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CERTIFIED FOR PUBLICATION

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re A.H., a Person Coming Under the Juvenile Court Law.	
RIVERSIDE COUNTY DEPARTMENT OF PUBLIC SOCIAL SERVICES, Plaintiff, v. C.D. et al., Defendants; THE SOBOBA BAND OF LUISENO INDIANS, Intervener and Appellant. C.R., Objector and Respondent.	E086667 (Super. Ct. No. DPRI2300462) OPINION

APPEAL from the Superior Court of Riverside County. Dorothy McLaughlin, Judge, and Malvina Ovanezova, Temporary Judge. (Pursuant to Cal. Const., art VI, §21.)

Reversed with directions.

Berkey Williams, Michele Fahley, and Rovianne A. Leigh, for Intervener and Appellant.

Marisa L.D. Conroy, under appointment by the Court of Appeal, for Objector and Respondent.

I.

INTRODUCTION

The Soboba Band of Luiseno Indians (Tribe) appeals the juvenile court's June 9, 2025, order denying its request for disclosure of A.H.'s legal guardian's psychological evaluation report (psychological evaluation). The Tribe requested the psychological evaluation because of concerns that the mental health of A.H.'s guardian was interfering with her ability to care for A.H., who is an enrolled tribal citizen child. The Tribe contends that the juvenile court's denial of its request for the psychological evaluation violated its presumptive right to view the report. The Tribe requests this court to order release of the psychological evaluation to the Tribe.

We agree that the Tribe has a right to A.H.'s guardian's psychological evaluation. We therefore reverse the order denying the Tribe's request for the psychological evaluation, with directions the juvenile court order release of it to the Tribe.

II.

FACTS AND PROCEDURAL BACKGROUND

A.H. is an enrolled tribal citizen of the Tribe, as are his biological father and his guardian, who is A.H.'s paternal grandmother (Guardian). The Tribe intervened in A.H.'s

guardianship proceedings in June 2022, and in the instant dependency proceedings in January 2024. A.H.'s mother is an enrolled citizen of the Pala Band of Mission Indians. At birth in 2010, A.H.'s biological parents were unable to properly care for him, resulting in the Riverside Superior Court, Probate Division, granting Guardian's petition for guardianship over A.H. in January 2011.

During Guardian's care of A.H., there were six child welfare referrals because of her failure to properly care for A.H., culminating in the Riverside County Department of Public Social Services (DPSS) filing on December 19, 2023, a petition for juvenile dependency against A.H.'s mother, father, and Guardian, under Welfare and Institutions Code section 300, subdivision (b)(1)[1] (failure to protect). The Tribe's social service department had been involved with A.H. and Guardian since before 2020, when the probate court brought to the Tribe's attention Guardian's issues caring for A.H.

During the guardianship proceedings, it became apparent to the Tribe that Guardian and A.H. were closely bonded, but Guardian seemed incapable of understanding A.H.'s need for educational and medical services or the probate court's orders to provide his medical and educational records. This led to the Tribe concluding that the juvenile court should sustain the juvenile dependency petition allegations and order a psychological evaluation of Guardian to determine whether she could properly care for A.H.

[1] Unless otherwise noted, all statutory references are to the Welfare & Institutions Code.

The petition alleged that Guardian failed or was unable to supervise and protect A.H. adequately, and was unable to provide regular care for A.H. because of mental illness, a developmental disability, or substance abuse. The petition further alleged that she demonstrated limited ability to parent A.H. due to instability in housing and failure to meet A.H.'s educational and medical needs. Guardian allegedly failed to obtain educational support services for A.H., to address his academic delays. In addition, Guardian failed to ensure he maintained regular enrollment and attendance at school. A.H. reportedly missed 75 percent of the prior school year.

At the January 4, 2024, detention hearing, the court found a prima facie case but did not detain A.H. The court allowed him to remain with Guardian. In violation of court orders, Guardian failed to appear in court with A.H. at hearings on January 4, and 29, 2024, and at the jurisdiction/disposition hearing on February 15, 2024. In addition, she failed to contact her attorney, and A.H. missed several medical appointments related to his heart condition. He also continued to miss the majority of school and was failing his classes. Tribal Family Services was very concerned about A.H.'s welfare and safety. As a consequence, on February 15, 2024, the jurisdiction/disposition hearing was continued and A.H. was ordered detained.

In March 2024, DPSS filed a first amended petition, alleging that Guardian failed to make A.H. available to the court and DPSS, and his whereabouts were unknown. The amended petition added that Guardian failed to address A.H.'s ongoing medical needs and health condition by not following up with critical medical appointments and failing

to give him his prescribed medication for his chronic heart condition. The Tribe's attorney reported that Guardian's problematic conduct had been occurring for years, and the Tribe had been trying for years to get a psychological evaluation of Guardian.

Upon locating Guardian, in March 2024, DPSS filed a second amended petition, deleting the allegations that A.H. could not be located and that Guardian failed to provide A.H. with his medication. In March 2025, The Tribe filed a declaration stating its concerns with Guardian, including her failure to care for A.H.'s medical condition and support his academic needs.

At the contested jurisdiction/disposition hearing on April 23, 2024, the court found true the allegations in the second amended petition, removed A.H. from Guardian, and ordered reunification services for Guardian. The court found ICWA applied. The parties stipulated to the Tribe's expert statement, in which the expert stated that the Tribe and DPSS were working together to develop an appropriate case plan for A.H. and Guardian. The Tribal expert agreed with the case plan and concluded that A.H. would suffer serious emotional or physical harm if left in Guardian's care.

The case plan required Guardian to participate in counseling, parenting, and on-demand drug testing. The plan also required medical visits and medication management for A.H. The Tribe's attorney stated that over the course of the past four years, it became apparent that Guardian was "not capable of understanding the importance and the need for the educational and medical services to be provided." The Tribe's attorney further stated that a psychological evaluation of Guardian was necessary to determine what was

causing Guardian's inability to care properly for A.H. Guardian argued that there was no allegation that she suffered from a mental disorder and denied she suffered from any such disorder.

At the jurisdiction/disposition hearing on April 23, 2024, the court ordered a psychological evaluation for Guardian, "for case planning purposes only." Guardian did not object to the psychological evaluation or to DPSS's request that Guardian sign a release of information. Guardian delayed scheduling and completing the psychological evaluation until November 11, 2024.

In March 2025, the Tribe filed a declaration stating its concerns about Guardian, including her failures to care for A.H.'s serious medical condition and support his academic needs. The Tribe requested a copy of the psychological evaluation, including at the 12-month review hearing on March 26, 2025. Guardian objected to its release to the Tribe, noting it was not filed with the court. The Tribe stated it was not requesting that the evaluation be filed with the court. The court denied without prejudice release of the evaluation to the Tribe.

In April 2025, the Tribe renewed its request for the evaluation by filing a petition request, relying on federal and state law (§ 827, subd. (f); Cal. Rules of Court, rule[2] 5.552; 25 U.S.C. §1912(c); 25 U.S.C. §3205; 42 U.S.C. §§ 1320d, *et seq.*,[3] 164.512).

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[2] All rule references are to the California Rules of Court.

[3] The Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 United States Code section 1320d et seq.; Pub.L. No. 104-191 (Aug. 21, 1996) 110 Stat. 1936.

In May 2025, A.H. was removed from his nonrelative extended family member placement because of unsupervised contact between A.H. and Guardian. Also, concerning texts between Guardian and a DPSS social worker reportedly demonstrated that Guadian had not addressed her worsening anger issues.

On June 5, 2025, the Tribe filed a motion to terminate guardianship pursuant to section 728 and rule 5.620(e), based on increased concerns with Guardian's ability to provide safe, stable home and meet A.H.'s medical, social-emotional, mental health, and educational needs. Guardian reportedly had a history of evading DPSS and the court, including by hiding A.H. Guardian's failure to take A.H., a "medically fragile child," to his cardiologist appointments and to pick up his medications resulted in A.H. being admitted to the hospital to monitor his condition. Guardian also reportedly acted impulsively and was unable to control her anger. In March 2024, she was ordered to submit to alcohol and drug testing but did not complete testing until five months later. Therefore, the test results were deemed unreliable. Dr. Garett, the psychological evaluator, recommended Guardian participate in counseling and receive home support services.

During the June 9, 2025, hearing on the petition for release of Guardian's psychological evaluation, Guardian objected to its release to the Tribe, noting that there was no evidence that a "hard copy" of it had been provided to DPSS. It also had not been filed with the court. Guardian's counsel acknowledged that it had been provided to Guardian's counsel and county counsel. A.H. and DPSS did not object to release of the

report. At the hearing, the Tribe noted that DPSS's 12-month report contained information from the psychological evaluation, including recommendations. The Tribe later noted that on November 11, 2024, Guardian completed her psychological evaluation performed by Dr. Garett.

During the June 9, 2025, hearing, DPSS informed the court that it was likely that a copy of the psychological evaluation was in the social worker's possession. The Tribe stated that it was requesting a copy of Guardian's psychological evaluation for purposes of monitoring and maintaining her guardianship, as the Tribe had done for many years. But there was an apparent problem in continuing the guardianship because of Guardian's failure to address her mental health issues. The Tribe noted that its focus was on the child, and it was entitled to the evaluation because the Tribe was a party entitled to understand what was going on with Guardian and A.H. The Tribe added that the Health Insurance Portability and Accountability Act of 1996 (HIPAA)[4] authorized disclosure of confidential psychological records when there is a valid court order.

The juvenile court denied the Tribe's request for the psychological evaluation on the grounds that it was ordered "for case planning purposes only and not for any other purpose, as well as the fact that there [weren't] any compelling reasons to release the information to the tribe." The court added that "part of the goal is to have the [d]epartment's social worker to work with the tribal social worker to ensure that there's

[4] 42 United States Code section 1320d et seq.; Pub.L. No. 104-191 (Aug. 21, 1996) 110 Stat. 1936.

active efforts done with the case plan and reuniting or even placement with this child. I don't think that psychological report will assist in seeing if whether or not the services are working. They either are working, or they are not. The psychological evaluation will not say, well, what's the reason why? That is not how that works."

III.

ACCESS TO PSYCHOLOGICAL EVALUATION UNDER SECTION 827

The Tribe contends the juvenile court erred in denying its request for Guardian's court-ordered psychological evaluation. Guardian argues that the Tribe waived this contention by not objecting at the six and 12-month review hearings to the case plan and the juvenile court's finding of reasonable services.

We conclude there was no waiver. Even though the juvenile court ordered Guardian's psychological evaluation for "case planning purposes only," there was no waiver because objecting at the six and 12-month hearings to the case plan and reasonableness of services, are matters that are irrelevant and not dispositive of whether the Tribe has a right to the psychological evaluation. Furthermore, regardless of whether the case plan and services were adequate, the Tribe has a continuing right to the psychological evaluation, as discussed below. Therefore, the Tribe did not waive its contention that it is entitled to the psychological evaluation by not objecting at the six and 12-month review hearings to the case plan and services.

In addition, without an opportunity to view the psychological evaluation, the Tribe was deprived of knowing the findings and conclusions stated in the evaluation that may have provided the Tribe with grounds to object to the case plan and services. We therefore conclude there was no waiver of the Tribe's contention it is entitled to the psychological evaluation.

A. *Release of the Psychological Evaluation Under Section 827*

The Tribe contends that under section 827, it is presumptively entitled to the evaluation, without being required to file a petition requesting release of the evaluation to the Tribe. We agree that under section 827, subdivisions (a) and (f), the Tribe is authorized to view Guardian's psychological evaluation. We also agree that the Tribe was not required to file a petition requesting a court order for authorization because the Tribe is presumptively entitled to the evaluation under section 827, subdivision (a)(1)(K).

When construing statutes such as section 827, "[o]ur primary concern is giving effect to the intended purpose of the provisions at issue. [Citation.] In doing so, we first analyze provisions' text in their relevant context, which is typically the best and most reliable indicator of purpose. [Citations.] We start by ascribing to words their ordinary meaning, while taking account of related provisions and the structure of the relevant statutory and constitutional scheme. [Citations.] . . . Finally, we apply independent judgment when construing constitutional and statutory provisions." (*California Cannabis Coalition v. City of Upland* (2017) 3 Cal.5th 924, 933-934.)

We accordingly look to the applicable statutes and the juvenile dependency scheme as a whole, particularly as to tribes. There does not appear to be any case law directly on point, but juvenile dependency statutory law, construed in the context of the state and federal juvenile dependency scheme as a whole, is sufficiently clear that the Tribe is entitled to view confidential juvenile records that are material to a dependency case, such as the psychological evaluation.

We begin with the understanding that DPSS is the county agency with administrative responsibility for providing child welfare services. As such, it is the custodian of confidential child welfare and social services records pertaining to minors. (§ 10850; Pen.Code, § 11167) The Legislature has enacted a statutory scheme governing access to juvenile records. There is a strong public policy of confidentiality of juvenile records. Section 827 sets forth detailed provisions to protect this confidentiality and specifies who is authorized to inspect juvenile records. (*J.E. v. Superior Court* (2014) 223 Cal.App.4th 1329, 1337.) Section 827's confidentiality provisions apply broadly to petitions, reports, and other documents compiled in a juvenile dependency investigation or proceeding. (§ 827, subd. (e); *In re Elijah S.* (2005) 125 Cal.App.4th 1532, 1549-1553 (*Elijah S.*).)

Here, under section 827, subdivision (a)(1)(E), (F), and (K), the parties' attorneys, the juvenile court, and the children's multidisciplinary personnel team members have presumptive authority to receive and review Guardian's psychological evaluation, which the trial court ordered "for planning purposes." The trial court ordered a psychological

evaluation of Guardian's ability to care for A.H. and provide a safe home environment for him because there was evidence that she was not providing him with adequate, proper care.

Although the Tribe is not listed in section 827, subdivision (a)(1) as one of the persons authorized to inspect confidential juvenile case file records, subdivision (f) provides presumptive authorization for the Tribe. Section 827, subdivision (f) states that "[t]he persons described in subparagraphs (A), (E), (F), (H), (K), (L), (M), and (N) of paragraph (1) of subdivision (a) include persons serving in a similar capacity for an Indian tribe, reservation, or tribal court when the case file involves a child who is a member of, or who is eligible for membership in, that tribe."

Section 827, subdivision (a)(1), in relevant part, authorizes inspection of a confidential case file by the following individuals:

"(E) The attorneys for the parties, judges, . . . and law enforcement officers who are actively participating in . . . juvenile proceedings involving the minor."

"(F)(i) The county counsel, city attorney, or any other attorney representing the county child welfare agency in dependency proceedings. [¶] (ii) The county counsel or city attorney representing the child welfare agency . . . in connection with the administration or review of child welfare . . . services provided by the agency or department to the subject of the case file or to that person's sibling, parent, or legal guardian."

"(K) Members of children's multidisciplinary personnel teams, persons, or agencies providing treatment or supervision of the minor."

Section 827, subdivisions (a)(1) and (f), provide the Tribe, its social services agency, and its social workers with presumptive authorization to inspect A.H.'s confidential juvenile case file, because the Tribe's social services agency, social services workers, and attorneys act in the same or similar capacity as does DPSS, its social workers, and attorneys.

Section 827, subdivision (a)(1)(K), provides the Tribe, its social services agency, and social services workers, as members of A.H.s multidisciplinary personnel team with presumptive authorization to view confidential juvenile documents, such as the psychological evaluation under section 18961.7.

Section 18961.7, subdivision (a) provides that, "[n]otwithstanding any other law, a county may establish a child abuse multidisciplinary personnel team within that county to allow provider agencies to share confidential information in order for provider agencies to investigate reports of suspected child abuse or neglect . . . or *for the purpose of child welfare agencies making a detention determination*." (Italics added.) Subdivision (b)(1)(B)(vii) states that "[t]he team may include, but shall not be limited to:" "In the case of an Indian child, a representative from the child's tribe, including, but not limited to, a tribal social worker, tribal social services director, or tribal mental health professional." Section 18961.7, subdivision (d) further states that "[a] person designated as a team member pursuant to this subdivision may receive and disclose relevant

information and records, subject to the confidentiality provisions of subdivision (f)." (Italics added.) Tribal representatives and social workers, as members of A.H.'s multidisciplinary personnel team, thus were entitled to receive relevant confidential records, such as the psychological evaluation, because the Tribe was presumptively authorized to do so under section 827, subdivisions (a)(1)(K) and (f).

The record shows that a Tribal social worker and representative attended multidisciplinary personnel team meetings. The team was referred to as a Child and Family Team, which met throughout the juvenile dependency proceedings and provided recommendations used to develop the case plan. The record further shows that the Tribe was actively involved in A.H.'s juvenile dependency case and monitored his probate case for years, even before the dependency case was filed. The Tribe, which intervened in this case, requested the juvenile court to order a psychological evaluation of Guardian because of the Tribe's concern that Guardian did not have the capability to adequately care for A.H., thereby causing harm to A.H. and risking future serious harm if placed with Guardian.

Under ICWA, tribes have the right to look after their Indian children based on the tribes' inherent sovereign authority over internal domestic affairs, such as child rearing and protection of the health, safety, and welfare of its members or citizens. (§ 224, subd. (a)(1); *Santa Clara Pueblo v. Martinez* (1978) 436 U.S. 49, 56.) Congress enacted ICWA in 1978 in response to "rising concern in the mid–1970's over the consequences to Indian children, Indian families, and Indian tribes of abusive child welfare practices that resulted

in the separation of large numbers of Indian children from their families and tribes through adoption or foster care placement, usually in non-Indian homes." (*Mississippi Band of Choctaw Indians v. Holyfield* (1989) 490 U.S. 30, 32; *In re Isaiah W.* (2016) 1 Cal.5th 1, 8.) ICWA therefore declared that "it is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture . . . ." (25 U.S.C. § 1902; *In re Isaiah W.*, *supra*, at pp. 8-9.)

Consistent with these policies and legislative intent to allow Tribes to protect the best interests of Indian children, we conclude that the Tribe was entitled to inspect Guardian's psychological evaluation without filing a petition request or obtaining a court order. The juvenile court thus erred in requiring the Tribe to file a petition requesting the evaluation and then denying it.

B. *Filing the Psychological Evaluation in the Case File*

Guardian argues that the Tribe has not established that section 827 applies because there is no psychological evidence the evaluation was filed with the juvenile court in the "case file." In addition, it is unknown if the evaluation is in DPSS's possession, if there was a written, rather than verbal report, or if the written report still exists.

Section 827, subdivision (a)(1) states that a "case file" may be inspected only by specified individuals and entities, such as the child, the child's parents, DPSS and its staff, the parties' attorneys, the court, members of the child's multidisciplinary personnel team, and persons or agencies providing treatment or supervision of the child. (§ 827, subd. (a)(1)(A)-(W).)

Consistent with section 827, rule 5.552 (a) similarly provides: "[A] living child's juvenile dependency case file may be obtained or inspected, and information from the file may be disclosed, only in accordance with section[] 827 . . . . With the exception of those persons permitted to inspect juvenile case files without court authorization under section[] 827 . . . , every person or agency seeking to inspect or obtain . . . a living child's dependency case file must petition the court for authorization using . . . *a Living Child's Juvenile Dependency Case File* (form JV-570)." (Italics added.)

Guardian argues that subdivision (e) of section 827, does not require disclosure of the psychological evaluation because there is no evidence in the record that the evaluation was "retained by" by the social worker. Section 827, subdivision (e) provides: "a 'juvenile case file' means a petition filed in a juvenile court proceeding, reports of the probation officer, and all other records . . . filed in that case or made available to the probation officer in making the probation officer's report, or to the judge . . . , and thereafter retained by the probation officer, judge . . . ."

This statute refers to "all other documents" in the "case file," which would include the psychological evaluation retained or available to judges and probation officers. Probation officers are considered the equivalent of social workers under rule 5.502 (31), which states that "'Probation officer,' in section 300 proceedings, includes a social worker in the county agency responsible for the administration of child welfare."

As explained in *In re Ashley M.* (2003) 114 Cal.App.4th 1, at page 8, "The duties to furnish child welfare services and to provide reports and recommendations to the juvenile court are actually placed by statute upon 'the social worker.' The juvenile court law originally called for various tasks to be performed by the *probation officer.* [Citation.] . . . Later, the Legislature authorized each county board of supervisors to delegate the duties of the probation officer under the juvenile dependency laws to the county welfare department. (§§ 272, 306.) Now, by statute, each county's welfare department is required to have a specialized unit for the administration of child welfare services. (§§ 10800, 16500, 16501.) And most provisions of the juvenile dependency law have been changed so that the term 'probation officer' is replaced by 'social worker.' (Stats.1998, ch. 1054.) The terms are now deemed interchangeable. (Cal. Rules of Court, rule 1401(a)(21) & (29).) The term 'social worker' within the juvenile dependency law obviously means the county's social services agency to which the duties formerly assigned to the probation officer have been delegated."

Section 827, subdivision (e), which states that "all other records . . . filed in that case or made available to the probation officer in making the probation officer's report, or

to the judge . . . , and thereafter retained by the probation officer, judge . . . ," would thus encompass the court ordered psychological evaluation, which was available to the court and DPSS social workers, and likely retained by DPSS.

It is undisputed that, consistent with the juvenile court's common practice, Guardian's psychological evaluation was not filed with the court. There is evidence, however, that DPSS was provided with Guardian's written psychological evaluation, DPSS reviewed it, and DPSS has a copy of it in its possession or has access to it from the evaluator. Neither DPSS nor Guardian has provided any evidence to the contrary. DPSS's 12-month hearing report filed with the court summarizes information in the psychological evaluation. DPSS states in the 12-month hearing report filed on March 13, 2025, that "[o]n November 11, 2024, [Guardian] completed a Psychological Evaluation with Dr. Garett. Dr. Garett recommended that [Guardian] should complete ongoing counseling with a Licensed Therapists[sic]. Dr. Garett indicated that [Guardian] will have to display a stable attitude about [A.H.] regarding both his medical care and his schooling in order to be a long-term Guardian of her grandson moving forward."

DPSS further states in the report that, "[a]lthough [Guardian] has completed Parenting Education, as well as [s]he completed a Psychological Evaluation, and Medically Fragile training[,] [t]he Department remains concerned for [Guardian's] mental health stability as Dr. Garett recommended that she continue[] counseling and in home support services. He also report[ed] that [Guardian] would need support to learn how to cope with her current living situation while providing appropriate parenting for [A.H.],

including meeting all of his medical needs as [A.H.] is a medically fragile child." In addition, during the June 9, 2025, hearing on the Tribe's petition for release of the psychological evaluation, DPSS's counsel informed the court that it was likely that a copy of the psychological evaluation was in the DPSS social worker's possession.

Guardian has not provided any persuasive authority for the proposition that section 827 does not apply merely because the psychological evaluation was not filed with the court. If that were the case, parties could avoid disclosing reports to the Tribe simply by not filing them with the court. Even though the psychological evaluation was not filed with the juvenile court, its contents were summarized in DPSS's 12-month hearing report filed on March 13, 2025. Therefore, the Tribe was entitled to inspect it because the evaluation was court-ordered, DPSS reviewed the psychological evaluation report, and the report recommendations were relied upon by DPSS and the juvenile court.

Elijah S., *supra*, 125 Cal.App.4th at pages 1551-1552, supports this proposition. In *Elijah S.*, the court concluded that, on its face, the statutory definition of "juvenile case file," within the meaning of section 827, subdivision (e), "necessarily include reports or other written statements by social workers, probation officers, child protective investigators and public agency personnel involved in investigating a suspected case of neglect or abuse concerning a child coming within the scope of section 300." (*Elijah S.*, *supra*, pp. 1551-1552.)

As noted in *Elijah S.*, "[t]hese sorts of written reports and documentation are not always required to be filed directly with the juvenile court, and are frequently under the control of the applicable county agencies rather than in the possession of the juvenile court. [Citations.]" (*Elijah S.*, *supra*, 125 Cal.App.4th at p. 1552.) The *Elijah S.* court added that, "By the same token, neither is there any indication that documents generated or maintained by social workers, probation officers and public agency personnel with respect to *suspected* cases of child neglect or abuse must be filed with the juvenile court *before* they may be included in the definition of 'juvenile case files' subject to release under section 827, subdivision (a)(2). We conclude that the term 'juvenile case file,' as defined and used in section 827, 'covers a wide range of records, including agency files where no juvenile court proceedings have been instituted and the matter is handled informally. [Citations.]' (87 Ops.Cal.Atty.Gen.[72,] 75-76.)" (*Elijah S.*, *supra*, at p. 1552.)

Although this case is a juvenile dependency case, unlike in *Elijah S.*, which is a juvenile delinquency case, nevertheless, *Elijah S.* supports the proposition that a material document in a juvenile proceeding need not be filed with the court in order for it to be subject to disclosure under section 827. According to *Elijah S.*, not filing such a document with the court does not preclude an authorized individual under section 827, subdivision (a), such as the Tribe, from access to the confidential document. (*Elijah S.*, *supra*, 125 Cal.App.4th at p. 1552.)

The Tribe notes that *In re B.F.* (2010) 190 Cal.App.4th 811 (*B.F.*) is the only published case addressing disclosure of a psychological evaluation in a juvenile dependency proceeding, but *B.F.* is not directly on point. The psychological evaluation was of the children's mother, not their guardian. Also, the children's de facto parents, not a tribe, were seeking the mother's evaluation report. In addition, the psychological evaluation in *B.F.* was filed with the juvenile court.

In *B.F.*, *supra*, 190 Cal.App.4th 811, the court held that the de facto parents were not entitled to the mother's court-ordered psychological evaluation. The de facto parents requested release of the mother's psychological evaluation on the grounds it was necessary in caring for the children, understanding the children's psychological needs, and gaining insight into the children's family history of mental health issues. (*Id*. at pp. 815-817.) The court in *B.F.* disagreed, concluding that the juvenile court abused its discretion in authorizing release of the evaluation because de facto parents are not listed in section 827 as presumptively authorized to receive confidential juvenile records. The *B.F.* court further concluded that there was no compelling reason to release the evaluation to the de facto parents or that the release was in the children's best interest. (*B.F.*, *supra*, at pp. 820-821.)

B.F., *supra*, 190 Cal.App.4th 811, is not dispositive. Here, the Tribe was entitled to Guardian's evaluation because the Tribe needed to review it for the purpose of carrying out its responsibilities overseeing A.H.'s care, including determining why Guardian was not properly caring for A.H. and whether there were additional services that might

remedy the problem so that A.H. could return to Guardian.

Unlike in *B.F.*, the Tribe, which was requesting the psychological evaluation, was not a third party. The Tribe was an intervening party and a sovereign Native American government carrying out its social services responsibilities on behalf of the Tribe and its child members. In addition, the Tribe was presumptively authorized to view the evaluation under section 827, unlike the *B.F.* de facto parents. Rule 5.534(e) provides: "The tribe of an Indian child is entitled to intervene as a party at any stage of a dependency proceeding concerning the Indian child."

Rule 5.534 also authorizes a tribe of an Indian child to intervene in a juvenile dependency proceeding, and even if it does not, the court may permit an individual affiliated with the tribe to "[e]xamine all court documents relating to the dependency case." (Rule 5.534(e)(2)(D).)

In addition, the Tribe, which intervened in A.H.'s juvenile dependency case, is entitled to the psychological evaluation under section 224. Section 224, subdivision (f)(1) which states: "In any proceeding in which the federal Indian Child Welfare Act of 1978 applies, the Indian child's tribe shall have the right to examine all reports or other documents filed with the court, including, but not limited to, the reports or other documents upon which any decision to place the Indian child in the custody of someone other than a parent or Indian custodian, or terminate parental rights, will be based." This statute refers to documents "filed with the court."

Although Section 224, subdivision (f)(2) does not apply here because the Tribe intervened in the instant case, and subdivision (f)(2) refers to a tribe that has not intervened, we note that subdivision (f)(2) states that the tribe's representatives "shall have the right to inspect the case file . . . , and representatives of the Indian child's tribe . . . have the right to copies of documents contained in and *information related to* the juvenile case file, subject to any other confidentiality laws." (Italics added.)

Section 224, subdivision (f)(2) suggests that, although not stated in subdivision (f)(1), the Tribe similarly has the right to "information related to the juvenile case file," including the psychological evaluation, even if it was not filed with the court. There does not appear to be any logical reason why a Tribe that has not intervened would have the right to such related information, but would not have the same right to related information if it intervened. It is reasonable to conclude that the language that the Tribe was entitled to "information related to the juvenile case file" likely was not included in subdivision (f)(2) because it is sufficiently clear, and need not be stated, that the Tribe, as an intervening party, is entitled to information related to the juvenile case file, including the psychological evaluation.

Viewing sections 224, 827, ICWA, and the juvenile dependency statutes as a whole, we conclude that, regardless of whether a tribe has intervened in a juvenile dependency case or a document intrinsic to a juvenile dependency proceeding has been filed with the court, the Legislature intended that an Indian child's tribe is entitled to receive copies of such "documents contained in and information related to the juvenile

case file." (§ 224, subd. (f)(2).) Therefore, the Tribe was entitled to view the Guardian's psychological evaluation, which contained significant information related to A.H.'s juvenile dependency proceeding. As reflected in DPSS's 12-month hearing report, DPSS relied on information in the psychological evaluation when considering whether A.H. could be safely returned to Guardian.

Federal law is consistent with state law authorizing release of the Guardian's psychological evaluation to the Tribe. Title 25 U.S.C. §1912(c) of ICWA, provides that "[e]ach party to a foster care placement or termination of parental rights proceeding under State law involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to such action may be based."

Even though Guardian's psychological evaluation was not filed with the court, it is a report upon which the juvenile court and DPSS relied on in determining the case plan and A.H.'s placement. Furthermore, the psychological evaluation was court-ordered and summarized in DPSS's 12-month status review report. It was also relied upon by DPSS in evaluating the adequacy of services provided to Guardian, her compliance with the case plan, and whether A.H. should be returned to Guardian's custody and care. The statute suggests that its purpose and intent is to allow juvenile dependency parties, which includes the Tribe in this case, to have access to examine all reports or other documents considered and relied upon by the court when deciding an Indian child's placement or the termination of parental rights. This is consistent with the proposition that the Tribe has a

right to view the psychological evaluation under section 827, subdivisions (a) and (f).

HIPAA also does not prohibit disclosure of Guardian's psychological evaluation to the Tribe. HIPAA authorizes disclosure of personal health information as required by law, including by a valid court order, as in the instant case. (§§ 224 & 827; rule 5.552(a); 25 U.S.C. §1912(c); 42 C.F.R. § 164.512.) Furthermore, as noted in *Y.C. v. Superior Court of San Mateo County* (2021) 72 Cal.App.5th 241, 256, the juvenile court and DPSS are not a "covered entity" subject to HIPAA because they are not a "health plan," a "healthcare clearinghouse," or a "health care provider," as defined in section 1320d of Title 42 of the United States Code and sections 164.104. and 164.105 of Title 45 of the Code of Federal Regulations. (See *Y.C. v. Superior Court of San Mateo* County, *supra*, at p. 256.)

In addition, the Indian Child Protection and Family Violence Prevention Act of 1990 (ICPFVPA), 25 U.S.C. §3201, et seq., does not prohibit the release of Guardian's psychological evaluation to the Tribe. It states that State agencies, such as the DPSS, may provide information and records to Tribal agencies that need to know the information in performance of their duties. This includes the release of the psychological evaluation to the Tribe under section 827, subdivisions (a) and (f).

Section 3205 of 25 U.S.C., states: "Pursuant to section 552a of Title 5, the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g), or any other provision of law, *agencies* . . . of *any State*, or of the Federal Government that investigate and treat incidents of abuse of children *may provide information and records to those agencies of any Indian tribe* . . . or the Federal Government *that need to know the information in performance of their duties*. For purposes of this section, Indian tribal governments shall be treated the same as other Federal Government entities." (Italics added.) Accordingly, State agencies, such as DPSS, may provide information and records, such as the court-ordered psychological evaluation, to Tribal agencies that need to know the information in performance of their duties.

IV.

PSYCHOTHERAPIST-PATIENT PRIVILEGE

Guardian argues that releasing her psychological evaluation to the Tribe violates her rights to privacy and confidentiality under section 827, subdivision (a)(3)(A) and the psychotherapist-patient privilege (Evid. Code, § 1017, subd. (a)). We disagree.

Section 827, subdivision (a)(3)(A) provides in relevant part: "Access to juvenile case files pertaining to matters within the jurisdiction of the juvenile court pursuant to [s]ection 300 . . . shall be limited as follows: [¶] (A) If a juvenile case file, or any portion thereof, *is privileged or confidential pursuant to any other state law or federal law or regulation*, the requirements of *that state law or federal law* or regulation prohibiting or limiting release of the juvenile case file or any portions *thereof shall*

prevail. *Unless a person is listed in subparagraphs (A) to (P), inclusive, or (V) or (W) of paragraph (1) and is entitled to access under the other state law or federal law or regulation without a court order*, all those seeking access, pursuant to other authorization, to portions of, or information relating to the contents of, juvenile case files protected under another state law or federal law or regulation, shall petition the juvenile court. . . ." (Italics added.)

Although Guardian's psychological evaluation might normally be subject to the psychotherapist-patient privilege (Evid. Code, § 1017, subd. (a)), the privilege does not apply here to the Tribe viewing the psychological evaluation because it was court-ordered. (Evid. Code, § 1017, subd. (a) ["There is no privilege under this article if the psychotherapist is appointed by order of a court to examine the patient."].) As the court in *B.F.* noted, "[b]ecause [the mother's] evaluation was court-ordered, she could not have expected it would be kept from the court, the Agency, or counsel for the Agency, for the children or for the children's fathers." (*B.F.*, *supra*, 190 Cal.App.4th at p. 821; see also *Y.C. v. Superior Court*, *supra*, 72 Cal.App.5th at p. 258.) Likewise, Guardian could not have reasonably expected her psychological evaluation would not be viewed by any of the parties.

Furthermore, DPSS was required to disclose material information in dependency proceedings under rule 5.546(d)(6) and (e). A court-ordered psychological examination is a means of acquiring such information. (Evid. Code, § 730.) Guardian had no reasonable expectation that the court-ordered psychological evaluation would not be

disclosed to the parties, including the Tribe, because Guardian's mental state was at issue, the court ordered the evaluation, the Tribe was a party, and the information elicited was relevant to preventing harm to A.H. In addition, Guardian signed a release of information, which would have encompassed the psychological evaluation, and disclosure was in A.H.'s best interest. Disclosure of the evaluation would likely have assisted the Tribe in monitoring and preventing harm to A.H., which outweighed any invasion of Guardian's privacy. (*Laurie S. v. Superior Court* (1994) 26 Cal.App.4th 195, 200-201.)

We therefore conclude that the Tribe has the right to view Guardian's psychological evaluation because it was court-ordered. The Tribe is a party entitled to view the evaluation under state law, releasing the evaluation to the Tribe is consistent with federal law, and the evaluation provides information necessary in carrying out A.H.'s best interests. Section 827, subdivision (a)(3)(A) and the psychotherapist-patient privilege do not preclude the Tribe from viewing the evaluation under section 827, subdivisions (a)(1)(K) and (f).

Guardian argues that, even assuming the juvenile court erred in denying disclosure of the psychological evaluation, such error was harmless because the Tribe collaborated with DPSS in developing the case plan and the Tribe did not object to the juvenile court's findings and services. We disagree.

Without viewing the psychological evaluation, the Tribe was prevented from obtaining material information regarding whether additional or different services and efforts were necessary. Disclosure of the evaluation was necessary for the Tribe to become fully informed of Guardian's mental health condition in order to monitor A.H.'s care and prevent serious physical or emotional harm to him. Also, without disclosure of Guardian's psychological evaluation, the Tribe was deprived of potentially significant information as to whether Guardian fully addressed any mental health conditions that might have placed A.H. at risk of harm if he were returned to her care. Guardian has thus not established that nondisclosure of the psychological evaluation to the Tribe was harmless error.

V.

DISPOSITION

The order denying the Tribe's request for access to Guardian's psychological evaluation is reversed, with directions that the juvenile court order release of the psychological evaluation to the Tribe.[5]

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[5] The Tribe's motion filed in this court on September 30, 2025, requesting judicial notice of an attached copy of the register of actions in Riverside County Superior Court, probate division, case no. HEP1000034 ("Docket"), is granted under rule 8.252 and Evidence Code sections 452, subdivision (d) (court records) and 459.

By separate order, this court denies Guardian's motion filed on November 25, 2025, to dismiss the Tribe's appeal on the ground it is moot. Guardian argues it is moot because the Tribe did not object at the six and twelve month review hearings to the case plan and the juvenile court's findings that active efforts and reasonable services were provided. Guardian concludes the appeal is moot because there is no effective relief this

[footnote continued on next page]

CERTIFIED FOR PUBLICATION

CODRINGTON
J.

We concur:

RAMIREZ
P. J.

MILLER
J.

court can provide. We disagree, and in a separate order, deny Guardian's motion to dismiss this appeal.

The Guardian's motion filed in this court on July 30, 2026, requesting judicial notice of the juvenile court's minute order in this case, dated July 22, 2026, reflecting that the juvenile court ordered A.H. returned to Guardian's care, is granted under rule 8.252 and Evidence Code sections 452, subdivision (d) (court records) and 459.

By separate order, this court denies Guardian's second motion, filed on July 30, 2026, to dismiss the Tribe's appeal on the ground it is moot. Guardian argues it is moot because on July 22, 2026, the juvenile court ordered A.H. returned to Guardian's physical care pursuant to a safety plan, but retained jurisdiction. We disagree the appeal is moot and, in a separate order, deny Guardian's motion to dismiss this appeal.