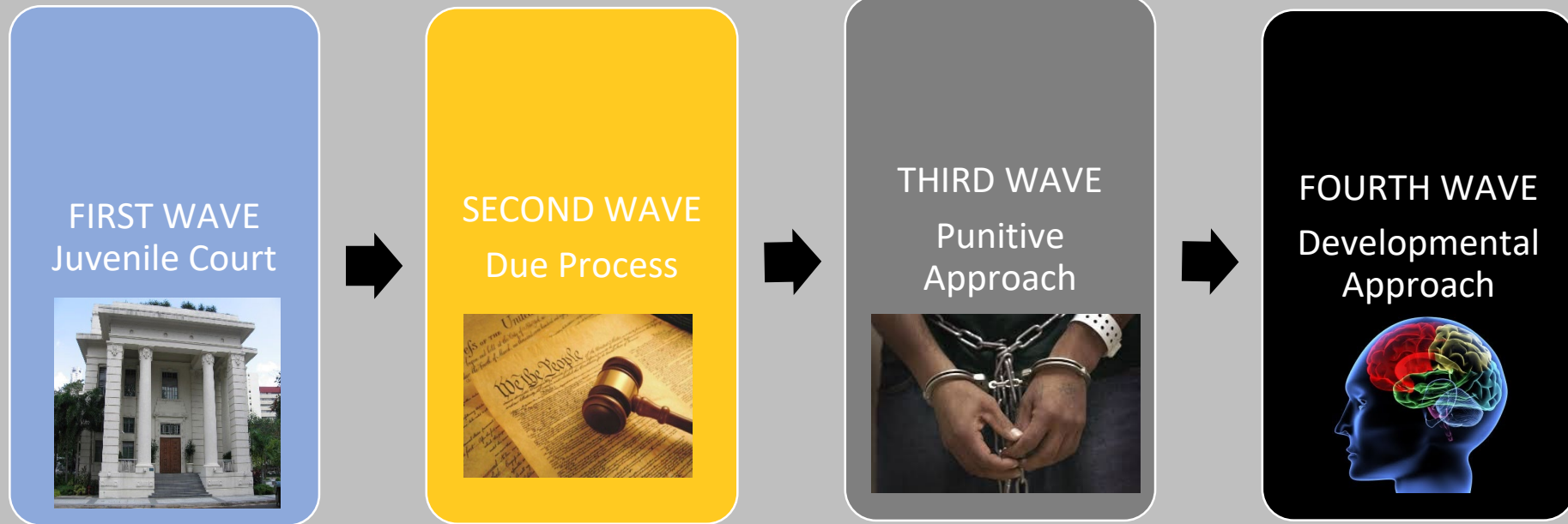


Introduction to Juvenile Court



The History of Youth Justice



Purpose of Juvenile Court

Consistent with WIC §202, the juvenile court is designed differently from the adult criminal court:

- Balance the interests of public safety, rehabilitation of minor, preserving family ties, and only removing the minor from the home when necessary. [WIC §202]
- Minors. . . shall, in conformity with interests of public safety and protection, receive care, treatment, and guidance that is consistent with their best interest, that holds them accountable for their behavior, and that is appropriate for their circumstances. [WIC §202(b)]
- Any punishment must be consistent with rehabilitation. [WIC §202(b)]

What we are NOT discussing today

WIC 601 Wards

- Minor who “persistently or habitually refuses to obey the reasonable and proper orders or directions of the parents, or is beyond the control of that person,” OR
- Minor who violates curfew, OR
- Minor has had 4 or more trancies within one school year and services insufficient to correct truancy, or minor fails to respond to directives of SARB or PO.
- “Status Offenders” may be adjudged ward of the court.

WIC 300 dependents

- Under the care, custody, and control of county child welfare services
- There are specific reasons for youth to be made 300 wards
- For example, neglect, physical abuse, sexual abuse, parent causing the death of a sibling due to abuse or neglect, etc.

Differences between Juvenile and Adult Criminal Systems

- Designed to ascertain truth of allegations; not guilt or innocence.
- No conviction within meaning of adult criminal law. [WIC §203; *People v. Weidert* (1985) 39 Cal.3d 836, 846]
 - Minor is “found to come within the provisions of WIC §602.”
- Considered civil rather than criminal proceeding. [WIC § 203]

Which statement best describes public access to juvenile delinquency proceedings?

- a. Delinquency proceedings are always confidential; the public is never allowed
- b. Delinquency proceedings are presumed confidential with certain exceptions
- c. Delinquency proceedings are presumed to be open to the public with certain exceptions
- d. Delinquency proceedings are always open to the public

Differences between Juvenile and Adult Criminal Systems

- No right to bail. (*In re Talbot* (1988) 206 CA 3rd 1290, 1293.) However, court must consider bail/OR for a juvenile who is transferred to adult court. [WIC§ 707.1(b); CRC 5.7709(d)(2)]
- No right to jury trial. [*People v. Nguyen* (2009) 46 Cal.4th 1007.]
- Many hearings closed to public. [WIC §675]

Differences between Juvenile and Adult Criminal Systems

- Different language.
 - Youth are referred to as “**minors**” rather than “defendants.”
 - A “**petition**” is filed rather than a complaint.
 - Minors “**admit**” or “**deny**” an offense rather than plead guilty or not guilty.
 - Juvenile allegations are “**found true**” and petitions are “**sustained.**” The minor is “**adjudicated**” rather than “convicted.”
 - Minors receive a “**disposition**” instead of a “sentence.”
 - Minors are “**committed**” to juvenile detention facilities rather than being sentenced to a program or facility. [WIC §202(e)(4)]
- Bench trials. “Unless there is a contested issue of fact or law, hearings are to be conducted in an informal, non-adversarial atmosphere with a view to obtaining the maximum cooperation of the minor upon whose behalf the petition is brought and all persons interested in his welfare.” [EC § 765(a); WIC § 680]

Similarities between Juvenile and Adult Court Trials

- Juvenile proceedings must contain essentials of due process and fair treatment, such as presumption of innocence, criminal standard burden of proof, right to be present and present a defense. [*In re Tiffany A.* (2007) 150 Cal.App.4th 1344.]
- California Rules of Evidence apply. [EC §300] However, certain statutes relax the rules to an “any relevant and material evidence” standard for specific juvenile hearings. [see WIC § 706, § 707].

Entering the Juvenile Justice System

Law enforcement contact

- May arrest for misdemeanor or felony if officer has PC to believe minor has committed the offense.
 - No requirement that crime occur in officer's presence. [WIC §625(a)]
- Options to divert if arrested without a warrant. [WIC § 626]
 - Unless minor is 14 or older and arrested for personal use of firearm in commission or attempted commission of felony or any 707(b) offense. In this instance, youth must be brought to court.

Entering the Juvenile Justice System

Youth under what age must be provided the opportunity to consult with counsel before custodial interrogation?

- a. 18
- b. 16
- c. 15
- d. 14

Entering the Juvenile Justice System

Youth has right to consult attorney prior to custodial interrogation and before waiver of any Miranda rights. [WIC§ 625.6]

- Does not apply to admissibility of statements if both criteria met:
 - Officer who questioned youth reasonably believed the information the officer sought was necessary to protect life or property from an imminent threat
 - Officer's questions were limited to those questions that were reasonably necessary to obtain that information.

Probation Factors to Consider

- Probation alternatives
 - Options to divert
 - Counsel and close [WIC §653.7]
 - Refer to community program [WIC §652.5]
 - Informal supervision [WIC § 654]
- In determining whether to . . . request the prosecuting attorney to file a petition under section 602, the social worker or probation officer must consider:
 - (1) Whether any of the statutory criteria listed in rules 5.770 and 5.772 relating to the fitness of the child are present;
 - (2) Whether the alleged conduct would be a felony;
 - (3) Whether the alleged conduct involved physical harm or the threat of physical harm to person or property;
 - (4) If the alleged condition or conduct is not serious, whether the child has had serious problems in the home, school, or community that indicate that formal court action is desirable;
 - (5) If the alleged condition or conduct is not serious, whether the child is already a ward or dependent of the court;

Probation Factors to Consider

- (6) Whether the alleged condition or conduct involves a threat to the physical or emotional health of the child;
- (7) Whether a chronic, serious family problem exists after other efforts to resolve the problem have been made;
- (8) Whether the alleged condition or conduct is in dispute and, if proven, whether court-ordered disposition appears desirable;
- (9) The attitudes of the child and the parent or guardian;
- (10) The age, maturity, and capabilities of the child;
- (11) Whether the child is on probation or parole;
- (12) The recommendation, if any, of the referring party or agency;
- (13) The attitudes of affected persons;
- (14) Whether any other referrals or petitions are pending; and
- (15) Any other circumstances that indicate that the filing of a petition is necessary to promote the welfare of the child or to protect the public.

CRC 5.516(c)

Mandatory Referral to DA Within 48 Hours

WIC §653.5; CRC 5.514(d)

- 14 years of age or older and WIC §707(b) offense
- Under 14 on the date of the offense and 2nd felony offense
- 14 or older on the date of the offense and a felony offense
- Sale or possession for sale of a controlled substance
- Certain assaults on school employees, possession of controlled substances on campus, weapons on school grounds
- Criminal street gang
- Previously placed on informal supervision under WIC §654
- Restitution exceeds \$1000

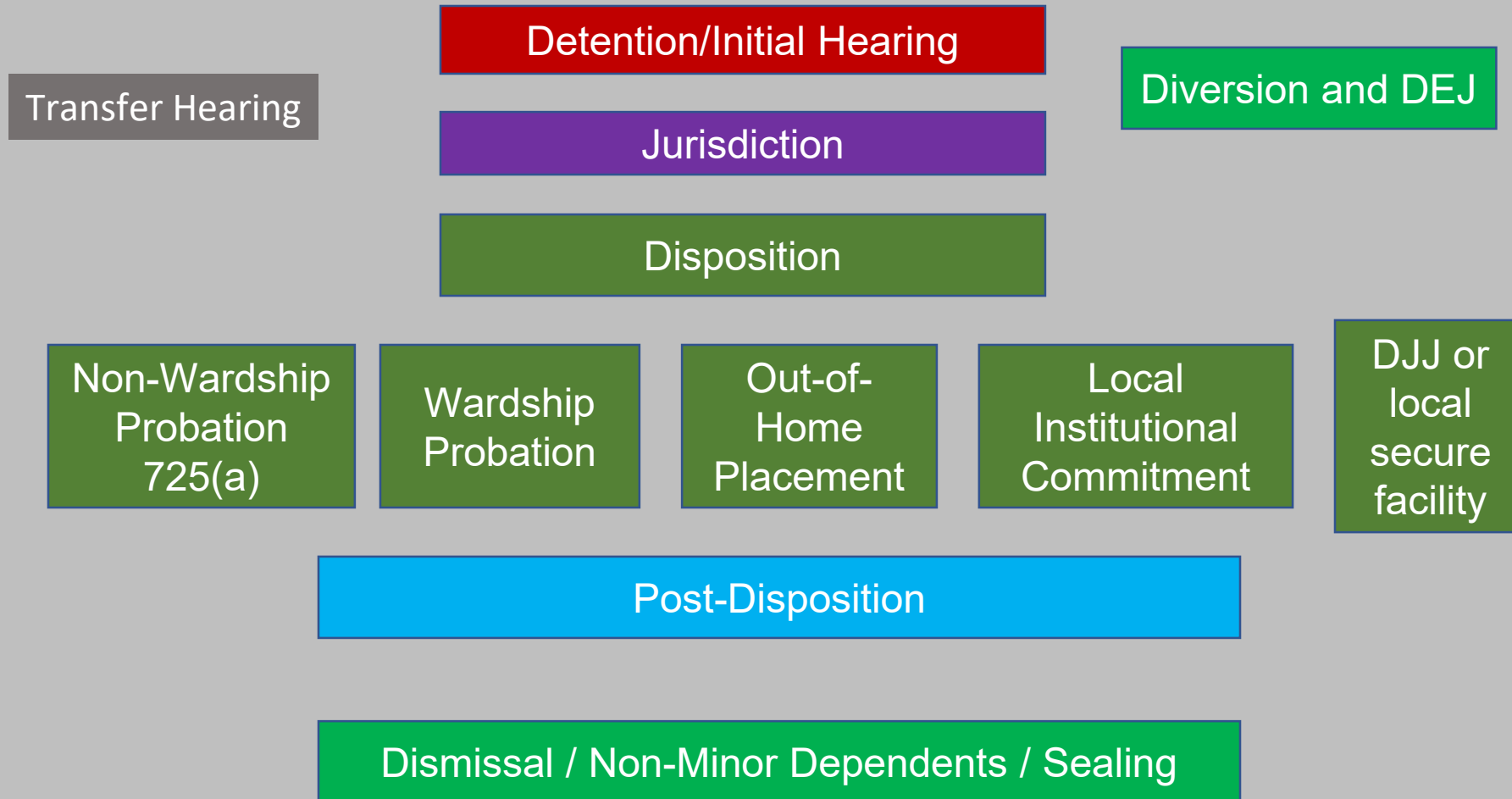
Youth under the Jurisdiction of Juvenile Justice Court

- WIC §602(a): A minor who is "between 12 years of age and 17 years of age, inclusive" when he or she violates a state, federal, or city, or county criminal statute or ordinance, except curfews, is within the jurisdiction of the juvenile court and may be adjudged a ward.
- WIC §602(b): A minor who is under 12 years of age when he or she commits the following offenses is within the jurisdiction of the juvenile court and may be adjudged a ward:
 - (1) murder;
 - (2) rape by force, violence, duress, menace, or fear of immediate and unlawful bodily injury;
 - (3) sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury;
 - (4) oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily injury;
 - (5) sexual penetration by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.

Youth under the Jurisdiction of Juvenile Justice Court

- **Venue**
 - Where the youth resides,
 - Where youth is found, or
 - Where acts occurred. [WIC §651]
- **Expiration of Juvenile Court Jurisdiction**
 - Age 21 for youth for non-707(b) offenses [WIC §607]
 - Age 23 for youth who have committed a 707(b) offense [WIC §607]
 - Age 25 if at time of adjudication would, in criminal court, have faced an aggregate sentence of 7+ years [WIC §§607, 875]

Overview of the Process



Detention Hearing

- Time: No later than the expiration of the next judicial day after the petition is filed. [WIC §632]
- If timeline violated, youth must be released. [WIC § 632(c)]
- Probation submits report w/recommendations.
- Prima facie showing that youth is a person described in section 602 required.
- If requested, prima facie hearing must be set within 3 court days, or 5 court days if the witnesses are unavailable. [WIC § 637]
 - Youth has the right to cross-examine preparer of the report. [*In re Dennis H.* (1971) 19 Cal.App.3d 350]
 - If no prima facie finding, youth released (but petition not dismissed).

Detention Hearing: *More than the nature of the charged offense.*

- The Court must examine the youth, his or her parents, or other persons having relevant knowledge and hear relevant evidence that counsel desires to present, e.g. how the child is doing at home and at school, and the parent's ability to provide care for the youth. [WIC §635(a); *In re William M.* (1970) 3 Cal.3d 16]
- Special Rules for 300 Dependents: A dependent shall not be detained solely because of the youth's status as a 300 or that the Child Welfare Agency is unable to provide a placement for the youth. [WIC §635(b)(2)]
- Non-detained youth:
 - Initial hearing must occur within 15 court days after petition filed. [CRC 5.752(a)]

Alternatives to Juvenile Hall

- Impact of Detention in Juvenile Hall
 - Social, economic and educational disruption
 - Stigma
 - Detained low risk minors can increase recidivism
 - Studies suggest prior incarceration is biggest predictor of recidivism
 - Negative impact on physical and mental well being
 - More likely committed to juvenile facility than non detained minors
- If not juvenile hall. . .
 - Release to the parent or guardian [WIC §636(d)], or responsible relative [WIC § 628(a)], or other licensed facility [WIC § 636.2].
 - Detain on home supervision in home of parent/guardian/responsible relative. [WIC §§ 628, 628.1,636(b)]
 - Detention for adjudication time limits but not pre- dispo custody credits. “A minor on home supervision shall be entitled to the same legal protections as a minor in secure detention, including a detention hearing.” [WIC 628.1]
 - May include electronic monitoring, GPS, curfew, school attendance, drug testing - requirements relating to protection of public and minor.
 - Search condition permissible for minor on home supervision. [*In re Curtis T.* (1989) 214 Cal.App.3d 1391; *In re R.V.* (2009) 171 Cal.App.4th 239]

Juvenile Hall (WIC 208.5)

Youth up to age 25 whose case originated in juvenile court will be housed in a juvenile facility. However,

- Youth sentenced in criminal court may not serve their sentence in juvenile facility (but can be housed there until transfer to adult facility).
- Probation may file petition to transfer 19+ youth to adult facility.
 - Court must set hearing and consider 5 criteria.
 - Rebuttable presumption that youth will remain in juvenile facility.
 - If youth sent to adult facility, any party can file petition to send youth back to juvenile facility if showing of changed circumstances.

Competency (WIC §709)

- Minor is incompetent to proceed if:
 - S/he lacks sufficient present ability to consult with counsel and assist in preparing the minor's defense with a reasonable degree of rational understanding, or,
 - Lacks a rational, as well as factual, understanding of the nature of the charges or proceedings.
- Reasons for incompetency, may include:
 - Developmental disability
 - Developmental immaturity
 - Mental disorder/Mental illness
- Process:
 - Court or counsel raises doubt as to competency
 - If substantial evidence raises reasonable doubt, proceedings suspended
 - Absent stipulation or submission on competency
 - Court appoints expert to evaluate minor; DA or minor may also retain expert
 - Minor presumed competent. Burden of proof on minor to prove lack of competence by preponderance
 - Court hears evidence; makes finding
 - If minor under 14, court must decide PC §26 before deciding competency

Competency (WIC §709)

- If Court finds minor incompetent
 - Proceedings suspended
 - If allegations are misdemeanors, petition dismissed
 - Minor referred to restoration services, unless competency cannot be achieved within the foreseeable future.
 - Regular review hearings set (Every 30 or 45 days depending on custody status)
 - Time limits
 - At 6-month mark, court to decide if minor remediated, or able to be remediated
 - If not remediated, but is able to be remediated, refer back to services
 - If not able to be remediated within 6 months, petition dismissed
 - Total remediation time is one year
 - Total in-custody time 6 months unless 707(b) offense
 - If remediated, proceedings are reinstated

Diversion Options post-petition filing

- Informal Supervision [WIC §654.2]
- Restorative Justice
- Non-wardship probation [WIC 725(a)]
- Deferred Entry of Judgment [WIC 790]



Transfer Motions wic §707

- Prosecutor files motion to transfer anytime prior to attachment of jeopardy
- Hearing set
 - Once motion filed, court may not take admission (until conclusion of transfer hearing or if transfer motion withdrawn)
 - Probation to prepare report with recommendations
 - Court considers PO report & relevant evidence
 - Court can transfer to adult court if:
 - Child was 16 or older at time of offense, or 14-15 if first apprehended after end of juvenile court jurisdiction
 - 707(b) offense
 - Consideration of 5 criteria
 - DA has burden, preponderance of evidence (but note AB 2361)
 - Issue is whether youth is amenable to treatment within the juvenile court
 - Prop. 57(2016), which prohibits direct filing, retroactive for cases not yet final

Jurisdiction Hearing

- Right to Speedy Trial:
 - **IN CUSTODY:** within 15 court days from the order of detention. [WIC §657]
 - **OUT OF CUSTODY:** within 30 days of the filing of the petition. [WIC §657]
 - Remedy = Dismissal without prejudice. [WIC §657]
- Proof Beyond a Reasonable Doubt [WIC §701]
- No right to jury trial
- Probation's social report is not admissible [WIC §701; *In re Gladys R.* (1970) 1 Cal.3d 855]

Jurisdiction Hearing

- No contest plea or admission [CRC 5.778]
 - Consent of youth's attorney is required. [*In re Alonzo J.* (2014) 58 Cal.4th 924]
 - Youth must personally admit or enter no contest plea
 - Youth must be advised and waive
 - Right to trial
 - Confront and cross-examine witnesses
 - Use court process for witnesses
 - Right to testify and remain silent
 - Advisal of Consequences
 - Maximum confinement time
 - Restitution (even for dismissed charges)
 - Probation revocation
 - Immigration
 - Registration requirements (gang)
 - Any 707 consequences (strike, firearms, sealing)
 - Court has to make finding whether felony or misdemeanor

Jurisdiction Hearing - Capacity

- Children under the age of 14 are presumed not capable of committing crimes unless “clear proof” that they knew its wrongfulness at the time of the act. [Penal Code § 26.]
 - Prosecution has burden by clear and convincing evidence. [*In re Manuel L.* (1994) 7 Cal.4th 229.]
- A juvenile court must consider a child's age, experience, and understanding in determining whether he or she would be capable of committing delinquent conduct. [*In re Gladys R.* (1970) 1 Cal.3d 855]
- “...the *Gladys R.* court is very clear that, to protect children from the grave consequences of wardship under Welfare and Institutions Code section 602, with all of the stigma and potentially negative consequences for a child's life that it brings, Penal Code section 26 stands as a bulwark between sections 601 and 602 of the Welfare and Institutions Code.” [*In re J.E.* (2020) 54 Cal.App.5th 309, 325 (Justice Streeter, dissenting)]

Disposition Hearing

-
- In custody: 10 court days from jurisdiction hearing. [WIC §702]
 - Out of custody: 30 days from filing of petition. [WIC §702]
 - Social Study required. [WIC §§706, 706.5]
 - Case plan required if recommendation is removal from the home. [WIC §706.5]
 - Include written or oral statement by the victim. [WIC §706]
 - Youth may testify or present other relevant and material evidence. [WIC §706; *In re Shannon B.* (1994) 22 Cal.App.4th 1235.]
 - Court may consider:
 - Dismissed enhancement. [*In re Gary B.* (1998) 61 Cal.App.4th 844.]
 - Illegally seized, previously suppressed evidence. [*In re Michael V.* (1986) 178 Cal.App.3rd 159.]
 - Dismissed counts. [*In re Raymond B.* (1981) 121 Cal.App.3rd 785.]
 - No Harvey waiver required. [*In re Jimmy P.* (1996) 50 Cal.App.4th 1679.]
 - Dispo Options
 - Set aside findings and dismiss [WIC §702] or dismiss in interests of justice. [WIC §782]
 - Probation without wardship for no more than 6 months. [WIC §725(a)]
 - Declare ward 602, with or without supervision. [WIC §§725(b), 727], [CRC 5.790(a)(2)]
 - "Juvenile court has maximum flexibility to craft suitable orders aimed at rehabilitating particular ward before it." [*In re James R.* (2007) 153 Cal.App.4th 413, 432]

Disposition: Custodial Options

-
- Maximum Time of Confinement may not exceed middle term for an adult with same offense. [WIC §730]
 - Does not include nonsecure placements. [*In re Randy J.* (1994) 22 Cal.App.4th 1497]
 - Juvenile Hall commitment permissible if wardship declared. [WIC §730; *In re Calvin S.* (2016) 5 Cal.App.5th 522]
 - Mandatory commitment to juvenile hall, ranch, camp or DJJ when use of a firearm in commission of a violent felony, unless mental disorder requiring treatment. [WIC §602.3]
 - Commit minor to juvenile hall, camp or ranch. [WIC §730(a); CRC 5.790 (h)]
 - Commit Minor to DJJ. [WIC §731(a)(4); CRC 5.790]
 - Note: DJJ will close on June 30, 2023. No new commitments to DJJ will be made after June 30, 2021 unless the prosecuting agency has filed a motion to transfer a youth from juvenile court to a court of criminal jurisdiction. [WIC §§736.5(a) & (e); WIC §736.5(b) -(c)]
 - Commit Minor to a Secure Youth Treatment Facility (SYTF). [WIC §736.5 & §875]

Disposition: Out of Home Placement

- Relative/NREFM/ foster home/short-term residential treatment program [see WIC §727(a)(4)(A - E) for other options]
- Court must make certain Title IV-E findings prior to removal from parents.
- Probation must provide reunification services to facilitate return home (some exceptions). [WIC §727.2]
- Six-month review hearings to monitor progress.
- If youth detained pending placement, court must review placement efforts every 15 days. [WIC §737]
 - Administrative processes, including workload, are not reasonable delays.
 - Specific, appropriate, and available placement must be identified in the case plan at disposition hearing. [WIC §706.6(b)(3)(A)]
 - Must take into consideration the youth's school of origin. [WIC § 706.6(e)]
 - Court may release the youth from custody pending placement.
 - CFT required before placement in STRTP. [*In re A.M.* (2020) 53 Cal.App.5th 824]

Disposition: Out of Home Placement

- The Court can order an alternative placement to the probation officer's recommendation after considering the probation officer's assessment of the alternative placement and evidence from the parties. [WIC §727(e).]
- New laws addressing STRTP placements eff. October 1, 2021
 - Applies to youth in foster care, wards, and NMD's
 - Eliminates out of state placements
 - Requires CFT's to develop case plans
 - Mandates court review and approval of placement within 45 days, no later than 60 days
 - Requires six-month review hearings once youth placed.
 - Assessment by qualified individual
 - Specific services at STRTP (nursing staff & other licensed clinical staff 24/7, trauma informed treatment model)
 - Aftercare component

[WIC §§ 706.6; 727.12, 4096, 16501.1; CRC 5.618]

Probation Conditions

-
- Court may impose any reasonable condition that is fitting and proper to the end that justice may be done and reformation and rehabilitation of minor enhanced. [WIC §730(b)]
 - Court discretion not without limits
 - *Lent* 3 prong analysis applies. [*In re Ricardo P.* (2019) 7 Cal.5th 1113]
 - A condition of probation will not be held invalid unless it
 - (1) has no relationship to the crime of which the offender was convicted
 - (2) relates to conduct which is not in itself criminal, and
 - (3) requires or forbids conduct which is not reasonably related to future criminality.
 - Mandatory conditions:
 - School
 - Curfew
 - Firearms prohibition for certain offenses (PC §29805 & WIC §707(b))
 - For specified offenses see WIC §§ 727.2, 729.6, 729.9 729.10, 729.8, 742.16+
 - No contact/stay away orders
 - Electronic search conditions, see *In re Ricardo P.* (2019) 7 Cal.5th 1113

Restitution, Fines and Fees

- **Mandatory Restitution Fines and Fees (WIC §730.6): split in authority whether ability to pay applies.** [*In re M.B.* (2020) 44 Cal. App. 5th 281, 284]
- Special rule for restitution to group homes. [WIC §730.6(k)]
- Victim restitution [WIC §730.6]
 - Unpaid restitution can become civil judgment when jurisdiction terminated

Post-Disposition Hearings

- Restitution Hearings
- Wardship Reviews/Dismissal Hearings
 - If satisfactorily completes probation can dismiss and seal non-707(b) offense via WIC §786.
- 777 Probation Violations
 - Detained youth. Notice within 48 hours, court hearing next court day, evidentiary hearing within 15 court days of detention order
 - Non-detained youth. Evidentiary hearing within 30 calendar days
 - Standard of proof. Preponderance
 - Reliable hearsay admissible
- 788 Petitions to Modify
- 782/781/793 Sealing Requests


Other issues you will encounter. . .

- ICWA/Native American youth
- Dual jurisdiction youth
- Joinder motions
- Psychotropic medication requests
- WIC §827 Requests to View Records

Recent Focus on Juvenile Probation

- 2020 study tracking five-year outcomes for cohort of over 1,000 young people arrested for moderately severe offenses found that youth formally processed were more likely:
 - To be re-arrested
 - To be incarcerated
 - Engage in more violence
 - Reported greater affiliation with delinquent peers
 - Reported lower school enrollment
 - Less likely to graduate high school w/in 5 years
 - Less ability to suppress aggression
 - Lower perceptions of opportunities than informally processed youth

- Diversion
- Alternatives to detention
- Case plans
- Length of probation
- Probation conditions



National Discussions on Juvenile Justice Reform



Questions?

Thank you!

Ana Espana

Presiding Judge

San Diego Juvenile Court