chose not to recommend it in the proposal that was recirculated for

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			But a litigant “needing” records is not the same as a litigant showing good cause to receive the records. This misleading language will likely result in unnecessary litigation and consumption of judicial resources. Litigants, unless represented by an attorney familiar with <i>Young</i>, will likely not know that they must state their plausible justification for the records and address the six other factors. Numerous baseless motions would be filed that the court will need to read and deny. Second, the forms do not adequately direct the litigant or courts to address the crucial issue of confidentiality. There is, of course, a “strong public policy of confidentiality of juvenile proceedings and records [that] has long been recognized” in California. (See <i>In re Keisha T.</i> (1995) 38 Cal.App.4th 220, 213.) Juvenile records are subject to a litany of privileges designed to maintain confidentiality and promote the successful rehabilitation and reintegration of minors into the community. “Confidentiality is integral to the operation of the juvenile justice system	comment because the complexity of the discovery issue would best be resolved by case-specific litigation after the potential appointment of counsel instead of by requesting the applicant to proactively address applicable legal standards. The commenter notes that under <i>Young v. Superior Court of Solano County</i> (2022) 79 Cal.App.5th.138, the good cause requirement for discovery under the act is analyzed using the six-part test adopted from <i>City of Alhambra v. Superior Court</i> (1988) 205 Cal.App.3d 1118. Asking the applicant to address each of the <i>Alhambra</i> factors prior to the appointment of counsel would likely lead to many fewer discovery requests being filed in the first instance. As such, in the proposal that was recirculated for comment, the finding of good cause occurs chronologically after the court determines whether to appoint counsel and after a discovery hearing is potentially held. The committee appreciates the comment but did not endorse it in the proposal that was recirculated for comment because it believed that the complexity of the confidentiality issue would be best resolved by case-specific litigation after the potential appointment of counsel instead of requesting the applicant to

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			in order to avoid stigma and promote rehabilitation for all youth...” (Welf. & Inst. Code, § 831, subd. (a).) Welfare and Institutions Code section 827, perhaps the best known limitation on the accessibility of confidentiality juvenile court records, restricts inspection of juvenile court files to the persons involved in the particular case. For instance, subdivision (a)(1)(C) allows only “[t]he minor who is the subject of the proceeding” to access a juvenile case file. Subdivision (a)(1)(e) likewise, restricts access to a minor’s court file only to “[t]he attorneys... who are actively participating in criminal or juvenile proceedings involving the minor.” While section 827 by its text would seem to apply to court files and not necessarily district attorney or police records, the courts have adopted a broad view of Welfare and Institutions Code section 827’s applicability to juvenile records generally; courts have held that neither the location of the record or the identity of the party that generated the record is determinative of the section’s applicability. (See <i>In re Elijah S.</i> (2005) 125 Cal.App.4th 1532, 1549-1553.) In fact, the District Attorney is not even allowed to copy such documents without a prior express court order. (<i>In re Gina S.</i> (2005) 133 Cal.App.4th 1074, 1082-3; 85 Ops.Cal.Atty. Gen. No. 194 (2002); Cal. Rules of Court, rule 5.552.) And this privacy interest would only be further compounded in cases where the juvenile record has been sealed, which requires the prosecution to file a motion to even <i>inspect</i> the file. (See Welf. & Inst. Code, §§ 781, subd. (a), 786, subd. (a) & (g)(1)(K)(i), and 786.5, subd. (a).) In this Office’s experience, litigants in juvenile cases pursuing RJA claims are primarily seeking information or records from other juvenile cases,	proactively address applicable legal standards. The committee did, however, endorse the commenter’s suggestion, in part, by adding specific orders to form JV-722 that explicitly allow a court to condition production of discovery on either its redaction or the imposition of a protective order. The committee appreciates this comment. The committee appreciates this comment.

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			which are, of course, confidential. Given that the forms are silent on the issue, this Office is concerned that the forms do not sufficiently alert the juvenile court to consider and address confidentiality as they are required to do pursuant to both section 745, subdivision (d) and the <i>Young</i> case. This could lead to the improper disclosure of juvenile records without giving the subjects of those records the appropriate notice and opportunity to be heard. Third, proposed form JV-722 appears to permit a court to order the disclosure of RJA discovery without having conducted a contested hearing. Item 7 allows a court to set such a hearing, but the form suggests that the order requiring disclosure could be checked without having such a hearing first. This Office maintains that the prosecution's right to due process and fairness requires the court to hold a full adversarial proceeding for RJA discovery requests where the prosecution has both notice and opportunity to present evidence and argument. (See <i>People v. Superior Court (Kaulick)</i> (2013) 215 Cal.App.4th 1279, 1297-1298.) Fourth and finally, this Office is concerned that the forms incorrectly suggest that in a final judgment, a freestanding motion for RJA discovery could be filed even though there is no on-going criminal action. “ ‘[T]here is no statutory authority for a trial court to entertain a postjudgment motion that is unrelated to any proceeding then pending before the court. [Citation.] Indeed, a motion is not an independent remedy. It is ancillary to an on-going action and implies the pendency of a suit between the parties and is confined to incidental matters in the progress of the cause. As the rule is sometimes expressed, a motion relates to some question collateral to the main object of the action and is connected with, and dependent on, the principal remedy. [Citation.] In most cases, after the judgment has become final, there is nothing pending to which a motion may attach.’ ”	The committee appreciates the comment and endorsed it in the proposal that was recirculated for comment by enabling a court to order a discovery hearing prior to making any determination of whether good cause for production of discovery has been shown. The committee appreciates the comment but chose not to endorse it in the proposal that was recirculated for comment because the commenter's concern appears to be unwarranted. Given that a request submitted on form JV-720 would either be in a pending case or in a case in which the applicant is requesting vacatur of their adjudication, a situation in which a freestanding motion for discovery would be filed without an on-going juvenile proceeding appears to be unlikely to occur for requests initially submitted using <i>Request for Relief Under</i>

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			(<i>People v. Picklesimer</i> (2010) 48 Cal.4th 330, 337, quoting <i>Lewis v. Superior Court</i> (2008) 169 Cal.App.4th 70, 76-77, internal quotation marks omitted.) Accordingly, while an RJA discovery motion can certainly be filed at any point during a pending case not yet reduced to final judgment (subject to the statute's timeliness provision), the same cannot be said in cases reduced to final judgment. The ability to file such a motion in a final judgment will require that the judgment first be "re-opened," either by the filing of a motion pursuant to section 1473.7 or the issuance of an order to show cause in a petition for writ of habeas corpus. Prior to those circumstances, there is no ability to file a motion for discovery in a final case because there is no on-going action. The forms do not make this clear to litigants and again will cause unnecessary litigation and consumption of resources to address. <u>The Proposed Forms' Timeliness Provisions</u> In its request for comments, the Committee asked whether or not to define in the forms what it means for an RJA motion to be "timely." It is this Office's position that the issue of timeliness is fact-intensive, case-by-case consideration that cannot be reduced to a "one size fits all" definition. The forms again oversimplify a complex legal analysis and incorrectly inform both litigants and the juvenile courts as to the proper standard. Section 745, subdivision (c) states that an untimely RJA motion may be deemed waived by the court. The statute does not itself define timeliness. Timeliness, however, has long been a point of analysis in a writ of habeas corpus. Given that RJA claims will be pursued by such a writ, the discussion of timeliness in the habeas corpus context is certainly relevant. "A criminal defendant, like any other party to an action, may not sit on his or her rights." (<i>In re Seaton</i> (2004) 34 Cal.4th 193, 199-200.) A petition	<i>the Racial Justice Act—Juvenile Adjudication</i> (form JV-720). The committee appreciates this comment. The committee appreciates this comment. The committee appreciates this comment. The committee appreciates this comment.

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			for writ of habeas corpus is timely if it filed without “substantial delay,” which is measured from the time the petitioner knew, or reasonably should have known of the legal claim and the information offered in support of that claim. (<i>In re Reno</i> (2012) 55 Cal.4th 428, 460-461.) If there is substantial delay in the filing of the petition, the court then determines whether the petitioner has shown good cause for the delay. (<i>Ibid.</i>) If there is no good cause, the petition is barred as untimely unless the petitioner can show one of four very narrow exceptions applies to the case. (<i>Ibid.</i>) This analysis applies to all petitions for writ of habeas corpus and provides useful guidance for evaluating timeliness in pending cases as well. Thus, in contradiction to what the proposed form suggests, the inquiry of timeliness is much greater than the date a person learned about the alleged RJA violation. The timeliness component considers also when the petitioner <i>should have</i> known about the claim and why it was not pursued sooner. It considers the diligence with which the claim was brought to court. The reasonableness of this diligence will turn on the complexity of both the facts and legal issues in the case. Accordingly, it is this Office’s position that there is no concrete definition of a “timely motion” that can be applied in every case. Though this Office believes that this provision would best be addressed in separate pleadings, if this Committee is inclined to include a timeliness component on the forms, they should prompt the litigant to explain and justify the diligence with which they pursued their claim and why it could not have been brought sooner. In conclusion, this Office has significant concerns the proposed forms given their incorrect or incomplete articulation of the application legal standards. Their current state will likely result in a high volume of frivolous motions and could mislead both litigants and courts as to the appropriate analysis.	The committee appreciates the comment and endorsed it in the proposal that was recirculated for comment, in part, by deleting item 4, Discovery of Violation, from <i>Request for Relief Under the Racial Justice Act</i> (form JV-720) and its corresponding reference to timeliness. The committee appreciates this comment.
7.	Silicon Valley De-Bug	NI	We are Silicon Valley De-Bug. A long standing non-profit organization that supports loved ones who are facing charges in criminal, immigration,	See the committee’s responses to the specific comments below.

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	by Cecillia Chavez, Andrew Bigelow, Alicia Chavez		or juvenile court. We have been supporting our community for over 20 years and through this time we have helped many of our community members navigate the intricacies of the court process. We attend court with our families, help communication with their defense, and help them understand how they can impact the outcome of their loved one's cases. We work primarily in Santa Clara County, but have also developed a network of community organizations across California that support families through a model we developed called Participatory Defense. We network with organizations across California from San Diego all the way to Contra Costa County. We were also part of the coalition to pass AB256 (The Racial Justice Act Retroactivity). It is through these experiences that we are writing our comments in regard to the proposed forms JV-720, JV-720-INFO, JV-722, and JV-723. Our overall observations and comments derive from direct experiences of youth going through the system. Because of changes in youth law in previous years, such as Prop. 57 and SB 1391, we have seen our youth go through a nuance of complications from starting in juvenile court, transferred or directed filed to adult court, and/or return back to juvenile court. These journeys are the lens in which we are seeing how these forms will be interpreted and understood by the intended audience. Aside from the request for the specific comments on the forms, we have comments on the intended populations that this is made for and the process in which the forms will be reviewed. First, we want to start off by agreeing that every individual who files a petition to review their RJA claim should be appointed counsel. The language of the Act itself is already confusing to adults trying to file retroactive claims themselves, if the intended audience are youth or young adults appointment of counsel should be a requirement so that they are properly advised as to what claims they can bring forward and how to fill out the forms. Secondly, the form JV-720 is a bit ambiguous in the matter as to what type of youth are eligible to submit this form. For example, we supported a youth, C.H, who was direct	The committee appreciates this comment. The committee appreciates this comment.

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			filed and convicted pre-Prop. 57 to a determinate term of 9 years. He was 15 years old at the time of arrest. The form stated that if the youth was under the age of 18 they would be eligible to file this claim, but because C.H. was convicted as an adult he would actually not be eligible to file this form. The direct file population is left out of this relief because their conviction was in adult court versus juvenile court. There should be clear language on the form JV-720 itself or the info sheet for the form as to who is eligible to file the claim. More recent changes with the closure of DJJ, adds a layer of complication in terms of where the youth was physically placed. Secure Youth Treatment Facility should be added to the commitment facilities in the eligibility criteria. Wording such as “ If you were sentenced to adult time your claim should be filed in adult court” or specify what was the last court that heard your case. Our third observation is in regard to the process of filing out the forms. Litigants in the adult courts first have to file a discovery motion to see if they have the necessary information to bring an RJA claim, then they go through the prima facie hearing, then the evidentiary hearing, with the goal of receiving a relief hearing. On the contrary to that, these forms are indicating that the youth should have already identified the violation prior to obtaining counsel or filing a discovery motion. There will be many challenges for youth to obtain their own records because their records are sealed and many of the times there were no transcripts created to the proceedings if there was no appeal filed. Also, we believe that the Section of “Discovery of Violation” should be removed because it will be confusing for youth who might learn of a violation years after their case was finalized. It takes a long time to get previous youth records; it could also affect their filing time. The forms don’t indicate what makes a claim timeliness or not or the reasons for the denial. The forms also give the impression that determinations of prima facie showings will be done without a hearing. And only after the court finds cause for disclosure of evidence will there be a hearing scheduled and after that by a merits hearing.	The committee appreciates this comment.

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			<i>Our comments to the specific questions are italicized.</i> 1. Does the proposal appropriately address the stated purpose? • <i>The proposal does address the stated purpose but it left out clarity for youth who were direct file or ultimately transferred to adult court.</i> 2. Is the language in the forms clear for self-represented litigants, especially for youth? Please provide any specific suggestions for improvements. • Instructions—Read Carefully ○ <i>Use this form if you are going or went to court because you allegedly committed an offense when you were under the age of 18 and you believe your case was affected by discrimination on the basis of race, ethnicity, or national origin.</i> ▪ <i>This section is not clear to the understanding if you were adjudicated as youth or were direct filed.</i> • The language is very broad for section 1 Eligibility	The committee appreciates this comment and endorsed it in the proposal that was recirculated for comment by recommending the addition of an additional paragraph to the answer to the question on the information sheet: “How do I file an RJA request?” The paragraph directs an applicant to file in criminal court if their last court date occurred in adult criminal court. The paragraph also includes hyperlinks to the adult application forms. The committee appreciates the comment and endorsed it in the proposal that was recirculated for comment by recommending the addition of an additional question to the information sheet: “Where should I file a request

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			○ I was committed to the Department of Juvenile Justice (DJJ) or the California Youth Authority (CYA) on or after January 1, 2015, based on this case. ▪ <i>There needs to be clear language that the youth was adjudicated to DJJ, CYA, and Secure Youth Treatment Facility (SYTF). We have a youth that was direct filed at 15 and was convicted as an adult but sent to DJJ.</i> ○ <i>This request is filed on or after January 1, 2026, and I was committed to DJJ or CYA based on this case.</i> ▪ <i>Add SYTF</i> • VIOLATION ○ I was charged with or found responsible for a more serious offense than people of other races, ethnicities, or national origins who have engaged in similar conduct and are similarly situated, and the prosecution more frequently sought or obtained adjudications (convictions) for serious offenses against people who share my race, ethnicity, or national origin in the county where the adjudications (convictions) were sought or obtained. ▪ <i>Make language easier to understand or have a glossary in the info page.</i> 3. Should the council develop forms for habeas corpus petitions in juvenile cases, including petitions based on RJA claims? • Yes, because it would give the opportunity to currently incarcerated youth to file a petitions.	under the RJA?” The corresponding answer directs an applicant to file in juvenile court if their last court date occurred in juvenile court and to file in adult criminal court if their last court date occurred in adult criminal court. The answer also includes hyperlinks to both the juvenile and adult application forms. The committee appreciates the comment but chose not to endorse it in the proposal that was recirculated for comment because youth adjudicated to an SYTF are ineligible to file a retroactive claim under the RJA, as currently drafted. (See Pen. Code § 745(j).) The committee appreciates this comment but did not recommend it in the proposal that was recirculated for comment because the information sheet was not intended to provide this level of detail. The committee appreciates this comment but did not endorse it in the proposal that was recirculated for comment because it did not believe that youth would commonly file habeas corpus petitions in juvenile cases.

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			4. Should the court appoint counsel for all unrepresented litigants? • Yes! 5. Should self-represented litigants be required to serve their requests for relief? • No, because they might not know what relief they want or best benefits them. 6. Should the single request form be split into multiple forms? • Yes, this way petitioners can file all their claims if they feel they have multiple RJA violations. 7. Should the two findings and orders forms be consolidated into a single form? • No, they should be separate. Additionally, there should be a hearing before each decision on the forms. 8. Are new rules relating to claims under the act in juvenile court necessary at this time? If so, what should the rules address? • No Comment. 9. Should the information sheet address any other topics? • Clear understanding of who is eligible to file the forms, due to different changes in youth law it could be confusing as to what court has jurisdiction to hear the claim. • A glossary of the terms used in the forms.	The committee appreciates this comment. The committee appreciates this comment but did not endorse it in the proposal that was recirculated for comment because it did not believe the suggested change addressed the stated concern. The committee appreciates this comment but did not endorse it in the proposal that was recirculated for comment because it did not believe the suggested change addressed the stated concern. The committee appreciates this comment. No response necessary. The committee appreciates this comment but did not recommend it in the proposal that was recirculated for comment because the information sheet was not intended to provide this level of detail.

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			10. Should item 1 on form JV-720 include a definition of a final “judgment,” and, if so, should that definition be added to the form itself or the information sheet? ● It should be added to the info sheet. 11. Should item 4 on form JV-720 include a definition of “not timely,” and, if so, should that definition be added to the form itself or the information sheet? ● This section should be removed. 12. Should item 5b on form JV-720 be a separately numbered, standalone item to improve its visibility on the form and to reduce its chance of being overlooked? ● Yes, it should be a separate section and it should also include other court actors such as District Attorney, Defense Counsel, and Police Officer. Thank you for your time and consideration of our comments:	The committee appreciates this comment but did not endorse it in the proposal that was recirculated for comment because it deleted the reference to final “judgment” in the information sheet. The committee appreciates this comment endorsed it in the proposal that was recirculated for comment by recommending the deletion of the suggested language. The committee appreciates this comment but chose not to endorse it in the proposal that was recirculated for comment because it felt that the suggested change was not applicable. Item 5b specifically refers to judicial recusal, not recusal for district attorneys, defense counsel, or police officers.
8.	Superior Court of California, County of Los Angeles by Robert Oftring, Director of Communications and Legislative Affairs	A	The following comments are representative of the Superior Court of California, County of Los Angeles, and do not represent or promote the viewpoint of any particular judicial officer or employee. In response to the Judicial Council of California’s “ITC SP24-07 Juvenile Law: Racial Justice Act,” the Superior Court of California, County of Los Angeles (Court), agrees with the proposal and its ability to appropriately address its stated purpose.	No response necessary. The committee appreciates this comment

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			The Court finds that the language in the forms is generally clear for self-represented litigants, including youth, but recognizes that the phrase “as soon as practicable” may not be interpreted or understood the same for everyone (JV-720-INFO, pg. 1). In addition, the Court is in agreement with the following: • The Council should develop forms for habeas corpus petitions in juvenile cases, including petitions based on RJA claims. • The Court should appoint counsel for all unrepresented litigants. • Self-represented litigants should be required to serve their requests for relief. • It would be helpful to have juvenile habeas corpus rules, similar to rules 4.545, 4.550, 4.551, and 4.552, to outline the process.	The committee appreciates this comment. The committee appreciates this comment but chose not to endorse it in the proposal that was recirculated for comment because it did not believe that youth would commonly file habeas corpus petitions in juvenile cases. The committee appreciates this comment. The committee appreciates this comment but did not endorse it in the proposal that was recirculated for comment because it felt that having the clerk’s office serve requests for relief submitted by self-represented litigants would further the purpose of the act. The committee appreciates this comment but did not endorse it in the proposal that was recirculated for comment because it did not believe that youth would commonly file habeas corpus petitions in juvenile cases.

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			• If possible, it would be helpful to provide litigants with timeline guidelines as to when the Court must rule on the JV-720-INFO form. • Definitions for a final “judgment” and “not timely” should be added to the information sheets and forms.	The committee appreciates this comment but did not recommend it in the proposal that was recirculated for comment because the information sheet was not intended to provide this level of detail. The committee appreciates this comment and endorsed the suggestion regarding final “judgment” in the proposal that was recirculated for comment, in part, by removing the reference to “final judgment” from option (a) under Item 1 on form JV-720. The committee now recommends that option (a) instead read “My juvenile court case is still pending, I am currently on juvenile probation, or I am in custody or placement because of a juvenile delinquency case The committee appreciates the comment and endorsed the suggestion regarding “not timely” in the proposal that was recirculated for comment, in part, by deleting item 4, Discovery of Violation, from <i>Request for Relief Under the Racial Justice Act</i> (form JV-720) and its corresponding reference to timeliness.
			• It is not necessary to separately number item 5b on form JV-720. • The single request form should not be split into multiple forms.	The committee appreciates this comment. The committee appreciates this comment.

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			- The two findings and orders forms should not be consolidated into a single form. Although the Court does not see any cost savings from the proposal, it anticipates minimal implementation requirements, which include but are not limited to: - Training for judicial assistants and clerical staff. - Creating macros and event codes in the case management system. - Developing policies, procedures, and reference materials. Lastly, the Court agrees that three months from Judicial Council approval of this proposal until its effective date will provide sufficient time for implementation and that this proposal would work well in courts of different sizes.	The committee appreciates this comment. The committee appreciates this comment. The committee appreciates this comment. The committee appreciates this comment.
9.	Superior Court of California, County of Orange by Katie Tobias, Operations Analyst	NI	<u>Does the proposal appropriately address the stated purpose?</u> Yes, the proposal appropriately addresses the stated purpose. <u>Is the language in the forms clear for self-represented litigants, especially for youth? Please provide any specific suggestions for improvements.</u> The language in the forms is clear for self-represented litigants, including youth. Recommend modifying the verbiage to the third bullet point in the Instructions box on the JV-720 to replace “probably” with “may be able to.” <u>Should the council develop forms for habeas corpus petitions in juvenile cases, including petitions based on RJA claims?</u>	The committee appreciates this comment. The committee appreciates this comment and has recommended the adoption of the recommended change in the proposal that was recirculated for comment. The committee appreciates this comment.

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			No, the volume does not justify the creation of forms for habeas corpus petitions. • <u>Should the court appoint counsel for all unrepresented litigants?</u> Yes, in Orange County unrepresented litigants are appointed respective counsel during court proceedings. • <u>Should self-represented litigants be required to serve their requests for relief?</u> No, the self-represented litigant should not be required to serve their requests for relief. This process should follow the juvenile record sealing process for the court clerk to distribute service to the appropriate parties. • <u>Should the single request form be split into multiple forms?</u> No; the request form should not be split, as confusion may arise and the chance of looking past the second part of the form may be greater, if separated. • <u>Should the two findings and orders forms be consolidated into a single form?</u> No; the two findings and orders forms should remain separate because it distinguishes the fact that the JV-722 addresses findings and orders made on the prima facie showing of the petition, and the JV-723 addresses findings and orders made after a hearing proceeding the petition. • <u>Are new rules relating to claims under the act in juvenile court necessary at this time? If so, what should the rules address?</u> No, new rules are not needed at this time. • <u>Should the information sheet address any other topics?</u>	The committee appreciates this comment. The committee appreciates this comment. The committee appreciates this comment. The committee appreciates this comment. The committee appreciates this comment. The committee appreciates this comment but chose not to recommend it in the

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			Yes, it may be beneficial to self-litigants if the “Do I need an attorney?” section in form JV- 720-INFO included information regarding obtaining an attorney after a JV-720 petition is filed and the costs in doing so. • <u>Should item 1 on form JV-720 include a definition of a final “judgment,” and, if so, should that definition be added to the form itself or the information sheet?</u> Yes, the definition of a final “judgment” should be added to the information sheet, to make it more understandable for self-litigants. • <u>Should item 4 on form JV-720 include a definition of “not timely,” and, if so, should that definition be added to the form itself or the information sheet?</u> Yes, the definition of “not timely” should be added to the information sheet, to make it more understandable for self-litigants. • <u>Should item 5b on form JV-720 be a separately numbered, standalone item to improve its visibility on the form and to reduce its chance of being overlooked?</u> No, the item does not need to be standalone because the space in between a and b is sufficient to be visible. The advisory committee also seeks comments from courts on the following cost and implementation matters: • <u>Would the proposal provide cost savings? If so, please quantify.</u>	proposal that was recirculated for comment because the information sheet was not intended to provide this level of detail. The committee appreciates this comment but chose not to endorse it in the proposal that was recirculated for comment because it deleted the reference to final “judgment” in the information sheet. The committee appreciates the comment but chose not to endorse it in the proposal that was recirculated for comment because it deleted the reference to final “judgment” in the information sheet, making the inclusion of a definition of “not timely” unnecessary. The committee appreciates this comment. The committee appreciates this comment.

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			The proposal would most likely not provide cost savings. <u>What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?</u> The implementation requirements would be brief training of clerk's office staff, consistent training with courtroom clerks, creating new procedures and bench guides, and adding new docket codes in case management systems. <u>Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?</u> Three months would most likely not be sufficient time for implementation as there are new forms to be introduced and staff to be trained. <u>How well would this proposal work in courts of different sizes?</u> Our court is a large court, and this could work for Orange County.	The committee appreciates this comment. The committee appreciates this comment. The committee notes that, under this year's calendar, courts will have two months to implement, and, based on comments from other courts, anticipates that this will be sufficient. The committee appreciates this comment.
10.	Superior Court of California, County of Riverside by Sarah Hodgson, General Counsel	A	General Comments on the proposal: In favor of the proposal. Generally, optional forms make things easier for litigants and the courts. Specific Comments Does the proposal appropriately address the stated purpose?	The committee appreciates this comment.

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			Yes, the development of the four new optional forms would assist litigants and the courts with claims under the Racial Justice Act. Is the language in the forms clear for self-represented litigants, especially for youth? Please provide any specific suggestions for improvement. Generally, the language used in the forms seems clear and should be easy to understand for self-represented litigants and minors. The information on the forms regarding the final group of individuals eligible for relief to begin on January 1, 2026, could be confusing since this is still over 18 months away. Perhaps item #1(d) on the JV-720 should be removed, and the forms modified later after January 1, 2026. Leaving the item on the forms now could result in a large number of petitions being filed where the person simply is not eligible yet, which would result in wasted court resources and time in filing and reviewing these types of petitions. Should the council develop forms for habeas corpus petitions in juvenile cases, including petitions based on RJA claims? Except for a few individuals, all Riverside County DJJ persons have been released, therefore, there is no real need for juvenile habeas corpus forms in Riverside County. Other counties may still have a larger need. Forms always make things more efficient for the public and the court. If it is determined that there is a need, then the forms should be created. Should the court appoint counsel for all unrepresented litigants? Yes, all litigants would have had counsel during their original juvenile case. The petitions could have discovery issues which most litigants may find difficult. It would be best for the litigants to have counsel. Ultimately, it would be more efficient for the court as well for all litigants to have counsel. However, this question does raise an issue regarding who to appoint, and whether counsel is able to accept that appointment (i.e., does that attorney have a contract that covers payment for RJA claims). Issues surrounding payment for appointed counsel may need to be resolved before the court can appoint counsel for unrepresented litigants.	The committee appreciates this comment. The committee appreciates this comment and has recommended the adoption of the suggested change in the proposal that was recirculated for comment. The committee appreciates this comment. The committee appreciates this comment.

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	Commenter	Position	Comment	Committee Response
			Should self-represented litigants be required to serve their requests for relief? No. The court has no objections to serving requests for self-represented litigants. The court has all contact information and existing business processes in place to handle service efficiently. Should the single request form be split into multiple forms? No. The single form seems sufficient. Should the two findings and orders forms be consolidated into a single form? No. From the court's perspective two forms is best. When a hearing is ordered set by the court, the Prima Facie form (JV-722) will be used to set a hearing and give notice of the hearing. Having the final orders after hearing on the form could complicate this process and be confusing to the public and court staff. Are new rules relating to claims under the act in juvenile court necessary at this time? If so, what should the new rules address? No. The forms seem sufficient. There will be virtually no juvenile habeas petitions, and any requests on existing cases will be made by the minor's attorney on that case either orally or via a written motion. Should the information sheet address any other topics? Yes. More information should be provided regarding the types of evidence that may be available for litigants, such as statistical evidence in the possession or control of the state. Unrepresented litigants may not know what information could be available and be discouraged from filing a request.	The committee appreciates this comment. The committee appreciates this comment. The committee appreciates this comment. The committee appreciates this comment. The committee appreciates this comment but did not recommend it in the proposal that was recirculated for comment because it felt that it would be impractical to develop an exhaustive list of commonly requested items and that the inclusion of such a list would make the form overly complex.

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	Commenter	Position	Comment	Committee Response
			Court reporter transcripts may be important evidence for many of these claims. Some litigants may not be familiar with the process for requesting court reporter transcripts, or more importantly, may not have the ability to pay for court reporter transcripts. How will requests for court reporter transcripts be handled when the litigant cannot afford to pay for them? Should these be paid for by the county? Should item 1 on form JV-720 include a definition of a final “judgment,” and, if so, should that definition be added to the form itself or the information sheet? The definition of final “judgment” could be useful to unrepresented litigants. The definition should be placed on the information sheet and the JV-720. Should item 4 on form JV-720 include a definition of a “not timely,” and, if so, should that definition be added to the form itself or the information sheet? The definition of “not timely” could be useful to unrepresented litigants. The definition should be placed on the information sheet and the JV-720. Should item 5b on form JV-720 be a separately numbered, standalone item to improve its visibility on the form and to reduce its chance of being overlooked? Yes, if the claim is based on statements or conduct of a judge, that judge must recuse themselves from the matter. Making the information regarding the judge stand out may help the judge to quickly identify cases where they would need to recuse themselves. This could help courts be more efficient in reassigning these requests to other judges.	The committee appreciates this comment but did not address it in the proposal that was recirculated for comment because the issue of payment for court reporter transcripts is beyond the scope of the proposal. The committee appreciates this comment but did not endorse it in the proposal that was recirculated for comment as it was no longer applicable because the final “judgment” language was deleted from <i>Request for Relief Under the Racial Justice Act—Juvenile Adjudication</i> (form JV-720). The committee appreciates this comment but did not endorse it in the proposal that was recirculated for comment because it deleted the reference to final “judgment” in the information sheet, making the inclusion of a definition of “not timely” unnecessary. The committee appreciates this comment but chose not to endorse it in the proposal that was recirculated for comment because it deemed that the reconfiguration was ultimately unnecessary.

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			Would the proposal provide cost savings? If so, please quantify? No. What would the implementation requirements be for courts-for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems? New procedures would need to be created, new filing codes for the documents, new hearing types, and new minute codes would need to be created in the case management system. A few hours of training may be required for clerk's office staff that would be filing and serving these requests, as well as the courtroom staff updating minutes, findings, and orders. Would three months days from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? Yes How well would this proposal work in courts of different sizes? The proposal should work well for courts of any size.	The committee appreciates this comment. The committee appreciates this comment. The committee appreciates this comment. The committee appreciates this comment.
11.	Superior Court of California, County of San Diego by Mike Roddy, Executive Officer	A	Specific Comments Q: Does the proposal appropriately address the state [sic] purpose? A: Yes. Q: Is the language in the forms clear for self-represented litigants, especially for youth? Please provide any specific suggestions for improvements. A: For the most part, yes. Specific suggestions for improvements are provided below.	The committee appreciates this comment. The committee appreciates this comment.

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			Q: Should the council develop forms for habeas corpus petitions in juvenile cases, including petitions based on RJA claims? A: No. We rarely receive habeas petitions in San Diego Juvenile Court. Q: Should the court appoint counsel for all unrepresented litigants? A: No. Counsel should be appointed only if the applicant makes a <i>prima facie</i> showing and the court sets a hearing. Q: Should self-represented litigants be required to serve their requests for relief? A: Yes. In addition, Forms JV-720 and JV-720-INFO should make it clear who is to be served – e.g., “After you file this form with the court, you must serve copies of your request on: ____.” It is highly unlikely that a self-represented applicant would know who should be served and how the service should be accomplished. Q: Should the single request form be split into multiple forms? A: No. Q: Should the two findings and orders forms be consolidated into a single form? A: No. Q: Are new rules relating to claims under the act in juvenile court necessary at this time? A: No.	The committee appreciates this comment and agrees that juvenile habeas petitions are not necessary. The committee appreciates this comment but did not endorse it in the proposal that was recirculated for comment because it believes that the early appointment of counsel would further the purpose of the act. The committee appreciates this comment but did not endorse it in the proposal that was recirculated for comment because it felt that having the clerk’s office serve requests for relief submitted by self-represented litigants would further the purpose of the act. The committee appreciates this comment. The committee appreciates this comment. The committee appreciates this comment.

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			Q: Should the information sheet address any other topics? A: Most of the RJA requests in San Diego Juvenile Court have been for disclosure of records. It is recommended that the information sheet address disclosure of records in more detail, including the legal limits of what records the court can order released. Per comments below, the Committee should also consider whether to add information regarding the applicant's right to appeal or seek rehearing after a decision denying the request. Q: Should item 1 on form JV-720 include a definition of a final "judgment," and, if so, should that definition be added to the form itself or the information sheet? A: Item 1.a. could be revised to read: "Judgment in my case (disposition, subsequent order, or ruling on motion to transfer) is not final." Q: Should item 4 on form JV-720 include a definition of "not timely," and, if so, should that definition be added to the form itself or the information sheet? A: See suggested revisions below for form JV-720, Item 4, and form JV-720-INFO, p. 1, right column, ¶ 3.	The committee appreciates this comment but did not recommend it in the proposal that was recirculated for comment because it felt that it would be impractical to develop an exhaustive list of commonly requested items and that the inclusion of such a list would make the form overly complex. In addition, the information sheet is not intended to provide that level of detail. The committee appreciates this comment but did not endorse it in the proposal that was recirculated for comment as it was no longer applicable because the reference to final "judgment" was deleted from <i>Request for Relief Under the Racial Justice Act—Juvenile Adjudication</i> (form JV-720). The committee recommends using "My juvenile court case is still pending, I am currently on juvenile probation, or I am in custody or placement because of a juvenile delinquency case" instead of "Judgment in my case is not final." The committee's specific responses are below.

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			Q: Should item 5b on form JV-720 be a separately numbered, standalone item to improve its visibility on the form and to reduce its chance of being overlooked? A: Yes.	The committee appreciates this comment but chose not to endorse it in the proposal that was recirculated for comment because it deemed that the reconfiguration was ultimately unnecessary.
			Q: Would the proposal provide cost savings? If so, please quantify. A: No.	The committee appreciates this comment.
			Q: What would the implementation requirements be for courts—for example, training staff ..., revising processes and procedures ..., changing docket codes in case management systems, or modifying case management systems? A: In addition to the examples already listed, courts would need to inform their judicial officers and justice partners (probation department, tribal agencies, attorney offices, CASA offices, et al.) of the new forms.	The committee appreciates this comment.
			Q: Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? A: Yes.	The committee appreciates this comment.
			Q: How well would this proposal work in courts of different sizes? A: This proposal should work well, regardless of the size of the court.	The committee appreciates this comment.
			General Comments	
			JV-720, Title – Consider replacing “ADJUDICATION” with “CASE” or “PROCEEDING” or another term that encompasses additional types of rulings in a juvenile justice matter. PC § 745(f) reads, “This section also	The committee appreciates this comment but did not recommend it in the proposal that was recirculated for comment

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			applies to adjudications <i>and dispositions</i> in the juvenile delinquency system and adjudications <i>to transfer</i> a juvenile case to adult court. JV-720 – Item 3.a. – Consider adding “(hostility)” after “animus,” i.e., “... exhibited bias or animus (hostility) towards me” JV-720 – Item 3.b. – Consider deleting “in-court” before “trial proceedings,” as it could be misinterpreted to mean the RJA does not apply to language or conduct in a remote (phone or videoconference) hearing. JV-720 – Item 4 – Consider replacing “grounds” with “violation” as unrepresented persons may not understand the legal significance of “grounds.” Revise the parenthetical as follows: <i>(A motion request that is not timely filed may be deemed waived. To be “timely,” the request must be made as soon as you learn of the alleged violation.)</i> JV-720 – Item 5.a. – Consider adding a hyperlink for the form MC-025 (like the hyperlink on page 1 for the JV-720-INFO form). JV-720 – Bottom of page 3 – Query: Should the applicant be required to sign the form under penalty of perjury? In other words, should the form contain verification language like other forms used for petitions or motions (“I declare under penalty of perjury ...”)? PC § 745(c) & (d) characterize the request for relief as a “motion.”	because the information sheet is not intended to provide that level of detail. The committee appreciates this comment but chose not to endorse it in the proposal that was recirculated for comment because it deemed that the addition was ultimately unnecessary. The committee appreciates this comment but chose not to endorse it in the proposal that was recirculated for comment because it deemed that the deletion was ultimately unnecessary. The committee appreciates this comment but chose not to endorse it in the proposal that was recirculated for comment because it deemed that the replacement was ultimately unnecessary. The committee appreciates this comment and endorsed it in the proposal that was recirculated for comment by adding the hyperlink as recommended. The committee appreciates this comment.

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		JV-720-INFO, p. 1, left column, ¶ 2, 3rd bullet point – Consider replacing “adjudicated for” with “found to have committed” – “... (1) you were charged with or adjudicated for found to have committed ... ; and (2) people ... tend to be charged with or adjudicated for found to have committed more serious” JV-720-INFO, p. 1, right column, ¶ 2 – Suggest changing “committed” to “sent” for consistency: If, however, ... you were never committed sent to DJJ or CYA, you may <i>not</i> file JV-720-INFO, p. 1, right column, ¶ 3 – Suggested changes for more user-friendly language (PC § 745(c) uses “learn” instead of “discover”): <u>If your request is not timely filed, it may be deemed waived. “Timely” means: (1) if If your case is currently now, the RJA requires you to must file your request as soon as practicable you can after you discovered learn that there may have been a violation of the RJA in your case. If, or (2) if your case is over and you are no longer at DJJ or CYA or on juvenile probation in your juvenile case, you should-must file a request under the RJA as soon as you discover learn or reasonably could have discovered learned that there may have been a violation.</u> JV-720-INFO, p. 1, right column, ¶ 4 – Suggested changes for more user-friendly language: Do I need an attorney? You do not have to have an attorney. No. You can file a request under the RJA yourself or you can ask an attorney to file a request for you. If you are not going to court on your case anymore is over, you can ask the court to appoint an attorney to represent you or you can contact the attorney who	The committee appreciates this comment and has incorporated it, with minor alterations, into the proposal that was recirculated for comment. The committee appreciates this comment and has incorporated it into the proposal that was recirculated for comment. The committee appreciates this comment but chose not to endorse it in the proposal that was recirculated for comment because it felt that the use of the statutory language was more appropriate than the use of more user-friendly language. The committee appreciates this comment and has incorporated it, in part, into the proposal that was recirculated for comment.

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		previously represented you to see if they can help you file a request. A public defender's office may also be able to <u>provide assistance to help</u> you. JV-720-INFO, p. 2, left column, ¶ 2 - Suggest changing "this offense" to "your case" to avoid any possible confusion, as the person's case might involve more than one offense. (The form must be filed in the last county where you went to court for <u>this offense your case</u>.) JV-720-INFO, p. 2, left column, ¶ 3, 1st bullet point – Suggested changes as follows (item 1 says "check all that apply"): Check the box(es) in item 1 <u>about your eligibility to file a request for relief under the RJA that apply to your case</u>. JV-720-INFO, p. 2, left column, ¶ 3, 4th bullet point – Suggested changes as follows: Fill in item 4 with the date you discovered the RJA was violated <u>in your case</u>. JV-720-INFO, p. 2, left column, ¶ 3, 5th bullet point – Suggested changes as follows: Fill in item 5 with facts that support <u>why you believe your claim that</u> the RJA was violated in your case. JV-720-INFO, p. 2, left column, ¶ 3, 8th bullet point – Suggested changes as follows:	The committee appreciates this comment. The proposal that was recirculated for comment deletes the reference to "this offense." The committee appreciates this comment but chose not to endorse it in the proposal that was recirculated for comment because it deemed that the change was ultimately unnecessary. The committee appreciates this comment but chose not to endorse it in the proposal that was recirculated for comment because the language in question was deleted from <i>Request for Relief Under the Racial Justice Act</i> (form JV-720). The committee appreciates this comment but chose not to endorse it in the proposal that was recirculated for comment because it deemed that the replacement was ultimately unnecessary. The committee appreciates this comment but chose not to endorse it in the proposal that was recirculated for comment

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			If you will need an interpreter <u>for a hearing, ask for one check the box and fill in the language</u> in item 7. JV-720-INFO, p. 2, right column, ¶¶ 1, 2 – Transpose the closing quotation mark and the period in the final sentence, i.e.: a standard of “more likely than not.” Suggested changes: The court will review your request and decide whether to hold a hearing. If the court <u>reviews your request and</u> does not schedule a hearing, it means you have not presented enough facts to establish a substantial likelihood that a violation of the RJA occurred. A “substantial likelihood” requires more than a mere possibility, but less than a standard of “more likely than not.” If the court <u>schedules conducts</u> a hearing, you may present evidence and testimony to support your request. JV-720-INFO, p. 2, right column, ¶ 4 – Query: Should information be provided about the person’s right to seek review of the decision (e.g., appeal or motion for rehearing), if any? Per PC § 1473.7(f), “An order granting or denying the motion is appealable under subdivision (b) of Section 1237 as an order after judgment affecting the substantial rights of a party.” JV-722, Title – Consider replacing “ADJUDICATION” with “CASE” or “PROCEEDING” or another term that encompasses additional types of rulings in a juvenile justice matter. PC § 745(f) reads, “This section also applies to adjudications <i>and dispositions</i> in the juvenile delinquency system and adjudications <i>to transfer</i> a juvenile case to adult court. JV-722, page 2, item 7a – Suggest replacing colon with a period.	because it deemed that the replacement was ultimately unnecessary. The committee appreciates this comment but chose not to endorse it in the proposal that was recirculated for comment because it deemed that the changes were ultimately unnecessary. The committee appreciates this comment and endorsed it in the proposal that was recirculated for comment by recommending the addition of language regarding appeals to the information sheet. The committee appreciates this comment but chose not to endorse it in the proposal that was recirculated for comment because it deemed that the changes were ultimately unnecessary. The committee appreciates this comment but chose not to endorse it in the proposal that was recirculated for comment

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			JV-722, page 2, item 7b – Recommend including more detail in the order for disclosure, with a place to include specific limits on disclosure and a place to specify any required redactions. Recommend adding a checklist for redactions that are routinely ordered (social security numbers, driver license numbers, identifying information about other minors) so they don’t have to be written every time. JV-723, Title – Consider replacing “ADJUDICATION” with “CASE” or “PROCEEDING” or another term that encompasses additional types of rulings in a juvenile justice matter. PC § 745(f) reads, “This section also applies to adjudications <i>and dispositions</i> in the juvenile delinquency system and adjudications <i>to transfer</i> a juvenile case to adult court.” (Italics added.) JV-723, page 1, item 2.a.(2) – Consider deleting “in-court” before “trial proceedings,” as it could be misinterpreted to mean the RJA does not apply to language or conduct in a remote (phone or videoconference) hearing. JV-723 – Recommend adding a place for post-hearing findings and orders on the disclosure of records. At least so far, the vast majority of RJA requests in San Diego Juvenile Court have been for disclosure of records, without a related allegation that the RJA has been violated. Detailed findings and orders that can be checked off, rather than written in, would be helpful on both the JV-722 and the JV-723. No additional Comments.	because it deemed that the change was unnecessary. The committee appreciates this comment but chose not to recommend it in the proposal that was recirculated for comment because it felt that it would be impractical to develop an exhaustive checklist of commonly ordered redactions and that the inclusion of such a list would make the form overly complex. The committee appreciates this comment but chose not to endorse it in the proposal that was recirculated for comment because it deemed that the changes were ultimately unnecessary. The committee appreciates this comment but chose not to endorse it in the proposal that was recirculated for comment because it deemed that the changes were ultimately unnecessary. The committee appreciates this comment but chose not to endorse it in the proposal that was recirculated for comment because it deemed that the findings and orders on the disclosure of discovery on <i>Findings and Orders After Initial Hearing on Request for Relief Under the</i>

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				<i>Racial Justice Act—Juvenile Adjudication</i> (form JV-722) was sufficient.