

TIME IN CUSTODY COMPUTATION – JUVENILE

- AUTHORITY:** Sections 628.2, 726 and 731, Welfare and Institutions Code;
 Section 667.5, 667.51, 667.6, 13012.4, 1170.1(a), 1170.1(g), 1170.1(i) and
 1170.95 of the California Penal Code (PC).
 AB 2658
 In re Eric J (1979) 25CAL. 3d. 522; In re Deborah C (1981) 30CAL. 3d.
 125; In re Fausto S (1985) 175CAL. App 3d. 909; In re Michael W (1980)
 CA 3d. 946; In re Claude J (1990) 217CAL App 3d 760; In re Luis H
 (1986) 187CAL. App 3d. 546.
- RESCINDS:** Procedure Manual Item 2-6-107, dated 11/23/21
- FORMS:** Custody Days Calculation Form (ICMS Generated)
- PURPOSE:** To establish a uniform method of computing and recording custody time
 served (CTS) and exposure time available.

I. GENERAL INFORMATION

- A. Pursuant to 726 WIC, a youth may not be held in physical confinement for a period in excess of the maximum term of imprisonment which could be imposed on an adult convicted of the offense or offenses which brought or continued the youth under the jurisdiction of the Court.
- B. When custody time is based on a single sustained count, the total custody time allowable is the maximum felony term or the maximum misdemeanor term plus any enhancement(s) set by the Court (726 of the Welfare and Institutions Code [WIC]).
- C. Pursuant to 628.2 WIC, a minor shall be entitled to have one day credited against the minor's maximum term of confinement for each day, or fraction thereof, that the minor serves on electronic monitoring. The provision of custody credits pursuant to this subdivision shall apply to custody credits earned beginning January 1, 2023. "Minor" means a person under the jurisdiction of the juvenile court pursuant to 602 WIC.
- D. Maximum custody time (exposure) based on multiple offenses (counts or petitions) is generally determined by the rules of aggregation set forth in 1170.1(a) PC.
 - 1. Although the Court sets the maximum custody (exposure) time when multiple petitions are involved (aggregation), it is Probation's responsibility to provide the Court with an accurate, up-to-date accounting of CTS on each youth at the time of each sentencing.

This information is computed by the assigned Deputy Probation Officer (DPO) via the Custody Days (CD) Calculation feature in the [REDACTED]. The printout generated from [REDACTED] is kept in the youth's file on the left side and is updated on a continuous basis and always brought up to date before each court date and

termination of wardship.

2. The following definitions are to be used for key terms contained in 1170.1 PC and throughout this manual item.

Offense: a law violation enumerated as a sustained count in a 602 WIC petition.

Base Term: the maximum allowable period of confinement set by Court or specified by statute for an offense.

Principal Term: generally, the sustained petition or count which carries the highest confinement period (including enhancements). The Court determines which petition or count becomes the principal term.

Enhancement: a term added to the “offense” term as a consequence for activities or factors associated with the offense but not constituting an element of the offense itself (an enhancement is often imposed if the victim suffers great bodily injury during a crime). Enhancements are filed by the district attorney’s office and must be sustained by the Court pursuant to specific penal code sections.

Subordinate Term: a term consisting of one-third the middle term (mid-term) specified by statute for felony offenses or one-third the maximum allowable term for misdemeanor offenses (plus allowable enhancements). Exceptions will be by court order. The Court determines which counts become subordinate terms and their worth.

Additional Term: a term imposed by the Court as a result of specified prior sustained felony offenses.

Aggregate Term: the total exposure resulting from the combination of base and subordinate terms.

II. PROCEDURE

Tracking of Total Custody Exposure Time Available (Exposure) and Tracking of CTS.

The CD Calculation feature in [REDACTED] is used to record exposure time based upon sustained petitions and records all custody time **served at facilities, including Orange County Jail, on sustained subsequent petitions, sustained or dismissed probation violations (PVs), and court ordered time on Global Positioning System (GPS) electronic monitoring, Accountability Commitment Program (ACP) and Pre-Detention Pre-Disposition Program (PPP). The [REDACTED] generated document is to be kept on the left side of the J/DL file.**

A. Initiating the Form

After a petition is sustained, and the case is received, the assigned DPO should immediately **update the amount of exposure time in [REDACTED] (see Custody Days Calculation User Guide on Probnat). Make entries based on the Minute Order and Advisement of Constitutional Rights form. Ensure that the following information is recorded in [REDACTED]:**

- Petition date
- Sustained/dismissal date
- Code for each offense as sustained
- Available custodial time (i.e., exposure), set by the Court or set by the code in the felony or misdemeanor column as appropriate.

If an enhancement is ordered, enter the code section specified on a separate line, directly under the corresponding offense and record the enhancement exposure.

Remember that sustained probation violations do not increase available custody time; however, time served on these petitions, sustained or not, does count toward the CTS total and does decrease the available exposure time.

B. Computing Actual CTS

1. The assigned DPO should access the **CD** feature in [REDACTED] where the **time in custody is automatically calculated from any custody days served in the facilities: Juvenile Hall (JH), Youth Guidance Center (YGC), Youth Leadership Academy (YLA), and the Accountability Commitment Program (ACP).** For youth that have spent time in Orange County Jail for **juvenile probation violations**, the assigned DPOs can access the [REDACTED], for dates in custody and **will need to manually enter the time into the CD Calculator in [REDACTED].**
2. In computing CTS, **follow the below guidelines.**
 - a. Do not count the following in computing CTS:
 - (1) **Time served on any initial or subsequent petition which is dismissed (however, time served on any PV which is dismissed, does count toward total CTS).**
 - (2) **Time in a non-secure community setting pending placement.**
 - b. Do count the following in computing CTS:
 - (1) Any time the youth has served in other jurisdictions on matters that are eventually accepted and dispositioned in Orange County and any time served in other jurisdictions on an Orange County warrant pending transfer to Orange County (**Transfer-In**). **This is not automatically captured in the CD Calculator in [REDACTED] and will need to be entered manually.**
 - (2) Time served in a secure setting pending placement (includes camps)
 - (3) Time served on any probation violation even if it is eventually dismissed.
 - (4) **Time served in a secure facility such as JH, YLA, & YGC**

as documented in the [REDACTED]
[REDACTED].

- (5) Commitment time served in jail related to a juvenile probation violation petition. **This is not automatically captured in CD Calculator in [REDACTED] and will need to be entered manually.**
 - (6) **Time spent on PPP**
 - (7) **Time spent on ACP**
 - (8) **Time spent on GPS electronic monitoring, as part of an informal sanction agreement or court ordered. This is not automatically captured in the CD Calculator in [REDACTED] and will need to be entered manually.**
- 3. Be sure that appropriate comments are made in the **notes section** to clarify any discrepancy between number of days ordered and the time spent in custody (ACP release, time stayed – older cases).
 - 4. Particular attention should be taken with Placement cases to **ensure** that credit for time served in secure setting while awaiting placement, even when no petition has been filed (i.e., Court Replacement [CR]), is noted. The DPO must **ensure** that the exposure time is not exceeded.
 - 5. **Monitor the custody time calculator to ensure the most up-to-date information is accurate prior to any court hearing (Progress Reviews, Probation Violation Detention Hearings, etc.)**

C. Exposure Time Computation (Subordination and Aggregation Issues)

In the past, the Probation Department has attempted to provide the Court with detailed aggregation and subordination totals under the Exposure Section. The current position of the Juvenile Court Bench Officers and District Attorney is that this determination of a youth's exposure time is a technical legal matter and is to be determined by the attorneys and the Court. Therefore, it is not necessary for the Probation Department to determine exactly the youth's exposure time; however, the assigned DPO should continue to **update the CD calculator with the exposure associated with the case. Each case will have specific exposure which can be found in the Advisement of Constitutional Rights form which is completed at disposition. The DPO must** be cognizant of the approximate total exposure time and time available on each individual case in order that a youth not be held in custody longer than he has legal time available. It is no longer necessary for assigned DPOs to research all aggregation and subordination factors. The Court's position is, however, that Probation is mandated to provide an accurate and up to date accounting of actual custodial days served (CTS). **Court Officers are responsible for tracking CTS when the youth appears before the Court on a pre-disposition matter. As such, it is imperative the CD Calculation in [REDACTED] is updated and reviewed regularly.**

The important thing to remember is that when a youth has sustained petitions for more than one offense, the longest maximum sentence is generally determined to

be the principal term. Each subsequent felony is then computed at one-third of the mid-term. Each misdemeanor is computed at one-third the maximum sentence. (There is some controversy regarding computation of cases in which all sustained matters are misdemeanors. In these cases, the DPO should feel free to contact the assigned District Attorney for clarification as to the maximum exposure.)

REFERENCES:

Procedures:	2-5-002	Probation Officer's Report to the Juvenile Court Computation of Commitments
	3-5-011	
Policies:	F-2	Recommendations to the Court for Dispositions/Sentencing and Commitments for Minors
	E-3	Disclosure of Court Recommendations

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APPROVED BY: