

## CUSTODY INTAKE REFERRALS

<b>AUTHORITY:</b>	<p>California Rules of Court Rule 5.480 (Application), Rule 5.481 (Inquiry and Notice), Rule 5.514 (Intake: guidelines), Rule 5.516 (Factors to Consider), Rule 5.520 (Filing the petition; application for petition), Rule 5.524 (Form of petition; notice of hearing), Rule 5.526 (Citation to appear; warrants of arrest; subpoenas), Rule 5.560 (General provisions), Rule 5.612 (Transfer-in hearing), and Rule 5.770 (Conduct of transfer of jurisdiction hearing under section 707)</p> <p>County of Orange SB 439 Protocol – Diversion for Youth Under Age 12</p> <p>Health and Safety Code (H&amp;S) Sections 11361.5, 11357(a), 11357(b), 11360(a), and 11360(b)</p> <p>Indian Child Welfare Act (ICWA) (25 USC, § 1901 et. seq.)</p> <p>Juvenile Court Miscellaneous Order 688.2 (Authorization for the Exchange of Information Concerning Minors of Foreign Exchange of Information Concerning Minors of Foreign Citizenship Between the Consulate of the Respective Government and the Orange County Probation Department)</p> <p>Penal Code (PC) Sections 11115 and 13150</p> <p>Vienna Convention on Consular Relations (VCCR)</p> <p>Welfare and Institutions Code (WIC) §§ 202, 208.5, 210.6, 601, 602, 602.1, 604, 625, 625.6, 627(b), 627.5, 628, 630, 631, 632, 641, 650, 651, 652.5, 653, 653.5, 653.7, 654.3, 656, 656.1, 707, 777, and 778, 827, 828, 831, and WIC 1609.95</p>																																						
<b>RESCINDS:</b>	<p>Procedure Manual Item 2-4-101, dated 11/20/19</p>																																						
<b>FORMS:</b>	<table border="0"> <tr> <td>Application for Petition/Intake Transmittal Sheet</td> <td style="text-align: right;">(F057-4024)</td> </tr> <tr> <td>Authorization for Release of Medical/Psychological Information</td> <td style="text-align: right;">(F057-7004)</td> </tr> <tr> <td>Adult Disposition of Arrest and Court Action</td> <td style="text-align: right;">(DOJ Form-JUS 8715/8715A)</td> </tr> <tr> <td>Advisement of Right to Contact Consulate</td> <td style="text-align: right;">(U.S. DSCN&amp;A form)</td> </tr> <tr> <td>Child Abuse Index Information Request</td> <td style="text-align: right;">(Unit Form/Computer Generated)</td> </tr> <tr> <td>Consent for Voluntary Return of Absconder</td> <td style="text-align: right;">(YA 3.500(A))</td> </tr> <tr> <td>Consulate Notification</td> <td style="text-align: right;">(U.S. DSCN&amp;A form)</td> </tr> <tr> <td>County of Orange SB 439 Protocol – Diversion for Youth Under Age 12</td> <td style="text-align: right;">(County Protocol)</td> </tr> <tr> <td>Custody Intake Cover Sheet</td> <td style="text-align: right;">(Unit Form/Computer Generated)</td> </tr> <tr> <td>Destruction or Redaction of Juvenile Records</td> <td style="text-align: right;">(Shared Word folder)</td> </tr> <tr> <td>Detention Letter/24-Hour Letter</td> <td style="text-align: right;">(Unit Form/Computer Generated)</td> </tr> <tr> <td>Detention Report</td> <td style="text-align: right;">(Unit Form/Computer Generated)</td> </tr> <tr> <td>Immigration Detainer-Notice of Action</td> <td style="text-align: right;">(DHS Form 1-247A)</td> </tr> <tr> <td>Indian Child Inquiry Attachment</td> <td style="text-align: right;">(ICWA-101(A))</td> </tr> <tr> <td>Informal Probation (654) Agreement</td> <td style="text-align: right;">(F057-5118)</td> </tr> <tr> <td>Information to Court Officer</td> <td style="text-align: right;">(F057-9099)</td> </tr> <tr> <td>Intake and Assessment Sheet</td> <td style="text-align: right;">(Custody Intake Form)</td> </tr> <tr> <td>Interstate Compact for Juveniles Consent for Voluntary Return of Out of State Juvenile</td> <td style="text-align: right;">(Form III)</td> </tr> <tr> <td>Juvenile Data Sheet</td> <td style="text-align: right;">(F057-4193AW)</td> </tr> </table>	Application for Petition/Intake Transmittal Sheet	(F057-4024)	Authorization for Release of Medical/Psychological Information	(F057-7004)	Adult Disposition of Arrest and Court Action	(DOJ Form-JUS 8715/8715A)	Advisement of Right to Contact Consulate	(U.S. DSCN&A form)	Child Abuse Index Information Request	(Unit Form/Computer Generated)	Consent for Voluntary Return of Absconder	(YA 3.500(A))	Consulate Notification	(U.S. DSCN&A form)	County of Orange SB 439 Protocol – Diversion for Youth Under Age 12	(County Protocol)	Custody Intake Cover Sheet	(Unit Form/Computer Generated)	Destruction or Redaction of Juvenile Records	(Shared Word folder)	Detention Letter/24-Hour Letter	(Unit Form/Computer Generated)	Detention Report	(Unit Form/Computer Generated)	Immigration Detainer-Notice of Action	(DHS Form 1-247A)	Indian Child Inquiry Attachment	(ICWA-101(A))	Informal Probation (654) Agreement	(F057-5118)	Information to Court Officer	(F057-9099)	Intake and Assessment Sheet	(Custody Intake Form)	Interstate Compact for Juveniles Consent for Voluntary Return of Out of State Juvenile	(Form III)	Juvenile Data Sheet	(F057-4193AW)
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Juvenile Detention Disposition Report	(JUS 8716)
Juvenile Detention Subsequent Disposition Report	(JUS 8717)
Juvenile Intake Assessment System/Pre-Trial Report	(ICMS Document)
Notice to Central Warrant Repository	(Unit Form)
Notice of Child Custody Proceeding for Indian Child	(ICWA-030)
Orange County Probation Juvenile Justice Guide	(Probnat and Probation Internet)
Pre-Detention and Pre-Disposition Program Agreement in English	(F057-5019)
Pre-Detention and Pre-Disposition Program Agreement in Spanish	(F057-5019SP)
Probable Cause Declaration	(F057-4206)
Probable Cause Log/Case Log	(Unit Form)
Probable Cause Telephonic Approval Form	(Unit Form)
Promise to Appear	(F057-4111)
Restraints in Court Recommendation (Tiffany A. Restraint form)	(Unit form)
Risk Assessment Instrument (RAI)	(ICMS Form)
Special Visit Authorization	(F057-6225.1)
Transparent Review of Unjust Transfers and Holds (Truth Act)	(U.S. DSCN&A form)
WIC 778 Petition Worksheet	(Unit Form)

**PURPOSE:** To outline the general procedures for processing Custody Intake referrals at juvenile hall (JH), as well as to establish guidelines for filing petitions. More specific procedures can be found in the Custody Intake Desk Manual.

## I. GENERAL INFORMATION

### A. Process Overview

1. **Custody** Intake Deputy Probation Officer (DPO) Responsibilities
  - a. Gather and assess all available information, including parent/youth interview, police reports, contact with other agencies and contact with collateral sources as appropriate.
  - b. Determine whether to release or detain the youth (and under what circumstances). See admissions guidelines below.
  - c. Refer appropriate cases to the District Attorney for review.
  - d. Prepare Detention Report for youth detained or released on the Pre-Detention and Pre-Disposition Program (PPP).
  - e. Prepare the Juvenile Intake Assessment **System** (JIAS) Report and Integrated Case Management System (ICMS) entries.
  - f. Submit the Probable Cause Declaration forms to the court (or read via telephone). (See Custody Intake Desk Manual for specific instructions.)

2. District Attorney Responsibilities

- a. Review the Application for Petition.
- b. Review crime reports or Special Incident Reports (SIRs) from referring agency.
- c. Take appropriate action.
  - (1) File petition with court clerk.
  - (2) Reject filing and return to Custody Intake DPO. (NOTE: sometimes may be resubmitted and filed when additional information is obtained.)
  - (3) Return to Custody Intake DPO with instructions to handle informally.
  - (4) Review/complete/forward California Department of Justice forms (JUS 8716/8717).

3. Types of Petitions

a. New Petition

- (1) Youth not a ward of the Juvenile Court when offense committed or petition filed.
- (2) If youth is supervised under non court-ordered WIC 654, the new offense as well as the original offense may be alleged.

b. Subsequent Petition

Youth is a ward of the Juvenile Court when the new law violation was committed or the petition was filed.

c. Supplemental Petition

Youth is a ward of the Juvenile Court when **a WIC 777 (Probation Violation is filed)**.

- (1) The offense alleged is a probation violation or a violation of a court order. **The PV must also include a brief summary of the detention justification.**
- (2) **A WIC 778 (Change of Circumstance)** or previous disposition of the court being ineffective in the youth's rehabilitation.

II. PROCEDURE

A. Admission to JH

1. Admission Guidelines

a. Pursuant to **WIC 602**, youth must be at least twelve (12) years of age to **have charges filed and thus** be booked into **Juvenile Hall (JH)**. The only exception to this age requirement, which must be approved by the division director (DD) of JH or Juvenile Court Services (JCS), is if a youth under the age of twelve (12) is alleged to have committed on of the following offenses:

- (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

**Note: Per WIC 602.1, when law enforcement officers and deputies contact Custody Intake staff regarding youth under the age of twelve (12) who have violated laws other than those listed above, the County of Orange SB 439 Protocol – Diversion for Youth Under Age 12 is to be followed.**

b. Acutely mentally ill/psychotic or suicidal youth usually should not be admitted but should be taken to an appropriate psychiatric facility. Exceptions must have JH or JCS DD approval.

c. Injured, Unconscious, or Ill Youth

- (1) Must be examined by JH-Medical Unit staff prior to admission.
- (2) If rejected because of a need for further medical evaluation, it is the responsibility of the arresting agency to transport the youth to and from a hospital prior to booking.
- (3) If the youth is to be admitted to a hospital for an extended period and/or the alleged offense is of a serious nature, the arresting agency personnel should remain with the youth until an Application for Petition is accepted by Custody Intake. **JH** Deputy Juvenile Correctional Officers (DJCOs) will then assume custodial responsibility for the youth. NOTE: A petition will then be filed at the earliest opportunity so that a court order may be obtained to detain the youth "in **JH** or medical facility."

d. Youth must meet the booking criteria **based on** the Risk

Assessment Instrument (RAI) as outlined in Procedure Manual Item (PMI) 2-4-106 (Custody Intake Risk Assessment Instrument [RAI]), unless there is DD/Administrator in Charge (AIC) approval or a **detention** override from one of the Custody Intake Supervising Probation Officers (SPOs).

**The detention override is the process by which a score that does not qualify a youth for PPP or secure detention can be overridden to allow PPP or secure detention in cases where special circumstances exist. The detention override should be reserved for rare situations where case factors exist that were not assessed by the RAI. Overuse of overrides renders the RAI invalid. When an override is recommended one of the reasons listed in PMI 2-4-106, section II. H. 1. a. through j. must be selected. Please note, all overrides must be reviewed and have prior approval by a Custody Intake SPO or an administrator. In order to ensure consistency, prior to overriding the RAI and approving the booking, the DD/AIC must first contact the on duty Custody Intake SPO or Acting Custody Intake SPO for additional information.**

- e. Youth may be lodged for violation of probation under the following circumstances with **SPO or administrator** approval:
  - (1) **Sanctions exhausted or inappropriate.**
  - (2) **Sanctions denied by Court Order.**
  - (3) **Due to public safety risk.**
  - (4) **Due to self-harm risk.**
  - (5) Youth with placement orders; who are California Department of Corrections and Rehabilitation (CDCR), Division of Juvenile Justice (DJJ) eligible; who are in violation of PPP or **have been approved for booking on a new law violation.**
  
- f. Youth over the age of eighteen (18) may be lodged under the following circumstances:
  - (1) Outstanding Juvenile Court warrant (usually when Orange County Jail (OCJ) cannot/will not book because warrant cannot be found in system). **Note: Pursuant to WIC 208.5, as of September 30, 2020, a WIC 707 case originating in juvenile court can be housed in JH until the youth reaches the age of twenty-five (25). The change only applies to youth whose case originated in juvenile court (not street bookings of adults [eighteen {18} years of age and older which would be booked at Orange County Jail [OCJ]). Additionally, there may be some outstanding warrant cases in which twenty-one (21) to twenty-five (25)-year-olds will be arrested on juvenile**

warrants. These cases will need to be booked into OCJ and have a detention hearing to determine their housing status. However, if they are a walk-in warrant during normal business hours, the court officer assigned to the youth's designated courtroom will be contacted to have the matter put on calendar that day. The Warrant or Custody Intake DPO will then escort the ward to their designated courtroom for the hearing.

- (2) Certification from Adult Court.
- (3) Transfer in from another county – **For Transfer-In cases, the assigned CI DPO will review the Transfer-In packet and put post-it flags on the Minute Order pages and other court documents. This assists support staff in appropriately identifying transfer orders, what offenses were sustained, the court disposition, and the terms and conditions of probation that were ordered in the transferring county. Additionally, in the Detention Report, the CI DPO should list the petitions and make reference to the findings and court ordered terms and conditions.**
- (4) **When a youth whose criminal allegations include violations of H&S 11357(a), 111357(b), and/or 11360(b) is arrested and booked into JH, the assigned CI DPO will complete the *Destruction or Redaction of Juvenile Records* memo. The original is routed to the [REDACTED], where it is retained until the designated destruction/redaction date. A copy is retained in the youth's file. Additionally, an ECR entry is made. For specifics, refer to PMI 2-6-008 (Destruction or Redaction of Juvenile Records Pursuant to H&S 11361.5).**
- (5) Offense occurred before **the youth's eighteenth** birthday.
- (6) Probation Violation with **DD** approval (*In Re Ramon M. 2009*)

## 2. Law Enforcement Officers' Responsibilities

### a. At the time of booking:

- (1) Complete and sign Application for Petition.
- (2) Complete and sign Probable Cause Declaration.
- (3) **Ensure the law enforcement section of the California Department of Justice forms JUS 8716/8717 form is completed on all felony cases and submitted with the booking paperwork.**

**Note: The JUS 8716 must be completed and submitted by law enforcement for the initial booking. The JUS 8717 will then be submitted with supplemental police reports that are submitted with bookings. PC §§ 11115 and 13150 mandate these forms be completed on all felony filings. The court uses them to report case dispositions to the Department of Justice (DOJ).**

- (4) Notify the youth's parent/guardian of the youth's arrest, detention, and location in person, by telephone, or note left at residence.
  - (5) Escort the youth to the booking area and wait until the youth is medically screened and paperwork checked and accepted by the Custody Intake Officer of the Day (CIOD).
- b. Within twenty-four (24) hours, submit complete police reports by hand delivery or by fax. If the youth has been arrested for a misdemeanor and identified as a Commercial Sexual Exploitation of Children (CSEC) Victim/Human Trafficking Victim, the complete police report must be submitted when the youth is booked into JH.
3. Field DPO Responsibilities
- a. At the time of booking
    - (1) Obtain consent of Custody Intake SPO or **DD** to lodge a probationer who otherwise does not meet criteria of secure detention.
    - (2) Arrange with police agency to transport to JH if necessary or escort youth to booking area.
    - (3) Complete and sign **the** Application for Petition and note name of **DD who** approved the booking.
    - (4) Complete and sign **the** Probable Cause Declaration.
    - (5) Notify the parents/guardian of the youth's arrest and detention at JH.
  - b. Hand-deliver or email Notice of Hearing and Probation Violation Memo within twenty-four (24) hours.
4. Custody Intake Responsibilities
- a. Obtain Probable Cause Declaration from the booking officer and submit to the court for judicial review. A judicial determination that probable cause exists must be made within forty-eight (48) hours of the arrest (including all non-court hours) or the Custody Intake DPO must release the youth from custody absent any other orders of the court.

The court has established procedures for handling probable cause determination during court hours, and non-court hours on weekends and holidays that Custody Intake DPOs must follow (see Custody Intake Desk Manual).

b. Youth Delivered by Law Enforcement and Probation

- (1) Assure that guidelines listed in II. A.1-4 are met.
- (2) Review the Application for Petition, **police reports, and any other documents provided** for accuracy and completeness as to time and place of arrest, name, DOB, addresses, signature (in affidavit section), and other pertinent data **prior to signing and approving the booking.**
- (3) Ensure that the **law enforcement section of the California Department of Justice JUS 8716 and/or 8717 form is completed and** submitted by the arresting agency on felony cases. **Once received, complete the probation section.**

**(4) Consular Notification and Access**

**Consular notification and access is the obligatory process by which federal, state, and local law enforcement and legal authorities provide information to foreign government representatives regarding their citizens in the United States and permit foreign consular officers to assist their nationals.**

**If a foreign national arrestee is from one of the fifty-six (56) mandatory countries, notification to the foreign consular officer must be made without delay, even if the foreign national objects. For all other countries, law enforcement must inform the national that they may have their consular officer notified of the arrest or detention and may communicate with them. The foreign national can accept or decline the officer to notify. In all cases, consular notification should be made within twenty-four (24) to seventy-two (72) hours after initial arrest. Law enforcement should document the response (in writing) and the notification in the event that there are questions later.**

**This process is completed by Custody Intake DPOs. Refer to PMI 2-4-102 (Consular Notification and ICE Detainers) for specifics.**

**(5) Indian Child Welfare Act (ICWA) Notification**

**ICWA as codified in California Rules of Court Rule 5.480 (Application), as well as in various WIC codes, applies to most proceedings involving Indian youth that may**



**result in voluntary placement or custody placement. In such instances in which an Indian youth is booked into custody, the Custody Intake DPO will complete the *Indian Child Inquiry Attachment (ICWA-101(A))* form and attach it to the filing packet.**

- (6) For all new cases that have not been declared WIC 602 wards of the court, the assigned CI DPO will utilize the Pre-Screen Risk Assessment Tool to complete an assessment of the youth. The purpose of this tool is to determine the level of risk and interventions needed and can be used as a guide for facility staff in developing a case plan. The assessment will be saved in the database. Additionally, a copy will be placed in the youth's file and uploaded by the unit clerk into [REDACTED].**

c. Youth Delivered by Parents/Guardian

- (1) If it is alleged that a criminal act has been committed, advise that the youth be taken to the police agency in the appropriate jurisdiction.
- (2) If the youth is an active ward and has violated probation, contact the field DPO and direct them to obtain SPO/Division Director approval.
- (3) If the youth is not a ward and the problems with the youth are behavioral, refer the parents to a department- approved community resource.

B. Custody Intake Interview

1. Purpose of Interview

- a. Explain to the youth and parents the role and function of the Probation Department and Juvenile Court and provide a copy of the "Orange County Probation Department Juvenile Justice Guide."

English version:

<https://portal.prob.ocgoenterprise.com/Download/ProbNet/Librar y/Brochure/Email%20English%20Brochure%20compressed.pdf>

Spanish version:

<https://portal.prob.ocgoenterprise.com/Download/ProbNet/Librar y/Brochure/Email%20Spanish%20Brochure%20compressed.pdf>

**Vietnamese version:**

<https://portal.prob.ocgoventerprise.com/Download/ProbNet/Library/Brochure/Email%20Vietnamese%20Brochure%20compressed.pdf>

- b. Advise the parents of the youth's rights regarding self-incrimination.
- c. Advise the youth of their rights (per Miranda Warning) before discussing the alleged offense.
- d. Obtain necessary forms/documentation such as birth certificates, school records, Social Security cards, and releases of information.
- e. **Have parents sign the appropriate release of information forms pertaining to school records, medical information, etc. The forms are located on Probnet in the Juvenile forms section.**
- f. Obtain social history information to assist in determining a plan of action.
- g. In most cases, parents of active cases (wards, **youth on** informal probation, or youth pending a Disposition Hearing) need not be interviewed by a Custody Intake DPO.
- h. **NOTE: While WIC 625.6 requires that youth seventeen-years-three-hundred-sixty-four-days old and younger consult with counsel prior to custodial interrogation and before the waiver of any Miranda rights, this does not apply to Custody Intake. Specifically, WIC 625.6(d) explicitly exempts DPOs from complying with this requirement in the normal performance of their duties while conducting a general investigation after a youth is taken into temporary custody. In such instances, WIC 628(a)(1) states that the DPO shall immediately investigate the circumstances of the youth and the facts surrounding the youth being taken into custody. Consequently, CI DPOs not only may, but are required to question the youth, although the youth must be Mirandized first.**

2. Forms To Be Completed

- a. Custody Intake Cover Sheet - Leave pertinent, complete notes so any Custody Intake staff can follow up on pending matters.
- b. Juvenile Data Sheet (filled out by parent/guardian or DPO if doing a telephone interview).
- c. Intake and Transmittal Sheet, bottom portion, with any corrections to top portion.
- d. Juvenile Intake Assessment Sheet/Pre-Trial Report.
- e. Detention Report if youth detained or placed on PPP.

- f. Appropriate additional forms, as needed, to meet specific case needs.
- g. California Department of Justice JUS 8716/8717 forms on all felony cases that are completed by law enforcement. JH-Intake and Release Center (IRC) staff complete the Probation section. The form is routed to the District Attorney (DA) with matter to be filed.
- h. **Tiffany A. Restraint**

**Pursuant to WIC 210.6, mechanical restraints may be used on a youth detained in or committed to a local secure juvenile facility or camp, during transportation outside of the facility. This is done only upon a determination by the probation department that restraints are necessary to prevent physical harm to the youth or another person or due to a substantial risk of flight.**

**CI DPOs are required to document the use of mechanical restraints, as well as include the reasons for the use of those restraints in the *Restraints in Court Recommendation* form, also known as the Tiffany A. Restraint form, on all detained youth appearing in court. This form is used in making a recommendation as to whether the youth should be restrained during Court proceedings. This document is submitted to the court, along with all Detention Hearing related documents. Justification for use of restraints must also be documented in ICMS. Additionally, the CI unit clerks will scan and upload the form to IDMS.**

**At the end of each day, the overnight CI DPOs will provide a list of the *Restraints in Court Recommendation* form to JH-Court Holding staff for the following court day.**

**JH-Court Holding staff then communicate this information with the Orange County Sheriff's Department (OCSD) Sheriff's Special Officers (SSOs) assigned to Juvenile Court by providing them with a list of the youth who are scheduled to appear in Court each day. In addition to other items, this list also notes whether or not the youth are to be restrained for Court, and if restrained, the type of restraint as a result of Court orders and/or the youth's conduct and behavioral issues while in custody. If the recommendation is for the youth to be restrained at the first Court hearing, they will remain in restraints until the Court makes a determination on the matter.**

**In instances where a youth is restrained during a juvenile court proceeding, if the court determines that the youth's behavior in custody or in court establishes a need to use mechanical restraints to prevent physical harm to the youth or another person or due to a substantial risk of flight, the least restrictive form of restraint be used under the circumstances and this would be documented on the record and the restraints would**

**stay on the youth during court proceedings until the youth is released from custody on the current petition.**

3. The Interview
    - a. Obtain parental permission before interviewing the youth about the alleged offense.
    - b. If permission is not given, youth may still be interviewed regarding matters other than the offense (e.g., social history, school performance, and drug use).
- C. Determining the Appropriate Disposition and Issue of Detention
1. Consider
    - a. Magnitude and the type of the offense
    - b. Protection of the community
    - c. Welfare of the youth
    - d. Detention guidelines
  2. Review
    - a. Information contained in police reports
    - b. Prior record
    - c. Information obtained from parent/youth interviews
    - d. Information from other agencies, victims, or interested parties
    - e. Input from assigned DPO, if applicable
- D. Disposition Alternatives
1. Dismiss Application for Petition
    - a. Criteria
      - (1) Offense is minor and/or and there is another serious matter pending which resulted in the youth being booked at JH.
      - (2) Offense is “unfounded” and referring agency requests dismissal [PC 849(b)] – youth deemed “not arrested.”
      - (3) An overriding issue may be the youth’s welfare and referral to Orangewood **Children’s Home** or a community shelter is appropriate.
      - (4) Legal Insufficiency - Determined by the DA. **This is known**

**as a DA Reject. In such instances, the arresting agency may be referred to the DA to obtain information for possible resubmission within the mandated deadline.**

- (5) Police reports, Probation Notice of Hearings, and Probation Violation Memos not received within the mandated time limit.
  - (a) DA is unable to file a petition within the deadline.
  - (b) Youth must be released from custody or taken off PPP forthwith.
  - (c) Application for Petition may be submitted on a non-custody basis when all reports are received.

b. Procedure

- (1) Twenty-four (24) hour letter is sent by Custody Intake to the parents, guardians, or person having care or custody of the youth. The letter indicates reason(s) why the youth was held over twenty-four (24) hours and a petition was not filed. It also provides information regarding the sealing of records under WIC 653.5(c).
- (2) The Application for Petition/Intake and Transmittal Sheet is completed as to the portion regarding dismissal (reason(s) so that the arresting agency can be notified per WIC requirements).
- (3) **The California Department of Justice forms JUS 8716/8717 form must be completed by the arresting agency on felony cases and submitted to Probation at the time of booking.**

2. Informal Probation (WIC 654)

a. Cases not Eligible (WIC 654.3)

Certain cases are statutorily ineligible for informal supervision. All cases described in WIC 653.5(c) are to be referred to the DA. If the DA does not file and returns the case to Probation, **the DA can provide instructions for probation to consider WIC 654 Informal Probation as an option for handling the matter.**

b. WIC 654 Informal Probation

- (1) Informal probation is to be used whenever specific competency development tasks/sanctions should be accomplished by the youth prior to termination of probation involvement, but the case dynamics do not justify formal court action or wardship. Such youth would generally be first-time offenders who are stable in the home and school

setting, and whose involvement in a crime may be minimal. However, given the serious nature of the offenses generally dealt with by Custody Intake, cases should be staffed with a SPO prior to implementation of WIC 654 informal probation.

(2) Procedure

- (a) Choose appropriate sanctions from those programs utilized, such as VCS, restitution, counseling, and life skills.
- (b) Review the Informal Supervision Agreement (computer generated) with the youth and parents.
- (c) Parents, youth, and DPO must sign the agreement.
- (d) If a felony case is handled informally after DA rejection, JUS 8717 form (which is attached to JUS 8716) is to be completed and routed. This form is used to report a change of the disposition that was originally reported. JUS 8717 can be completed following the same instructions as for JUS 8716.

3. Request District Attorney File a Petition

- a. Submit a copy of the Application for Petition (Intake/Transmittal Sheet) to the DA.
- b. Submit a copy of all police reports, **and/or** facility SIRs to the DA.
- c. Submit the JUS 8716/8717 forms from the referring law enforcement agency on all felony cases.

Only the Detained/Not Detained and Fingerprinted/Not Fingerprinted boxes in the Probation section should be completed by the Probation IRC staff if this information is known. If this information is unknown leave these boxes empty. The JUS 8716 form must accompany the case to the DA.

- (1) If the DA files the case in Juvenile Court, the JUS 8716 form **and/or JUS 8717 form** accompanies the case to court.
- (2) If the DA chooses not to file a case they must complete and route the JUS 8716 form before returning case to probation.
- d. If the youth is released on their own recognizance (O/R) prior to the filing of a petition, the above documents are submitted to the contested case function, which in turn submits them to the DA.

4. Custody Options

- a. Release O/R to parent or guardian pending DA decision to file petition.

- b. Release O/R to parent or guardian after a petition is filed, but prior to Detention Hearing, at which time a Pretrial Hearing date must be obtained from the court clerk.
- c. Release on PPP pending the Detention Hearing.
  - (1) Custody Intake Release
    - (a) Youth and parents agree to conditions and sign a PPP Release Agreement.
    - (b) Youth and parents are advised of date and time of Detention Hearing at signing. **Document notification with an Electronic Contact Report (ECR) entry in ICMS.**
  - (2) Field Release
    - (a) Youth must meet the booking criteria.
    - (b) The field DPO will staff the case with their SPO and obtain approval to place the youth on PPP.
    - (c) Both the youth and parent(s) will be indoctrinated to the terms and conditions of PPP. The youth will initial each item and sign the bottom. The parent(s) and the field DPO will also sign the bottom of the form.
    - (d) Whenever possible, a photograph of the youth will be included with the release agreement, which is submitted to Custody Intake.
    - (e) Fill out a field release with the Data Sheet, attached to the Application for Petition, Probable Cause Declaration, and original PPP Indoctrination to JH form.
    - (f) Once the youth is released on PPP, the field DPO will call the PPP DPO and provide the following information:
      - i. Youth's full name
      - ii. **J/DL#** Number
      - iii. Address
      - iv. Phone Number
      - v. Next court date
      - vi. General description of offense(s)

vii. Any pertinent officer safety issues

- (g) An Application for Petition and Probable Cause Declaration form will be delivered to Custody Intake along with the original copy of the *PPP Release Agreement* and a photograph of the youth the day the agreement is signed. Within twenty-four (24) hours of release on PPP, the field DPO will email a Notice of Hearing and Probation Violation Memo to the CIOD mailbox (CIOD public folder).

d. Detain Youth Pending Detention Hearing

- (1) **Pursuant to WIC 628, when a youth has been taken into temporary custody, the DPO shall immediately investigate the circumstances of the youth and the facts surrounding their being taken into custody. The youth can continue to be detained if it can be demonstrated upon the evidence before the court that continuance in the home is contrary to the youth's welfare and one or more of the following conditions exist:**

- (a) **Continued detention of the youth is a matter of immediate and urgent necessity for the protection of the youth or reasonable necessity for the protection of the person or property of another.**

- (b) **The youth is likely to flee the jurisdiction of the court.**

- (c) **The youth has violated an order of the juvenile court.**

- (d) **The DPO's decision to detain a youth who is currently a dependent of the juvenile court pursuant to WIC 300 or the subject of a petition to declare them a dependent of the juvenile court pursuant to WIC 300 and who has been removed from the custody of their parent or guardian by the juvenile court shall not be based on any of the following:**

- i. **The youth's status as a dependent of the juvenile court or as the subject of a petition to declare them a dependent of the juvenile court.**

- ii. **A determination that continuance in the youth's current placement is contrary to the youth's welfare.**

- iii. **The child welfare services department's**



**inability to provide a placement for the youth.**

(2) Review Department Detention Criteria

NOTE: Department detention criteria may be more restrictive than the WIC requirements cited above. Admissions to JH will be released O/R or on PPP unless the case meets the criteria outlined in the RAI unless there is an override approval from a Division Director/AIC or Custody Intake SPO. In order to ensure consistency, **prior to overriding the RAI and approving the booking**, the DD/AIC must first contact the on duty Custody Intake SPO or Acting SPO for additional information. The decision to recommend continued secure detention for a case scoring for release or PPP will be based on the following:

- (a) Parent, guardian, or responsible relative cannot be located
- (b) Parent, guardian, or responsible relative refuses custody
- (c) Release of youth places victim in vulnerable position
- (d) Youth poses immediate/substantial risk to self
- (e) Youth poses immediate/substantial risk to person
- (f) Youth poses immediate/substantial risk to property of another
- (g) Risk to flee
- (h) Technical PV with override approval (approved by a Custody Intake SPO or Division Director/AIC)
- (i) Automatic Detention Case
- (j) Other: (Must be articulated by the overriding Division Director **after consultation with the** Custody Intake SPO and documented by the DPO completing the RAI)

E. Filing Deadlines

1. In felony cases, petitions must be filed within forty-eight (48) hours, excluding non-judicial days. The Detention Hearing must **take place within seventy-two (72) hours of the youth being taken into custody.**
2. In misdemeanor cases, **the Detention Hearing must take place within forty-eight (48) hours of the youth being taken into custody. As such,** petitions must be filed soon enough so that the Detention Hearing is

scheduled within the forty-eight (48) hour **timeline**. (FELONY DEADLINE CAN BE USED IF ALLEGATION INVOLVES VIOLENCE OR THREAT OF VIOLENCE, POSSESSION OF A WEAPON, OR IF THE YOUTH IS ALREADY A **WIC 602 WARD**).

3. Probation violation Notice of Hearing Petitions (WIC 777) and Change of Circumstances Petitions (WIC 778) must also be filed within the forty-eight (48) hours, excluding non-judicial days, with a Detention Hearing the next judicial day.
4. In all cases, the allotted forty-eight (48) hours begins at the time of arrest, not the time of booking into JH.
5. If a youth initially indicates they are an adult but is later found to be a juvenile, the allotted forty-eight (48) hours begins when the youth is first known to be a juvenile.
6. The DA must be advised of the filing deadline when the case is submitted for filing.
7. PPP violations and Court Replacements must have a Detention Hearing within forty-eight (48) hours if no new petition is filed.

F. Detention Hearing

1. A Detention Hearing is required unless the youth has been released O/R.
2. It is the responsibility of the assigned field DPO or the Custody Intake DPO to notify all parties entitled to this notification.
3. Entitled parties may be notified in person, by phone, telephone answering machine, by message left with a relative (preferably adult) at the home number, or via the local police agency who will deliver a verbal or written message to the home in cases where no response has been received at the number or in the absence of a telephone. Victims identified in the **filed petition** will be notified by certified mail. If the victim information is unavailable, the Custody Intake DPO will refer the case to the Victim Services Coordinator.
4. The person notified and the method of notification must be indicated in the Detention Report.
5. Even if a parent is out of state, they must be notified.
6. If notification is not possible, the reason should be indicated in the Detention Report (e.g., "relatives reported that the parents are presently camping at an unknown location").
7. **Make an ICMS ECR entry pertaining to notification of hearing.**

G. Detention Report Format (set by computer, but DPO corrects as necessary)

1. Identifying Information (i.e., Name, DOB, status, DPO's name/phone

number)

2. Date Petition or Notice filed
3. Allegations of petition(s)
4. Summary of Allegations – Concisely describe the offense and the youth’s role in the alleged offense
5. Other Significant Case Factors-Other issues which may be pertinent to the Court’s making a decision to release or detain. Examples include a lengthy runaway, drug history, violence at home, or previously scheduled court dates on pending matters in which the youth was not previously detained.
6. Pre-printed paragraphs re: Child Abuse Information Requests should be tailored to indicate only those issues which are pertinent to the youth and delete those which are not. (NOTE: Delete the entire section and all wording if the youth is 17½ years plus, already has a placement order, has been ordered detained on a previous matter or is serving a commitment.)
7. Companions – Indicate **first name and last initial**, J/DL#, **court case #(s)**, disposition, or signify “adult.”
8. Detention Criteria
  - a. Note the legal reason/detention **justification** as authorized by WIC 628:
    - (1) The youth is in need of proper parental control
    - (2) The youth is destitute
    - (3) The youth has an unfit home
    - (4) The youth is in urgent need of protection
    - (5) The youth is likely to flee the jurisdiction of the court
    - (6) The youth represents a threat to the community
    - (7) The youth is subject to a hold by the Division of Juvenile Justice (DJJ)
  - b. Even if the youth is released on PPP, include the “Detention Justification” (since PPP is a restriction of freedom) and the specific justification for release on PPP as the court needs to state its justification for the record. The PPP release and the date of the release should be stated under the “Detention status” section of the Detention Report.
  - c. Attach a copy of the RAI and Tiffany A. Restraint form to the Detention Report.

9. Recommendation – Choose from list or add ones which are specific to the case (Example: “Upon findings, that the matter be transferred to Riverside County for disposition.”)

#### H. Lodging Youth From Other Jurisdictions

##### 1. California

- a. Law violations – As in any other case, criteria for detention must be met.
- b. Absent a law violation
  - (1) Proof of an outstanding warrant must be received before the youth is accepted for booking at JH.
  - (2) Wards may be accepted as “courtesy holds” and it is understood that youth will be picked up the same date or within twenty-four (24) judicial hours. These are usually wards who have absconded from placement in another county.
- c. In custody for Transfer-in (*Acceptance of Transfer*) Hearings will be detained. Pursuant to CA Rules of Court 5.612, the court clerk must immediately place the transferred case on the court calendar for a Transfer-in Hearing within two (2) court days after the transfer-out order if the youth remained detained. Custody Intake DPOs will coordinate with the Court Clerk to ensure timelines are met.

##### 2. Out of State

- a. **While such instances are rare, there are occasions when runaway youth must be booked whether they fall under WIC 601 or WIC 602 type status in their state (California or other states) if a warrant or requisition is outstanding. (NOTE: As a participant in the Interstate Compact, federal law supersedes that of the State of California.)**
- b. Parents of a non-delinquent youth in another state can initiate a requisition for return via the Interstate Compact Office in their state. In any case, contact the California Interstate Compact Office for direction.
- c. If an Application for Petition alleging a new law violation is filed
  - (1) Contact the home state’s probation/parole department or local law enforcement agency for details of the youth’s prior record and why the youth is wanted there.
  - (2) Contact parents/guardians for pertinent information.
  - (3) Set for Detention Hearing and notify appropriate parties.

- (4) Prepare and submit copies of the Interstate Compact for Juveniles Consent for Voluntary Return of Out of State Juvenile (Form III) with Detention Report (the youth may sign the form in court as represented by counsel).
- d. If a petition is not filed
  - (1) Contact the Court Clerk's office to obtain an Interstate Compact number.
  - (2) Follow above steps H.2.C (2) through (4).
3. Warrants
  - a. If the youth is in custody on the warrant matter only, the case should be calendared for arraignment the next judicial day, time permitting.
  - b. If the youth is arrested on the warrant and also for a new law violation, process the case within the same time frame as any other. The Warrant Arraignment Hearing will then be set for the same time as the Detention Hearing on the new matter.
  - c. If the youth is lodged without the warrant abstract, a fax must be sent to the Warrant Repository notifying them that the youth has been arrested on the warrant and requesting that the warrant be recalled.
  - d. When the abstract accompanies the youth to JH, make a copy for the probation file and forward the original to the Juvenile Court Clerk.

**I. Dennis H. Hearings (In re Dennis H., 19 Cal. App. 3d 350)**

**In the juvenile justice system, youth do not have a right to bail as in criminal court. At the Detention Hearing, the judge determines whether the youth will remain in custody pending the outcome of the case based upon numerous case factors, including information provided in the DPO's report. If the judge decides to keep the youth in custody, the defense attorney can ask for a Dennis H. Hearing based on questionable evidence. In such instances, the assigned CI DPO is usually subpoenaed to appear in court, and the defense attorney will cross-examine them regarding the booking and information contained in the police report. The arresting officer(s) may also be subpoenaed to testify.**

**J. Graveyard Shift Officer of the Day (9:00 PM to 7:00 AM)**

The graveyard shift was implemented in January 2012 in response to AB 109 legislation (Oct. 2011) and the need for twenty-four (24) hour a day application of the RAI. AB 109 legislation realigned low level adult offenders from parole supervision back to the county probation departments. The Orange County Probation Department made a commitment to local law enforcement that personnel would be available twenty-four (24) hours a day to respond to inquiries and place holds. Specific to the RAI, in order to ensure that JH was only accepting

appropriate youth for booking, it was essential that the tool be utilized with every booking twenty-four (24) hours a day.

1. Duties and Responsibilities

- a. Stay awake and alert. The Custody Intake Graveyard DPO is the primary contact for all law enforcement agencies throughout the county. It is essential that the DPO be available to immediately respond to any incoming telephone calls and/or inquiries from JH-IRC or the JH Duty Officer.
- b. Between 9:00 p.m. and 10:00 p.m., make face-to-face contact with the CIOD regarding any pending bookings or Custody Intake intakes that may be pending. Assist as needed with any outstanding Custody Intake processing or incoming issues as needed.
- c. Review *ICMS/Probation Violation/Applications for Petition List* and to verify that all appropriate paperwork has been received for recent bookings. Follow-up as needed.
- d. Respond to inquiries from law enforcement.
- e. **Assist the JH Booking Clerks with processing holds after hours, overnight, weekends, and holidays via the Automated Hold process in ICMS.**
- f. If police are requesting that probation place a hold on an arrestee who is also on probation supervision (e.g., PCS, Mandatory Supervision, AFS, and/or Special Supervision), contact the assigned personnel in the following order until contact is made:
  - (1) Assigned DPO
  - (2) Assigned SPO
  - (3) Another SPO within the same division
  - (4) Assigned DD

Once given authorization, place appropriate hold. In certain cases, the graveyard CIOD may be unable to make contact with a DPO/SPO/DD. If the probationer was arrested for a serious or violent felony and the CIOD can verify that the individual is currently being supervised, a hold can be placed without DPO/SPO/DD authorization.

- g. After placing a hold on an adult probationer, document it in ICMS, then send email to the assigned DPO and SPO confirming the hold.
- h. Process JH bookings in compliance with the current policies and procedures of the CIOD, unless exigent circumstances exist. The CIOD is not considered an Acting SPO for the purposes of approving probation violation bookings. The detention override

should be reserved for rare situations where case factors exist that were not assessed by the RAI. Overuse of overrides renders the RAI invalid.

- i. Print and distribute Detention Calendar if not done by the Custody Intake clerk or Night CIOD
- j. Run the Jail Transport List by accessing the OCSD Jail Computer. Determine which jail transport case has a warrant arraignment, note court room and write the information in RED-colored pen on the Jail/Transport list. Make a copy of the list and deliver to JH-Court Holding. Leave the original on the Warrant DPO's desk.
- k. Check FAX machine, distribute any incoming reports to DPOs, and be sure fax machine paper is full at close of shift.
- l. Log calls and work done on the Graveyard Shift log.
- m. Perform additional duties as assigned.
- n. Make face-to-face contact with the 6:00 a.m. oncoming CIOD to share any relevant issues that need follow-up.

#### REFERENCES:

Procedures:	1-1-106	Los Angeles County Record Checks
	2-1-205	Warrants of Arrest for Juveniles
	2-4-001	Non-Custody Intake
	2-4-102	Consular Notification and ICE Detainers
	2-4-104	Interstate Requisition and Voluntary Return of Runaways, Escapees, or Absconders to Another Jurisdiction
	2-4-105	Transportation of Youth Detained at Juvenile Hall
	2-4-106	Custody Intake Risk Assessment Instrument (RAI)
	2-6-006	Terminating Juvenile Supervision
	2-6-008	Destruction or Redaction of Juvenile Records Pursuant to Health and Safety Code 11361.5
	2-6-101	Juvenile Probation Violations
	2-6-104	Petition to Change, Modify or Set Aside Order or Terminate Jurisdiction of the Court
	3-1-406	Procedure for Referring Youth to Mental Health Facilities as a 5585 Hold
	3-2-011	Juvenile Hall Intake
	Policies:	D-6
E-4		Clients with Legal Residence Outside of Orange County
E-5		Advisement of Rights

C. Ronald

**APPROVED BY:**