

The plan

- Summary of selected new appellate cases in juvenile justice law
- Keeping up with legislative changes, published and especially *unpublished* cases is important to juvenile systems.
- Citations and where to find law

<https://www.courts.ca.gov/opinions.htm>
 or plug citation into a search engine

Topics will include

- Miranda
- Searches
- Probation Conditions
- Sealing
- Restitution
- Sufficiency of the evidence
- Transfer hearings
- DJJ & JLOWP
- Prop 47



MIRANDA

In re I.F. (2018) 20 Cal.App.5th 735

Miranda Admonitions

Custody determinations are resolved by an objective standard: Would a reasonable person interpret the restraints used by the police as tantamount to a formal arrest?

The totality of the circumstances surrounding an incident must be considered as a whole. A child's age may be considered in this analysis, "so long as the child's age was known to the officer at the time of police questioning, or would have been objectively apparent to a reasonable officer.



4th Amendment

The Fourth Amendment of the U.S. Constitution guarantees the right to be free of unreasonable searches and seizures by law enforcement. If an officer has a reasonable suspicion, supported by specific and articulable facts, that criminal activity is afoot, the officer may conduct a brief, investigative stop.

In re K.J. (2018) 18 Cal.App.5th 1123

SEARCH & SEIZURE ON SCHOOL GROUNDS

Students may be **DETAINED** by school officials on campus, without reasonable suspicion, so long as the detention is not arbitrary, capricious, or for harassment.

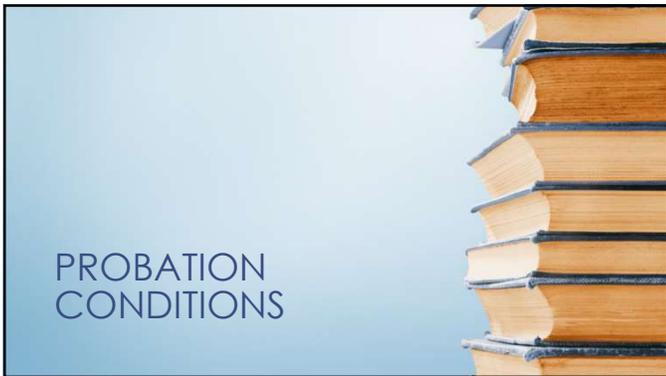
Students may be **SEARCHED** based on a reasonable suspicion of crime or rule-breaking.

“School officials” include school resource officers and their back-ups from the local police agency.

In re Jeremiah S. (2019) 41 Cal.App.5th 299

PAT SEARCHES

The validity of a pat search depends on the totality of the circumstances and turns on whether "a reasonably prudent person in the circumstances would be warranted in the belief that her safety or that of others was in danger. The officer must provide specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant the intrusion.



PROBATION
CONDITIONS

Test for valid probation conditions

A condition of probation which requires or forbids conduct which is not itself criminal is valid if that conduct is **reasonably related to the crime of which the defendant was convicted or to future criminality.**

People v. Lent (1975) 15 Cal.3d 481

In re Ricardo P. (2019) 7 Cal.5th 1113

Probation condition requiring minor to

submit electronics including passwords under his control to search by Probation Officer or peace officer with or without a search warrant at any time of day or night

imposes a burden that is substantially disproportionate to the legitimate interests in promoting rehabilitation and public safety and is invalid under *Lent*.

Too Broad

In re Alonzo M. (2019) 40 Cal.App.5th 156

Submit your cell phone or any other electronic device under your control to a search . . . reasonably likely to reveal whether you're complying with the terms of your probation with or without a search warrant at any time of day or night. . . . You shall provide access codes to probation or any other peace officer upon request to effectuate the search."

Too Broad

In re A.A. (2018) 30 Cal.App.5th 596

Can a juvenile court impose a condition of probation that prohibits a young person from **posting** on social media about his or her juvenile case?

Overbreadth

A probation condition is unconstitutionally overbroad if it:

- (1) impinges on constitutional rights, and
- (2) is not tailored carefully and reasonably related to the compelling state interest in reformation and rehabilitation.

In re Carlos C. (2018) 19 Cal.App.5th 997

The probation condition providing that:

Charley "shall not own, use, or possess any form of sexually arousing materials which include computer based movies, videos, magazines, books, games, sexual aids or devices, or *any material which depicts partial or complete nudity* . . . is overbroad.

In re G.B. (2018) 24 Cal.App.5th 464

VAGUENESS

A probation condition "must be sufficiently precise for the probationer to know what is required of him, and for the court to determine whether the condition has been violated. [It must be] described in a manner so that ordinary people can understand what conduct is prohibited.

In re G.B. (2018) 24 Cal.App.5th 464

SCHOOL STAY-AWAYS

Do not enter on the campus or grounds of any school unless enrolled, accompanied by a parent or guardian or responsible adult, or authorized by the permission of school authorities.

Approved in *In re D.G.* (2010) 187 CA5 47

In re D.B. (2018) 24 Cal.App.5th 252

2 Take-Aways

1. Make sure what is said, is also printed
2. Repeal destroys the remedy for inchoate rights created by statute

SEALING



In re O.C. (2019) 40 Cal.App.5th 1196

In 2018, D petitions to seal her DUI juvenile records under WIC 786. Her juvenile probation terminated successfully in 2009.

May she do so?

In re O.C. (2019) 40 Cal.App.5th 1196

No. Section 786 is not retroactive; it only applies to persons who satisfactorily completed their juvenile court supervision or probation after the law went into effect on January 1, 2015.

For all other cases, section 781 applies.

In re W.R. (2018) 22 Cal.App.5th 284

What happens when the law changes while your sealing appeal is pending?



DUE PROCESS &
SUBSTANTIAL EVIDENCE

In re B.M. (2018) 6 Cal.5th 528
 PC 245(a)(1) prohibits assault with a deadly weapon or instrument other than a firearm.
Q: Is a 245(a)(1) committed when Minor makes slicing motions against victim's covered legs with a 6" butter knife?

In re H.W. (2019) 6 Cal.5th 1068
 PC 466 prohibits possession of instruments or tools "with intent to feloniously break or enter into any building . . ."
 Q: Is PC 466 violated by a minor who walks into a clothing store with large pliers intending to, and eventually actually using them to remove anti-theft tags on a pair of pants he then steals?

In re R.C. (2019) 39 Cal.App.5th 302

Is the camera "concealed" if I hold it in my hand and announce that I'm recording? (PC 647(j)(3)(A).)

In re R.W. (2018) 24 Cal.App.5th 145

Police knew minor was not involved in VC 10851 and called her mother to pick her up. While waiting in the police station for her mother, minor grew frustrated and left the building. Police stopped her from leaving and minor resisted.

Is this a violation of section 148(a) of the Penal Code?

In re D.N. (2018) 19 Cal.App.5th 898

Minor steals her mother's car and is charged with felony VC 10851. At trial, prosecutor fails to establish value of the vehicle.

Can the felony Vehicle Code sec. 10851 finding stand?

In re A.W. (2019) 39 Cal.App.5th 941

To support *felony* vandalism charges, the prosecution must prove that the actual value of the defacement, damage, or destruction is \$400 or more.

Rules. Calculating average costs of damage cannot support proof beyond a reasonable doubt that any individual tagging caused more than \$400 in damage.

Law enforcement costs cannot be included in calculating damages under section 594.

Held, felonies reversed and reduced to misdemeanors.

People v. Francis A. (2019)
40 Cal.App.5th 399

“We feel compelled to observe that the officer’s arrest of Frank and the People’s pursuit of these meritless charges against him were unjustified. Not only did the officer’s conduct fail to enhance school safety, it elevated what should have been a minor school disciplinary matter into one with potential criminal implications.”

In re R.M. (2018) 22 Cal.App.5th 582

Mom calls police for help getting her daughter to school. Police arrive and transport the minor to school. The minor gets out, defiantly says she is still not going to class, and then starts walking away from campus. Officer tells the minor to go to class. When she doesn’t, he grabs her arm and arrests her for **PC 148(a)(1)**, a charge the court later finds true.

Is the officer acting within his legal duty by directing the minor to go to class?

In re D.P. (2018) 21 Cal.App.5th 154

PROCESS

WIC 653.5 requires prosecutors to institute proceedings **within five days** of receiving the probation department's affidavit that an out-of-custody minor has committed some actionable wrongdoing.

Q: Where the prosecutor files 39 judicial days after receiving probation's affidavit, must the court dismiss the action?

In re Jonathan V. (2018) 19 Cal.App.5th 236

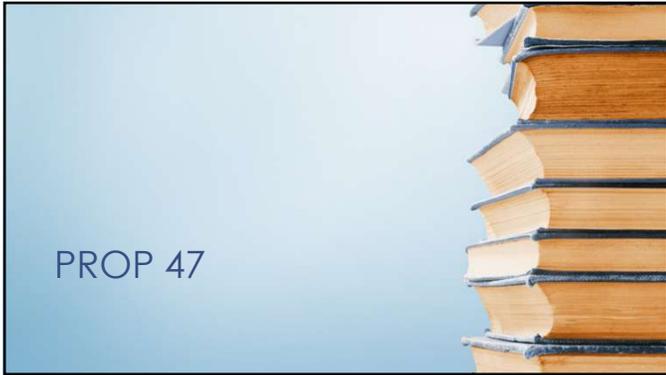
Minor who, with others, committed a robbery of multiple victims that involved a gun, was released from juvenile hall to a home supervision program. The prosecutor then asked for a CLETS restraining order to protect the victims. Defense counsel objected for lack of advance notice. The juvenile court issued a 2 year CLETS order.

Is the CLETS restraining order valid?

In re A.C. (2019) 37 Cal.App.5th 262

An in-home counselor did not provide one-on-one therapy to the minor. She assessed the needs of the family and provided referrals for the family to receive mental health services. At the probation violation hearing, the counselor is asked about threats the minor recently disclosed to her about stabbing kids at school who bullied him. **Defense counsel objects, claiming the psychotherapist-patient privilege.**

Sustained or overruled?



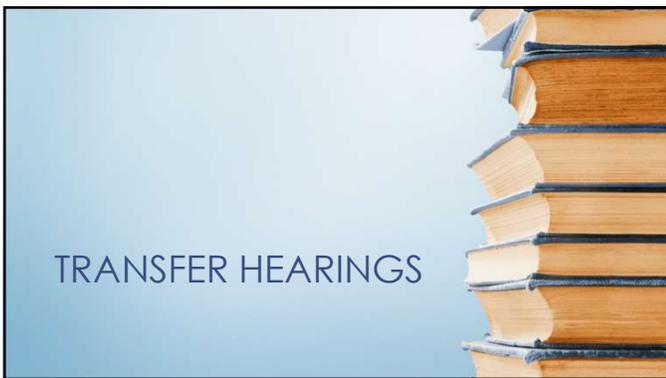
In re C.B. (2018) 6 Cal.5th 118
 When a young person's felony is reduced to a misdemeanor by Prop 47, is the young person also entitled to have her DNA sample and DNA profile expunged or destroyed?

In re E.P. (2019) 35 Cal.App.5th 792
 . . . **Shoplifting** is defined as entering a commercial establishment with intent to commit larceny while that establishment is open during regular business hours, where the value of the property that is taken or intended to be taken does not exceed nine hundred fifty dollars (\$950). Any other entry into a commercial establishment with intent to commit larceny is burglary. (Pen. Code 459.5)
Q: Boy steals property from ice hockey rink locker room. Is this shoplifting or burglary after Prop 47?

K.C. v. Superior Court (2018)
24 Cal.App.5th 1001

WIC 208.5 governs pre-disposition
remand to the county jail of young
people who turn 18 in juvenile hall.

This law **permits, but does not require**,
relocating 18-year-olds to county jail.



J.N. v. Superior Court (Orange County)
(2018) 23 Cal.App.5th 706

C.S. v. Superior Court (Santa Clara)
(2018) 29 Cal.App.5th 1009

**D.W. v. Superior Court (Los Angeles)
B294110, 12/09/19**

One from a group (not minor) fatally stabbed the victim. SB 1437 ended accomplice liability for felony murder on a "natural and probable consequences" theory.

Writ granted: the prosecution burden to make a prima facie showing of the alleged WIC 707(b) offense at transfer hearings remains after Prop 57. The minor is entitled to (1) challenge the sufficiency of evidence and (2) a fitness determination based on the charged offense.



In re N.C. (2019) 39 Cal.App.5th 81

There is no absolute rule the a DJJ commitment must be reserved as a last resort placement. But, to ensure the necessity of a DJJ placement, there must be evidence supporting a determination that less restrictive alternatives are ineffective or inappropriate. There must also be substantial evidence demonstrating a probable benefit to the minor by the DJJ commitment.

(See also **In re Carlos J.** (2018) 22 Cal.App.5th 1.)

In re A.M. (2019) 38 Cal.App.5th 440

A few take-aways . . .

- Make a good record about programs and resources available at DJJ or in the community. Using short-hand descriptions does not make for a good record on appeal.
- Consider the appellate court's guidance in this case as to how recommendations for DJJ might be best litigated in court. (*Id.* at pg. 450.)

In re Anthony Maurice Cook Jr.
(2019) 7 Cal.5th 439

Thank you!
YOUR ISSUES?