

DIFFERENCES IN HANDLING JUVENILE DELINQUENCY CASES

I. The Juvenile Client

A. Communicating with client

- * Consider your language and tone. Think how kids differ developmentally from adults.
- * The non-communicating clients. Unfortunately many minors don't respond to counsel's letters.

B. Parents

- * Who is your client anyway, and are there conflicting interests? For example, joint and several liability for minor's restitution obligations. (See Welf. & Inst. Code, § 730.7, subd. (a).)
- * Consider confidentiality issues and the effect on the attorney client privilege.

C. Dealing with DJJ (formerly CYA)

- * DJJ locator: (916) 296-1514
- * Minor's counselor.
 - * Mandatory counseling. What if your client makes admissions during mandatory sessions? (*Story v. Superior Court* (2003) 109 Cal.App.4th 1007; *In re Pedro M.* (2000) 81 Cal.App.4th 550; Evid. Code, § 1012.)

D. On-line Appellate Court Case Information.

- * Court of Appeal juvenile case information is available on the court's web site if the notice of appeal filing date is on or after September 1, 2008.

II. The Appellate Record.

A. California Rules of Court, rule 8.404 sets forth the provisions regarding the normal and additional record in juvenile cases.

B. The record can be augmented or supplemented with the same motions as in adult cases.

III. Format of Briefs and Terminology

A. Legal Terms of Art

- * petition– not information or complaint
- * minor admits or denies– not pleads
- * contested jurisdictional hearing– not trial
- * true or sustained findings and not true findings– not conviction or acquittal
- * dispositional hearing– not sentencing hearing
- * order of wardship or adjudication– not conviction
- * committed or adjudicated– not sentenced
- * juvenile court– not trial court or superior court

B. Example Caption for Briefs:

IN RE J. D., A Person Coming Under the
Juvenile Court Law.

PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff and Respondent,

v.

J. D.,

Defendant and Appellant.

Appeal #

Superior Court County and Case #

- * The majority of courts now caption cases using only the minor's first and last initials, as opposed to the full first name and last initial. Counsel should adopt the caption on their appointment order.

C. Statement of Appealability

- * Welfare and Institutions Code, section 800

D. References to Minors

- * Supreme Court policy regarding protective non-disclosure of minors names involved in juvenile court proceedings or innocently involved in appellate proceedings. (See Cal. Rules of Ct., rule 8.400(b)(2); CSM §§ 5:9, 5:10.)

IV. Issue-Related Matters

A Certificate of probable cause.

- * A certificate is never required. Penal Code section 1237.5 refers to “defendants” who stand “convicted” upon a guilty or nolo contendere “plea.” Minors are not “defendants;” they don’t “plead guilty;” and they are not “convicted.” (*In re Joseph B.* (1983) 34 Cal. 3d 952, 957.)

B. Court as trier of fact.

- * No right to a jury trial. (*McKeiver v. Pennsylvania* (1971) 403 U.S. 528.)
- * Makes a difference in *arguing prejudice* because the judge is presumed to know the law.
- * Accomplice corroboration rule does not apply because the judge is more critical of accomplice testimony and more likely to accord it appropriate weight. (*In re Mitchell P.* (1978) 22 Cal.3d 946, 949.)

C. Credits Problems.

- * No *Fares* motions required. Penal Code section 1237.1 only applies to adults. (*In re Antwon R.* (2001) 87 Cal.App.4th 348.)
- * Minors don’t receive conduct credits, only actual credits. (*In re Ricky H.* (1981) 30 Cal.3d 176.)
- * Only time spent in a secure facility counts. (*In re Michael D.* (1989) 214 Cal.App.3d 610.)

D. Computing Confinement Time

- * Previously, a juvenile court committing a minor to DJJ was required to impose the maximum term of confinement that was equivalent to the adult term for the same offense (i.e., the upper term in the sentencing triad.)
- * Now, Welfare and Institutions Code section 731, subdivision (c) requires the court to set a maximum term of physical confinement in DJJ “based upon the facts and circumstances of the matter or matters which brought or continued the minor under the jurisdiction of the juvenile court.” (*In re Carlos E.* (2005) 127 Cal.App.4th 1529; *In re Sean W.* (2005) 127 Cal.App.4th 1177.)

E. Probation conditions.

- * Because of the juvenile court’s rehabilitative function, the court has broader discretion when formulating conditions of probation. (*In re Tyrell J.* (1994) 8 Cal.4th 68, 81.)

F. Case plans in juvenile delinquency case.

- * There are mandatory inclusions in delinquency orders that previously only applied in dependency cases. (Welf. & Inst. Code, § 727.2 et seq.) See article on CCAP’s website.

G. New Changes on Who Can be Sent to DJJ.

- * Effective September 1, 2007, a minor cannot be committed to DJJ unless “*the most recent offense* alleged in any petition and admitted or found to be true by the court is not described in subdivision (b) of Section 707, unless the offense is a sex offense set forth in paragraph (3) of subdivision (d) of Section 290 of the Penal Code. (Welf. & Inst. Code, § 731, subd. (a)(4).)

H. Child’s Education Rights.

- * Rule 5.651, effective 2008, requires the juvenile court to make specific findings on educational rights, including what services, assessments, or evaluations are needed, and who will be directed to take the steps to ensure that the child begins receiving those needs.

I. Alternative ways to reach dispositional issues

- * Since the juvenile court has continuing jurisdiction, a petition to modify a

dispositional order under Welfare and Institutions Code section 779
maybe appropriate in the absence of a timely appellate remedy.

V. Juvenile Delinquency Resources

- A. CCAP website delinquency page:
<http://www.capcentral.org/juveniles/delinquency/index.asp>
- B. FDAP website delinquency articles page:
http://www.fdap.org/r-article_search.php?category=del
- C. ADI website delinquency page:
http://www.adi-sandiego.com/juvenile_delinquent_articles.html
- D. The Dog Book– by Los Angeles Co. Public Defender’s Office
- E. California Juvenile Court Practice– by CEB (out of print, hard to find)
- F. California Criminal Defense Practice- by Matthew Bender (vol. 6, division XII)
- G. California Criminal Law, Procedure and Practice- by CEB (chapter 56)
- H. Annual CPDA Juvenile Seminar in Monterey
- I. Youth Law Center website: <http://www.ylc.org/index.php>