



TO: Interested Parties
FROM: Youth Law Center, San Francisco
DATE: February 10, 2011
RE: Division of Juvenile Justice Implementation of AB 1628

The following is a summary of a presentation at a public meeting of the Juvenile Parole Board (JPB) on January 31, 2011, at which Division of Juvenile Justice (DJJ) representatives explained how they will implement AB 1628, which as of January 19, 2011 transfers responsibility for post-release supervision from DJJ Parole to county probation departments. Procedures may be subject to change, and for the most current information, contact the JPB at (916) 262-1426, or the Department of Intake and Court Services (ICS) at (916) 262-0853. A copy of the relevant DJJ Policy and Procedures has been posted on the Youth Law Center's website, www.ylc.org.

DJJ interprets AB 1628 as only affecting first commits to its facilities. There will now be four categories of youth housed at DJJ, all with different ways of being released from DJJ.

- **First commits** – released by JPB through **discharge consideration hearings** (formerly known as parole consideration hearings), then discharged from DJJ and sent to committing county
- **Parole violators** – released via **exit interviews**, then back to Juvenile Parole supervision
- **E/M cases** (youth sentenced to adult state prison but too young to be housed there) – released to **CDCR** on 18th birthday, unless the sentence ends before 21st birthday, then released to **Adult Parole** at end of sentence
- **Probation returnees** – released on the **date set by the juvenile court** for their probation violation. They will be sent back to DJJ by juvenile judges for a set period of time between 90 days and one year for violations of probation.

DJJ-Probation Procedures

DJJ has developed a process by which it will interact with the counties for the **discharge consideration hearings**.

- Every month, DJJ Intake and Court Services department (ICS) will send county probation department designees a list of all offenders from their county currently housed at DJJ, organized by projected discharge review date.
- Each DJJ facility will be responsible for forwarding to ICS the discharge consideration hearing report 65 calendar days prior to the youth's discharge consideration hearing, because DJJ has to send a discharge report packet to probation no later than 60 days before the hearing.
- The county probation department will get the discharge report packet, with the Checklist A on top listing the documents. The packet will include: facilities' discharge consideration report, Wards with Disabilities report (if applicable), the action log, jurisdiction/available confinement time (ACT) record, summary of medical records, a visiting list, pictures of the youth, all educational recorders, any

detainers, mental health treatment summary. Sex offenders also will have the sex offender assessment, pre-registration packet, and treatment reports in their packet.

- Copies of the report will be sent to the youth's attorney of record from the commitment and/or public defender, and the court.
- DJJ will continue to send out all law enforcement, victim, and pre-registration notification as required by law. The county probation department will be in charge of ensuring the youth actually registers.
- The county probation department may (*but does not have to*) prepare a county placement/supervision plan, which is to be provided to DJJ no later than 30 days before the discharge hearing, so that the JPB can consider and review it at the hearing.
- At the discharge consideration hearing, if the decision is to release the youth, the JPB prepares an order with its post-release supervision recommendations for the judge and county probation to consider. JPB can include as part of its general recommendations what type of placement they think the youth should be at. The recommendations should not be program specific (i.e. naming a specific halfway house), but instead must be broadly stated (i.e. in-patient drug treatment). The JPB has to include a factual basis for the recommendation, based upon the youth's current behavior and treatment history.
- The JPB will set the parolee's release/discharge date to be 14 calendar days from the date of the hearing. AB 1628 states no less than 14 days, but the policy will be to set it at exactly 14 days.
- The post-release supervision recommendations are sent by DJJ to county probation, the court, and the youth's attorney within 7 days. Probation can adopt or ignore these recommendations, and it is up to the judge to decide what probation requirements, if any, to impose on the youth. If applicable, DJJ will also send probation a prescription for 30 days' worth of medication and the mental health treatment report.
- County probation puts the youth on the juvenile court calendar for a reentry hearing. The court date has to be before the 14 days are up. Probation tells ICS what that date is, and ICS notifies Facilities staff and Transportation staff.
- DJJ Transportation transports the youth from DJJ to the county, at least one and no more than 4 days before the court hearing. The youth will be taken to the juvenile hall (if the county has permission to house 18 to 21 year olds), or more likely, county jail. The youth is then officially discharged from DJJ jurisdiction.
- At the re-entry hearing, the judge reviews the case, and decides the conditions of probation. The youth is then released to the community, group home, residential drug treatment program, wherever s/he is going. The judge cannot override the JPB's decision to discharge the youth, cannot order the youth sent back to DJJ, and cannot order additional time to be served in county jail.

Special Considerations/FAQs

What if a youth engages in some sort of misconduct in the 14 day interim period?

If the behavior rises to something where DJJ wants to file local charges, they will coordinate with the committing county and the county of the facility so that the local county

has a detainer of pending charges on the youth. The youth would still go to the committing county for the reentry hearing, but then that county would be responsible for transporting the youth to the county with the pending charges.

What is the expectation of what the youth should be doing in that 14 days?

They will keep going to school, vocational program, living unit programming, etc. Eleanor is working on an informational sheet for youth that explains the new process, and will be training them.

How is a youth's property to be transferred and money handled?

Counties refuse to accept the youth with any property. They are telling the youth to send the property home to family prior to the discharge hearing. If family attends the discharge hearing, the youth can't go home with them that day, but that would be when the family can take all of the property. If a youth has no family, the facility will work with the youth to make some sort of alternative arrangement. Any money in the youth's trust account will be sent to county probation departments as a check.

How are WIC 1800 cases to be handled?

WIC 1800 extension cases will remain in DJJ until the expiration of jurisdiction.

How are youth with detainers (i.e. immigration holds, other law enforcement) to be handled?

At the reentry hearing, the youth will not be released, and the committing county probation department will be responsible for arranging the transportation or pick-up of the youth by the agency which has placed the hold on the person.

How are interstate cases to be handled?

For youth requesting placement out of state, DJJ will initiate the interstate packet for the youth (as DJJ is the point of contact for the Interstate Compact), but the youth will still have to go to the committing county for the reentry hearing. It is up to probation and the court on the final decision of allowing out-of-state placement, and probation would arrange the supervision agreement.

What if a youth wants to move to a different county than the committing county?

The decision whether to allow a youth to live in a different county than the one that committed him/her to DJJ is up to the court and probation department in the committing county – they will review the case and decide whether to transfer supervision to the second county.

Does AB 1053 (WIC 1766.2 – mandatory release of youth 90-120 days prior to expiration of jurisdiction and/or confinement time) still apply?

Yes, this will still apply to youth.

Can a youth be returned to DJJ?

Only upon a violation of the conditions of probation, or upon committing a new offense, and after the juvenile court holds a hearing on the probation violation. The court has the



discretion to send a youth back to DJJ for a fixed term between 90 days and one year. (Sentences of less than 90 days are to be served in the county jail or juvenile hall). DJJ is referring to this population of youth as “probation returnees,” to distinguish them from the others detained in DJJ facilities.

Probation Returnees

- Probation returnees will get a “P number” for tracking, go through the same intake procedure as revoked parolees and first commits, get treatment and training, but will not receive time-adds or good time credits.
- Counties will provide DJJ a commitment packet of information similar to what they provide on new commitments.
- DJJ’s Department of Intake & Court Services (ICS) will evaluate returnees for appropriate placement, treatment and programs. (**NOTE:** And evaluate the youth under the same accept/reject criteria as for the first commits).
- The returnees are not legally under DJJ jurisdiction. They are wards of the juvenile court, housed at DJJ under an agreement similar to the housing agreement DJJ has with CDCR with regard to the E/M population housed at DJJ who have been convicted in adult court but are under 18.
- If the returnee engages in in-custody misconduct, instead of DDMS time-adds or revocation extensions, DJJ will report the behavior to the committing county probation department and juvenile court judge and leave it to the court’s discretion what to do about it. If the behavior is an assault on staff, DJJ will report it to the committing county as well as refer it to the local District Attorney to file local charges. Probation returnees will be subject to other discipline (i.e. restrictions on activities, lock up, etc.) that are already in place for lower-level behavior.

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