



## **Challenging Lengthy Post-Disposition Commitments to Juvenile Halls**

Memorandum by Youth Law Center law clerk, Teri Diaz

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### **Introduction**

According to California law, minors under the jurisdiction of the juvenile court as a consequence of delinquent conduct “shall, in conformity with the interests of public safety and protection, receive care, treatment, and guidance that is consistent with their best interest, that holds them accountable for their behavior, and that is appropriate for their circumstances.”<sup>1</sup> Sometimes this “guidance” can be in the form of punishment. According to the California Welfare and Institutions Code section 202, “punishment” is the imposition of sanctions, which does not include retribution and shall not include a court order to place a child in foster care.<sup>2</sup> Furthermore, it must be consistent with the rehabilitative goals and objectives of the juvenile justice system.<sup>3</sup> Permissible sanctions for delinquent youth may include community service or probation. Further, as a condition of their probation, delinquent youth can be committed to a juvenile hall. In the landmark case, *In re Ricardo M.* (1975), the court upheld post-disposition short term commitments to juvenile halls.<sup>4</sup>

The purpose of this memorandum is to address ways to challenge the imposition of lengthy or extended post-disposition confinement, such as 200 or 300 days, in juvenile halls and to provide a resource for attorneys and advocates who are representing juvenile clients in this situation in California. First, no statutory authority

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<sup>1</sup> Welf. & Inst. Code § 202.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Ibid.*

<sup>4</sup> *In re Ricardo M.* (1975) 52 Cal.App.3d 744.

supports lengthy confinement in juvenile halls. Second, none of the cases construing *Ricardo M.* contemplate lengthy post-disposition commitment. Third, extended confinement in juvenile halls is not supported by policy.

### **Method 1: No Statutory Authority Supports Lengthy Commitments**

The California Welfare and Institutions Code, the primary source for statutes related to juvenile halls, refers to the purpose of juvenile halls but does not directly address length of confinement for post-disposition youth.<sup>5</sup> Historically, the purpose of juvenile detention has been for “the temporary and safe custody of juveniles who are accused of conduct subject to the jurisdiction of the court who require a restricted environment for their own or the community’s protection.”<sup>6</sup> Under Welfare and Institutions Code section 850, juvenile hall is defined as “a suitable house or place for the detention of wards and dependent children of the juvenile court and of persons *alleged* to come within the jurisdiction of the juvenile court.” However section 850 discusses detention in juvenile hall in the context of minors alleged to come within the jurisdiction of the court, but not post-disposition committed youth. Additionally, section 851 clarifies that “the juvenile hall shall not be in, or connected with, any jail or prison, and shall not be deemed to be, nor be treated as, a penal institution. It shall be a safe and supportive homelike environment.” Finally, according to the California Code of Regulations, Title 15, “‘juvenile hall’ means a county facility designed for the reception and temporary care of minors detained in accordance with the provisions of this subchapter and the juvenile court law.”<sup>7</sup>

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<sup>5</sup> Welf. & Inst. Code § 202.

<sup>6</sup> National Juvenile Detention Association, *Position Statement: Juvenile Detention as a Disposition* (1997).

<sup>7</sup> Cal. Code Regs., tit. 15, § 1302.

Any language that does relate to length of stay or placement of youth in juvenile halls addresses protections for pre-disposition youth, not post-disposition. For example, Welfare and Institutions Code section 631 explains that “Maximum time of detention of minor in absence of petition or criminal complaint; exceptions; review and approval of decision to detain – 48 hours.” Further, section 636, referring to pre-disposition youth, says that “Before detaining the minor, the court shall determine whether continuance in the home is contrary to the minor’s welfare and whether there are available services that would prevent the need for further detention.” Finally, section 737 says that “Detention until execution of commitment order; review of detention of minor (a) Whenever a person has been adjudged a ward of the juvenile court and has been committed or otherwise disposed of as provided in this chapter for the care of wards of the juvenile court, the court may order that the ward be detained in the detention home, or in the case of a ward of the age of 18 years or more, in the county jail or otherwise as the court deems fit until the execution of the order of commitment or other disposition.”

These statutes suggest that the juvenile halls are intended to be temporary places to hold youth or for detention pending something else, instead of detention as a dispositional commitment. In the end, there is no statutory authority specifically allowing lengthy post-disposition commitments to juvenile halls.

**Method 2: Case law does not contemplate lengthy post-disposition commitment — The legacy of the Ricardo M. line of cases**

“*Ricardo M.* time” or a short commitment to juvenile hall as a condition of probation is still valid.<sup>8</sup> In *Ricardo M.*, a habeas corpus petition was filed challenging the

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<sup>8</sup> “*Ricardo M.* time” is part of the current legal jargon of the juvenile court and refers to a short commitment to juvenile hall as a condition of probation.

right of a juvenile court to impose, as a condition of probation, a requirement that the juvenile spend not less than five nor more than 20 days in juvenile hall as determined by the juvenile hall's staff. The court held it to be an appropriate condition of probation.<sup>9</sup> The line of cases that cite *Ricardo M.* have continued to recognize the vitality of *Ricardo M.* even though the statutes have changed over time in California, in particular, section 777 in 2001 and section 202 in 1984.<sup>10</sup>

*Ricardo M.* did not just validate committing a juvenile to a juvenile hall as a condition of probation. It also suggested that lengthy or extended commitments were not appropriate. First, *Ricardo M.* highlights the purpose of Juvenile Court Law emphasizing the protective role of the juvenile court and the role of therapeutic punishment particularly with juveniles (which differs from adults). Second, the *Ricardo M.* court demonstrated that this type of commitment is to serve as an *alternative* to more serious dispositions. Third, the cases that cite *Ricardo M.* and that involve this type of commitment often involve short time intervals, for example 5 to 30 days as condition of probation and not 200 or more days.

#### **1. The purpose of Juvenile Court Law: the protective role of the court and therapeutic punishment of juveniles**

The court in *Ricardo M.* says, “[The] underlying philosophy [of the Juvenile Court Law] is that the state assumes a protective role with respect to the juveniles over whom it gains jurisdiction. Juvenile court action thus differs from adult criminal prosecutions

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<sup>9</sup> *In re Ricardo M.*, *supra*, 52 Cal.App.3d 744.

<sup>10</sup> *In re John S.* (1978) 83 Cal.App.3d 285; *In re Gerald B.* (1980) 105 Cal.App.3d 119; *In re Demetrus H.* (1981) 118 Cal.App.3d 805; *In re Stephen L.* (1984) 162 Cal.App.3d 257; *In re Robert M.* (1985) 163 Cal.App.3d 812; *In re Lance W.* (1985) 37 Cal.3d 873; *In re Joe. A.* (1986) 183 Cal.App.3d 11; *In re Ronnie P.* (1992) 10 Cal.App.4th 1079; *In re Kazuo G.* (1994) 22 Cal.App.4th 1; *In re Chad S.* (1994) 30 Cal.App.4th 607; *In re Myresheia W.* (1998) 61 Cal.App.4th 734; *In re Trevor W.* (2001) 88 Cal.App.4th 833; *In re Ronny P.* (2004) 117 Cal.App.4th 1204.

where “a major goal is corrective confinement of the defendant for the protection of society.’ ( *In re Ricky H.*, *supra*, at p. 519.) The protective goal of the juvenile proceeding is that ‘the child [shall] not become a criminal in later years, but a useful member of society.’ ( *People v. Renteria*, 60 Cal.App.2d 463, 470 [141 P.2d 37].)”<sup>11</sup> *Ricardo M.* highlights two core elements: the protective role of the juvenile court and therapeutic punishment of juveniles. The *Ricardo M.* line of cases often refer to these two basic principles concerning the purpose of the juvenile court, which supports the position that lengthy commitments to juvenile hall as a condition of probation are not valid. While Welfare and Institutions Code section 202 was amended by the Legislature in 1984 to emphasize punishment as a permissible purpose, the underlying purpose of care, treatment, and guidance remains to this day.

The emphasis on the unique protective role of the juvenile court combined with therapeutic punishment is pervasive in the *Ricardo M.* line of cases and provides a foundation for opposing lengthy commitments. The court in *Ronnie P.* (1992) offers a window to this role when it explains that “‘*Each time* a ward comes before the court ..., the goal of any resulting dispositional order is to rehabilitate the minor.’ ( *In re Scott K.*, *supra*, 156 Cal.App.3d 273, 277, 203 Cal.Rptr. 268, italics added.) A lockstep escalation of dispositions ‘falls short of the particularized consideration which underlies the entire juvenile court system.’ ( *In re Joe A.*, *supra*, 183 Cal.App.3d at p. 29, 227 Cal.Rptr. 831).”<sup>12</sup> In *Demetrus H.* (1981), the court held that a condition of probation requiring a commitment of not less than 5 nor more than 10 days in juvenile hall should be eliminated. Referring to *Ricardo M.*, the court in *Demetrus H.* observed that “The legal

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<sup>11</sup> *In re Ricardo M.*, *supra*, 52 Cal.App.3d at p. 748.

<sup>12</sup> *In re Ronnie P.*, *supra*, 10 Cal.App.4th at p. 1088.

test of the validity of the condition [of probation imposing the short-term commitment of Ricardo to juvenile hall] is thus not its characterization but rather its conformity to the objectives and declared policies of the Juvenile Court Law.”<sup>13</sup> If the goal of the Juvenile Court Law is to rehabilitate the minor, a long-term commitment to a juvenile hall would seem counterproductive because “its intended therapeutic effect has evaporated with the passage of time.”<sup>14</sup>

Furthermore, in *Myresheia W.* (1998), the court emphasized that “The purpose of juvenile proceedings remains markedly different from that of adult proceedings. The state’s purpose in juvenile proceedings is a rehabilitative one distinguishable from the criminal justice system for adults, which has a purely punitive purpose separate from its rehabilitative goals. (*In re Charles C.* (1991) 232 Cal.App.3d 952, 955–956, 284 Cal.Rptr. 4.)”<sup>15</sup> In the end, it seems that a system that is grounded in the principle that youth are different from adults so that the juvenile court should serve a protective role and stress therapeutic punishment and rehabilitation would not support 200 to 300 day commitments of youth to juvenile halls.

## **2. Commitment to a juvenile hall serves as an alternative to a more serious measure of commitment to a juvenile camp.**

“The California juvenile system has available diagnostic and rehabilitative services that are significantly better than those available in adult criminal proceedings. The options available to a juvenile court hearing officer after a minor has been declared a ward of the court are numerous, including diagnostic studies, home on probation, suitable placement, detention pursuant to *In re Ricardo M.* (1975) 52 Cal.App.3d 744,

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<sup>13</sup> *In re Demetrus H.*, *supra*, 118 Cal.App.3d at p. 808.

<sup>14</sup> *Id.* at p. 809.

<sup>15</sup> *In re Myresheia W.*, *supra*, 61 Cal.App.4th at 740-41.

752, 125 Cal.Rptr. 291, camp placement, and commitment to the California Youth Authority.”<sup>16</sup> With all of these available options, *Ricardo M.* emphasizes that confinement to a juvenile hall as a condition of probation “is imposed as an *alternative* to the more serious measure of commitment to a juvenile camp. Its purpose is to demonstrate to the minor the road to which continuation of delinquency will lead while at the same time preserving family ties which are the best of all possible means of bringing the child to productive adulthood. It seeks to avoid the unkind leniency which all too often leads the juvenile to further and more aggravated violations of law and consequently to a continuum of more severe treatment through camp and youth authority commitment to a sentence of state prison by a felony court.”<sup>17</sup>

Several cases that cite *Ricardo M.* preserve this principle, including *In re John S.* (1978), *In re Lance W.* (1985), and *In re Kazuo G.* (1994). In *Kazuo G.*, the court struck down the imposition of a stayed 6 month juvenile hall commitment and said that “Juvenile probation has long been recognized as an alternative to the more serious measure of commitment to a county juvenile institution or to the Youth Authority. (Welf. & Inst. Code §§ 730, 731; *In re Ricardo M.*, *supra*, 52 Cal.App.3d 744, 749, 125 Cal.Rptr. 291.) Indeed probation is the statutorily preferred alternative.”<sup>18</sup> In a different context, the court in *Ronny P.* spoke of *Ricardo M.* saying that “The purpose of such a confinement order is to impress upon the juvenile the seriousness of the misconduct, without the imposition of a more serious commitment. (*In re Ricardo M.*, *supra*, 52 Cal.App.3d at p. 749, 125 Cal.Rptr. 291.) The confinement order informs the juvenile

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<sup>16</sup> *In re Myresheia W.*, *supra*, 61 Cal.App.4th at 740-41.

<sup>17</sup> *In re Ricardo M.*, *supra*, 52 Cal.App.3d at p. 749.

<sup>18</sup> *In re Kazuo G.*, *supra*, 22 Cal.App.4th at 8.

that continued misconduct will lead to even more serious consequences and thus encourages rehabilitation.”<sup>19</sup> All of these cases preserve the idea that commitment in juvenile hall as a condition of probation is intended to be an alternative to a more serious commitment. An extended or lengthy stay in juvenile hall such as a 200 day commitment would appear to contradict this fundamental principle.

**3. The cases that cite *Ricardo M.* and that include this type of commitment often involve relatively short time periods.**

In *Ricardo M.*, the court upheld a commitment of not less than 5 nor more than 20 days at discretion of probation. While discretion is still left with probation, several of the cases that cite *Ricardo M.* involve relatively short-term commitments and do not contemplate a commitment of 200 or 300 days. For example, the court in *John S.* (1978) upheld a 5 to 10 day commitment in juvenile hall.<sup>20</sup> In *Stephen L.* (1984), the juvenile was placed home on probation in the care of his mother, but as a condition of probation the minor was ordered to spend 15 days *Ricardo M.* time in juvenile hall or participate in the Juvenile Assigned Work Service (“J.A.W.S.”) program.<sup>21</sup>

The court in *Gerald B.* (1980) also refers to the temporal element when it struck down a special order that would have imposed automatic juvenile hall time for a violation of an order to attend in a section 602 case. The court found that Gerald’s “potential confinement to juvenile hall arises not from the fact of truancy alone, but as the result of a condition of probation stemming from such criminal conduct. And it is

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<sup>19</sup> *In re Ronny P.*, *supra*, 117 Cal.App.4th at 1207.

<sup>20</sup> *In re John S.*, *supra*, 83 Cal.App.3d 285.

<sup>21</sup> *In re Stephen L.*, *supra*, 162 Cal.App.3d 257.



generally recognized that there is no legal impediment to the imposition of brief periods of juvenile hall detention as a condition of probation in section 602 proceedings.”<sup>22</sup>

Finally, in a more recent case, *Trevor W.* (2001), the court struck down the imposition of a 210 day commitment in juvenile hall because Trevor was not made a ward of the court. However, the court found that “even if we concluded section 725(a) authorizes juvenile hall time, we would reverse the juvenile hall condition in this case. As previously stated, section 725(a) expressly provides that probation ordered pursuant to its terms may only be ordered ‘for a period not to exceed six months.’ The disposition here imposed 210 days juvenile hall time, more than the maximum probation period under section 725(a). [T]he power of the court with regard to probation is strictly statutory, and the court cannot impose a condition of probation which extends beyond the maximum statutory period of probation.”<sup>23</sup>

### **Method 3: Extended commitment in juvenile halls is not supported by policy.**

Juvenile halls are not constructed to be long-term facilities. Studies have shown that extended detention or incarceration is counterproductive to rehabilitating the majority of youth.<sup>24</sup> The National Juvenile Defender Center found that “The use of juvenile detention by the court as a sentence has increased in recent years. This increase has been accompanied in many jurisdictions with statutory changes authorizing such use. This shift in detention use has resulted from the court’s desire for additional sanctions which may be imposed on youth who violate the law or a court

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<sup>22</sup> *In re Gerald B.*, *supra*, 105 Cal.App.3d at p. 125.

<sup>23</sup> *In re Trevor W.*, *supra*, 88 Cal.App.4th at p. 839.

<sup>24</sup> Justice Policy Institute, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities* (2006); National Juvenile Defender Center, *The Use and Abuse of Juvenile Detention: Understanding Detention and Its Uses* (2004).

order.”<sup>25</sup> Furthermore, the National Juvenile Detention Association in their Position Statement said that the “National Juvenile Detention Association supports a prohibition on the use of juvenile detention as a dispositional option. The NJDA supports the development of more appropriate and less costly alternatives in order to eliminate the use of juvenile detention as a disposition.” Some of the policy reasons behind these positions include the following:

- “Use of juvenile detention as a dispositional option emphasizes punishment over behavior change.
- Use of juvenile detention as a dispositional option mixes populations and may adversely affect treatment or programming.
- Use of juvenile detention as a dispositional option may aggravate overcrowding in juvenile detention centers.
- Use of juvenile detention as a dispositional option is often utilized simply because other, more preferable, alternatives are not available.
- Use of juvenile detention as a dispositional option discourages the development of more appropriate, less costly alternatives.
- Use of juvenile detention as a dispositional option may result in the negative influence of institutionalization and deny the opportunity for positive experiences in the community (i.e. school, religious activities, sports, family involvement).”<sup>26</sup>

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<sup>25</sup> National Juvenile Defender Center, *The Use and Abuse of Juvenile Detention: Understanding Detention and Its Uses* (2004).

<sup>26</sup> National Juvenile Detention Association, *Position Statement: Juvenile Detention as a Disposition* (1997).

In conclusion, studies have shown that juvenile halls are not constructed to be long-term facilities and more generally that detention is counterproductive to rehabilitating youth. Therefore, in this context, an extended or lengthy commitment in a juvenile hall is not an appropriate method to rehabilitate a juvenile. In the end, the imposition of lengthy post-disposition confinement in juvenile halls can be challenged on three grounds: statutory, case law following the *Ricardo M.* line of cases, and policy.