

CITY OF LONG BEACH - POLICE NOTICE TO APPEAR

CITY OF LONG BEACH - POLICE NOTICE TO APPEAR

CITY OF LONG BEACH - POLICE NOTICE TO APPEAR

CITY OF LONG BEACH - POLICE NOTICE TO APPEAR



# School of Law Criminal Justice Program

# A Closer Look at Los Angeles County Probation's Citation Diversion Program

Leah Gasser-Ordaz  
Youth Justice Policy Lead  
September 2021

CITY OF LONG BEACH - POLICE NOTICE TO APPEAR

CITY OF LONG BEACH - POLICE NOTICE TO APPEAR

CITY OF LONG BEACH - POLICE NOTICE TO APPEAR

Handwritten form with fields for Name, Address, and Date. Includes a barcode at the bottom.

Handwritten form with fields for Name, Address, and Date. Includes a barcode at the bottom.

Handwritten form with fields for Name, Address, and Date. Includes a barcode at the bottom.

Handwritten form with fields for Name, Address, and Date. Includes a barcode at the bottom.

1941

1941

# TABLE OF CONTENTS

- Executive Summary..... 1
- I. What Is the Citation Diversion Program?..... 2
  - The Creation of the Citation Diversion Program..... 2
  - Legal Authority ..... 2
  - The Referral and Adjudication Process ..... 3
  - Relationship Between the Los Angeles Superior Court and the Citation Diversion Program ..... 4
  - Changes in Youth Justice in Los Angeles Since the Establishment of the Citation Diversion Program..... 4
- II. Key Findings..... 5
  - The Probation Department’s Policies Governing the Citation Diversion Program..... 5
  - Types of Offenses ..... 6
  - Referring Agencies..... 7
  - Racial and Gender Data ..... 8
  - Fines and Fees Assessed ..... 9
  - Driver’s License Suspensions ..... 10
  - Fines and Ability to Pay Determinations..... 10
  - Aldo’s Story ..... 11
  - Failures to Appear..... 12
  - Misdemeanor Cases..... 13
  - Appeal and Rehearing ..... 14
- IV. Recommendations ..... 15
  - End the Citation Diversion Program ..... 15
  - Dismiss All Currently Pending Citations Referred to the Citation Diversion Program ..... 16
  - Transfer the Responsibility for Handling All Welfare & Institutions Code 256 Citations to Los Angeles County’s Youth Diversion and Development (YDD) Office..... 16
  - Encourage Law Enforcement to Counsel and Release..... 17
  - While the Citation Diversion Program Remains Open, Immediately Cease Suspending Youth’s Driver’s Licenses ..... 18
  - While the Citation Diversion Program Remains Open, Ensure that the Hearing Officer Makes Ability to Pay Determinations and Provides Flexible Community Service Options at all Hearings..... 18
  - Conclusion..... 19
- Appendix A – Citation Diversion FAQ ..... 20
- Appendix B – Citation Diversion Program Fact Sheet..... 21
- Appendix C – Citation Diversion Request for Rehearing/Reconsideration Form ..... 22

## EXECUTIVE SUMMARY

This report provides an analysis of the Citation Diversion Program (CDP), a little-known program operated by the Los Angeles County Probation Department for youth under the age of eighteen.<sup>1</sup> CDP handles low-level non-traffic infractions for violations like curfew, petty theft, and marijuana possession. Although CDP only handles low-level infractions, the consequences for young people who are referred there can be onerous, including driver's license suspensions, hefty fines, and community service.

CDP was established in 2012. Previously, all juvenile infractions were filed in Informal Juvenile and Traffic Courts (IJTCs), part of the Juvenile Division of the Los Angeles Superior Court. IJTCs were closed because of budget cuts, and these tickets were referred for processing to the Los Angeles County Probation Department. Thus, the responsibility for handling these tickets was transferred away from the courts to a county department. At the time, some may have seen it as a step in the right direction, as the IJTCs had been heavily criticized in the years leading up to their closure.

Over the next several years, advocates continued to successfully push for reforms in Los Angeles County that have recognized that the current juvenile justice system is not the safest or most effective way of dealing with young people who cause harm. Their work led to significant changes in the prosecution of low-level offenses against young people and are precursors to the more recent establishment of the Probation Oversight Commission, the Youth Diversion and Development Department (YDD), and the adoption of a "Care First, Jails Last" vision that prioritizes alternatives to incarceration and diversion, so that care and support are provided first, and incarceration and punishment are a last resort. This work has led to a close examination of the County's currently operating juvenile justice system programs, including CDP.

Despite being in operation for almost ten years, there is little public information available about how CDP operates, its processes, or who is targeted for referral. This report presents original research based on data collected from the Los Angeles County Probation Department through California Public Record Act requests. Additionally, this report presents research on the administrative process that young people must navigate within CDP, including interviews with practitioners who are familiar with CDP and youth who have undergone the CDP process; first-hand observation of CDP proceedings; and surveys of publicly available news articles and websites.

Based on the data and legal analysis, this report recommends that the Citation Diversion Program be ended; that the responsibility for handling all low-level non-traffic infractions is shifted to the robust and well-resourced Youth Diversion and Development division (YDD) of the Office of Diversion and Re-Entry; that law enforcement should be encouraged to counsel and release youth rather than referring cases in the future; that all pending citations be dismissed before CDP is closed; and that all youths' licenses that were suspended under CDP's authority be reinstated.

## I. WHAT IS THE CITATION DIVERSION PROGRAM?

The Citation Diversion Program (CDP) is an informal hearing process run by Los Angeles County's Probation Department for youth under the age of eighteen. The Probation Department receives referrals of citations from law enforcement agencies across LA County for low-level non-traffic violations, which are then processed through CDP.

### The Creation of the Citation Diversion Program

Before CDP was established, Informal Juvenile and Traffic Courts (IJTCs) adjudicated low-level infraction and traffic matters in Los Angeles County.<sup>2</sup> There were thirteen IJTCs located in County courthouses which were overseen by the Juvenile Division of the Superior Court.<sup>3</sup> In 2011, IJTCs heard about 77,000 cases, split into approximately 12,000 traffic infractions and 65,000 non-traffic misdemeanors and infractions.<sup>4</sup>

For several years leading up to the closure of IJTCs, youth leaders, advocates, and attorneys representing youth in IJTCs advocated for reforms like ending daytime curfew enforcement, amending local truancy laws, and decriminalizing fare evasion, which were all violations adjudicated in IJTCs. IJTCs were sharply criticized by advocates "as a dumping ground for problems that schools, law enforcement officers, and families should have handled;"<sup>5</sup> for issuing hefty fines; and requiring students to miss school to appear in court.<sup>6</sup> In early 2012, the Presiding Judge of the Juvenile Court worked with community organizers to make changes to IJTC operations, including a Juvenile Court directive requiring court officers to stop imposing monetary truancy fines on any student ticketed in LA County, and replacing those fines with a graduated series of non-financial requirements, such as providing proof of regular school attendance instead.<sup>7</sup> Young people only received more traditional sentences, such as community service and driver's license revocation, when it was clearly demonstrated that they had not participated in the requirements.<sup>8</sup>

In March of 2012, the Los Angeles County Superior Court announced a series of budget cuts and a reduction in the number of courts, including juvenile courts.<sup>9</sup> Subsequently, in May of 2012, the juvenile court issued a statement that Los Angeles County would completely shut down all of its IJTCs on June 15, 2012.<sup>10</sup> The Court also stated that juvenile misdemeanor and status offenses would now be routed through the Probation Department instead of being assigned to the Juvenile Division of the Superior Court.<sup>11</sup> Traffic violations for minors, however, would be sent to adult traffic courts.<sup>12</sup>

At the time of the closure, the Presiding Judge of the Juvenile Court expressed disappointment that IJTCs were not phased out over time and alternative programs created and developed for youth instead.<sup>13</sup> The Probation Chief stated that the Department would "prefer not to have to deal with this additional responsibility," and that at the end of the day, "we just won't deal with [these tickets]."<sup>14</sup> Other advocates, however, may have seen the closures as a step in the right direction, as it offered an opportunity to keep low level citations from being filed in juvenile delinquency court.

### Legal Authority

CDP operates pursuant to Welfare and Institutions Code section 256, which is the section that governs IJTCs.<sup>15</sup> The Welfare and Institutions Code outlines the powers of juvenile hearing officers in IJTCs, including authorizing probation officers to act as juvenile hearing officers in IJTCs,<sup>16</sup> make findings regarding whether a youth did or did not commit a violation,<sup>17</sup> and to administer judgments.<sup>18</sup> Pursuant to Welfare and Institutions Code section 256, hearing officers are authorized to "hear and dispose of any case in which a minor under the age of 18 years as of the date of the alleged offense

is charged” with: Vehicle Code violations; state and local laws related to traffic, loitering, curfew, or fare evasion; any infraction; any misdemeanor where a minor is cited to appear pursuant to Welfare and Institutions Code section 660.5; and other particular violations contained in the Public Utilities Code; the Streets and Highways Code; the Penal Code; the Business and Professions Code; the Education Code; and the Health and Safety Code.<sup>19</sup>

## The Referral and Adjudication Process

A law enforcement officer who issues a citation to a young person in Los Angeles County may refer the young person to CDP if the offense is eligible.<sup>20</sup> The citation will state that the young person “will be notified by Probation” of the time, date, and location of their hearing.<sup>21</sup> Soon after, CDP mails a letter to the youth, which states the charge and provides a hearing date for the youth to appear with their parent or legal guardian.<sup>22</sup> Prior to the COVID-19 pandemic, if a young person anywhere in Los Angeles County received a citation that was referred to CDP, they were required to appear in person at the Zev Yaroslavsky Family Support Center in Van Nuys, the only location in the county where CDP operates.<sup>23</sup>

When a youth appears at a CDP initial hearing, the hearing officer informs the youth that they can only admit or deny the charges. If the youth admits the charges, then they are sentenced to community service, a fine, and/or subject to a driver’s license suspension.

Youth can also decide to “challenge the citation and explain what happened,”<sup>24</sup> through entering a denial of the charges. If the youth denies the charges, the case is set for an adjudication hearing at a later date that will be presided over by the Probation hearing officer.<sup>25</sup> At the hearing, the youth may give testimony about the incident leading to the charge. The citing officer is subpoenaed to appear and the youth has the opportunity to cross-examine the officer.<sup>26</sup>

After hearing the evidence presented, the hearing officer could dismiss the case for lack of evidence or in the interests of justice. The hearing officer may also issue a judgment, which could be community service, a fine, or other conditions.<sup>27</sup> None of the hearings are recorded, and there are no court reporters. The only record of a hearing is the minute order written by the hearing officer.

A youth is not appointed an attorney at any point in the CDP process. Most youth going through CDP do so without a lawyer. Youth, however, may hire a private attorney to represent them in CDP. There are also at least two nonprofit legal aid organizations that handle CDP tickets, and occasionally the public defender does as well. It is important to note that neither legal aid attorneys nor public defenders are court-appointed. A young person would have to figure out from some knowledgeable adult how to access these free legal services. Attorneys who have represented youth in CDP report that they have been able to successfully file motions to dismiss in the interests of justice for their clients, but representation does not always equate to expert knowledge of CDP policies or practices. As one attorney who is familiar with CDP explains:

Many youth with pending juvenile citations do not have representation and do not know how to go about resolving their cases. For represented youth, their counsel may contact CDP to schedule a hearing on their behalf, but CDP remains less transparent and more difficult to navigate as an attorney . . . , and this affects the outcomes possible for our clients.<sup>28</sup>

On March 13, 2020, CDP stopped operations, citing stay-at-home orders and court closures. Hearings were postponed indefinitely, and neither young people nor attorneys could access the program to resolve citations, even though citations were still being issued by law enforcement agencies throughout the county. In November 2020, after eight months of

complete closure, CDP began scheduling remote hearings either by telephone or videoconference. As of the writing of this report, CDP is only resolving cases virtually.

## **Relationship Between the Los Angeles Superior Court and the Citation Diversion Program**

A review of the courts and CDP reveal few linkages, which make it difficult to discern the exact nature of the Los Angeles Superior Court's relationship to CDP's operations. However, since CDP was reassigned to Probation in June 2012, the Superior Court does not appear to have authority over how Probation handles cases referred to CDP. For example, CDP does not operate using the same database or technology as the courts. Probation does not have access to the same database that the courts use to lift license holds.<sup>29</sup> The LA Court website also has no information about adjudicating juvenile non-infracton tickets, or any reference to CDP.<sup>30</sup> Nor do the Court's local rules regarding juvenile cases address CDP in any way.<sup>31</sup>

Further, during the pandemic, CDP did not seem to abide by general orders issued by the Los Angeles Superior Court. Throughout 2020, the Superior Court never ordered Los Angeles County's traffic or delinquency courts to completely close due to the COVID-19 pandemic.<sup>32</sup> However, CDP was completely closed starting in March 2020 and it did not start hearing cases again until November 2020. This meant that during that time all youth with pending failures to appear could not resolve their license suspensions, and CDP did not take action to assist youth with suspended licenses. On the contrary, the Superior Court's traffic division handled charges for failure to appear during the global pandemic much differently than CDP did, providing procedures for relief. During the time that CDP was closed, the Superior Court issued seven directives designed to reinstate suspended driver's licenses, reduce fines, and resolve cases with expediency.<sup>33</sup>

Although Probation cites to its decisions to completely close hearings and to maintain license suspensions as aligned with the Superior Court's orders,<sup>34</sup> Probation made decisions about CDP's operation that did not align with the Superior Court's general orders, which were issued throughout the pandemic. Thus, it remains unclear to what extent the Superior Court maintains jurisdictional control over CDP.

## **Changes in Youth Justice in Los Angeles Since the Establishment of the Citation Diversion Program**

Much in Los Angeles County's youth justice landscape has changed since CDP was established. For decades, community members and advocates have pushed for youth justice legal reforms in the County centered on decriminalization, decarceration, and the creation of youth diversion and development programs. This has occurred alongside a growing understanding of the adolescent brain and the impact of trauma.

Responding to this greater understanding of how best to work with youth, Los Angeles County established the Youth Diversion and Development office (YDD) in 2017. YDD is housed in the County's Department of Health Services and is focused on advancing youth development infrastructure and implementing a pre-booking youth diversion model that empowers community-based organizations as the providers of diversion programs in lieu of arrest with the goal of reducing youth's involvement in the justice system.<sup>35</sup> YDD contracts with community-based service providers who have agreed to receive referrals from law enforcement, pre-arrest or pre-booking, for a subset of juvenile cases. Once the referral is received, the service providers work directly with youth to determine a plan of action to address their needs and mitigate any harms caused from the alleged offense so the youth does not have to engage with probation or the juvenile court.

Youth justice reforms have led to other consequential changes in Los Angeles County over the past four years. In addition to establishing YDD, in 2018, the Los Angeles County Board of Supervisors discontinued the collection and acceptance of pre-2009 juvenile detention fees, noting that the collection of longstanding fees “undermine youth rehabilitation and public safety, increase the financial insecurity of vulnerable families, and is correlated to higher recidivism rates.”<sup>36</sup> In 2021, the Board passed the Youth Justice Reimagined initiative,<sup>37</sup> which proposes a complete transformation of the County’s juvenile justice system and continues to build on the organizing work started by system impacted young people, their families, and community organizers. The Board also formed the Probation Oversight Commission, a civilian oversight body that advises and monitors the Probation Department’s progress on systemic reforms, including the use of OC Spray in juvenile camps and halls, and the preparation of the County for the closure of the state’s juvenile system and the transfer of those youth to County facilities.<sup>38</sup> On a related note, in November 2020 voters overwhelmingly elected progressive District Attorney candidate George Gascón to office, who has put forth policies with the goals of reducing youth contact with the justice system.

## II. KEY FINDINGS

The following analysis of Probation documents provided via California Public Records Act request (CPRA) illuminates key findings from Probation’s policies as well as new data on referrals made to CDP, including types of offenses, referring law enforcement agencies, and racial/gender demographics of young people referred. These findings provide further insight into the CDP process.

### **The Probation Department’s Policies Governing the Citation Diversion Program**

Pursuant to the CPRA, the author requested Probation’s policies on CDP. Probation provided an internal policy from 2013, stated that the department is updating its CDP policy, and “not currently adhering to certain portions of the [2013] directive [provided in the CPRA request].”<sup>39</sup> As of the writing of this report, no updated CDP policy has been provided.

A fact sheet from the Probation Department also provided as part of the CPRA response outlines some information on how it processes cases.<sup>40</sup> Probation’s fact sheet states that youth who receive citations eligible for CDP fall into two categories: youth who are on probation, and youth who are not on probation. Youth who are on probation will have any eligible CDP citation sent to their deputy probation officer of record. The youth’s probation officer then has the discretion to decide whether the citation will be addressed through community service or included in Probation’s report to the court.<sup>41</sup> If the probation officer includes it in the report to the court, the court may then take the additional citation into consideration during the disposition, or sentencing, phase of a juvenile delinquency case. Youth who are not on probation will be processed through CDP.<sup>42</sup> For more information, see Appendixes A and B.

Additionally, Probation’s website contains a “Frequently Asked Questions” section that explains the differences between juvenile delinquency court and CDP. It states that CDP’s:

Proceedings are confidential and private; no lawyer is appointed; appear before a Probation Officer or Probation Hearing Officer; No conviction or criminal record; Administrative Fee may be charged.<sup>43</sup>

The website goes on to state that in juvenile delinquency court:

Hearings may be open to the public; lawyer is appointed or parents have to hire one; appear before a judge; held during the day; the court process may take 3-8 months or longer; if found responsible, the matter stays on the record; a fee and fine can be charged.<sup>44</sup>

Although some of the information provided here is technically true, it could also be misleading for families. Juvenile delinquency court proceedings are closed to the public, except in limited cases where, e.g., the charge is very serious.<sup>45</sup> As stated previously, the types of matters CDP resolves are very low-level cases and if filed in juvenile delinquency court, would likely be private hearings. CDP’s website also notes that juvenile delinquency court hearings “are held during the day,” which implies that CDP hearings are not always held during the day. However, CDP’s office is only open Monday through Friday during regular business hours. Finally, CDP states that juvenile delinquency court matters stay on the record if a youth is found responsible for a violation, and that a fine or fee may be charged. As detailed in Section IV, both of those outcomes are also possible for cases that are processed through CDP.

The possible effect of this public facing FAQ is that a member of the public may believe that a young person will have a better outcome to their citation than if their case were to be sent to juvenile delinquency court because the proceedings are not like court. The data below provides more insight into CDP’s process and its effects on youth.

## Types of Offenses

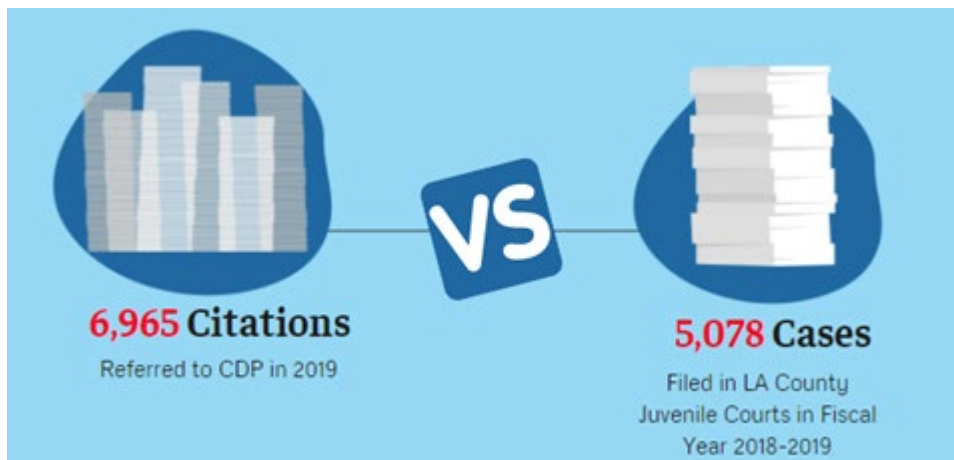
The following citation breakdown and analysis relies on 2019-2021 data received in a CPRA request. Although data regarding the number, type, and demographics of youth referred to CDP was requested from January 2016 through September 2020, Probation only provided data about citations referred to CDP in 2019.

**Table 1: Types of Violations Referred to CDP in 2019**

Violation Category	Number of Citations
<b>Marijuana Related</b>	709
<b>Theft Related</b>	687
<b>Vehicle Code</b>	616
<b>Curfew</b>	504
<b>Fighting Related</b>	300
<b>Vandalism Related</b>	264
<b>Battery Related</b>	166
<b>Alcohol Related</b>	135
<b>Weapons/Criminal Threats Related</b>	102
<b>Other</b>	3,482
<b>TOTAL</b>	<b>6,965</b>



The data contained in Table 1 is the extent of the information provided for the types of offenses referred to CDP.<sup>46</sup> In 2019, there were 6,965 citations sent to CDP for processing, almost one-third more than the number of cases filed in Los Angeles County juvenile courts in fiscal year 2018.<sup>47</sup>



In terms of the types of violations and number of citations referred to CDP, by far the highest number of violations (3,482) fell under the “Other” category, which according to Probation, includes citations for offenses such as “daytime loitering, disturbing the peace, trespassing, truancy, and *other cases needing research*.”<sup>48</sup> It is unclear what the phrase “other cases needing research” means or what types of cases would fall under this category besides what is already enumerated.

As seen from the categorized data, the most referrals made were for marijuana related offenses, followed by theft related offenses. None of the categories are defined, so it is unclear what types of charges fall into the category of “battery related,” versus “fighting related,” or “weapons/criminal threats related,” for example. Probation did not provide the specific code sections or statutes that pertain to each category.

### Referring Agencies

Sixty-seven Los Angeles County law enforcement agencies sent citations to CDP for processing in 2019. It is significant to note that school police made 14.7% of all referrals to CDP.<sup>49</sup> As displayed in Table 2, the Los Angeles County Sheriff’s Department and Los Angeles Police Department collectively sent the highest number of cases to CDP, almost exactly half of the total number of cases sent to CDP in 2019. The Los Angeles Unified School District Police Department sent nearly as many referrals to CDP as the entire Long Beach Police Department.

**Table 2: Top Five Highest Referring Agencies in 2019<sup>50</sup>**

Law Enforcement Agency	Number of Cases
Los Angeles County Sheriff’s Department	2,387
Los Angeles Police Department	1,094
Long Beach Police Department	478
Los Angeles Unified School District Police Department	418
Downey Police Department	195

## Racial and Gender Data

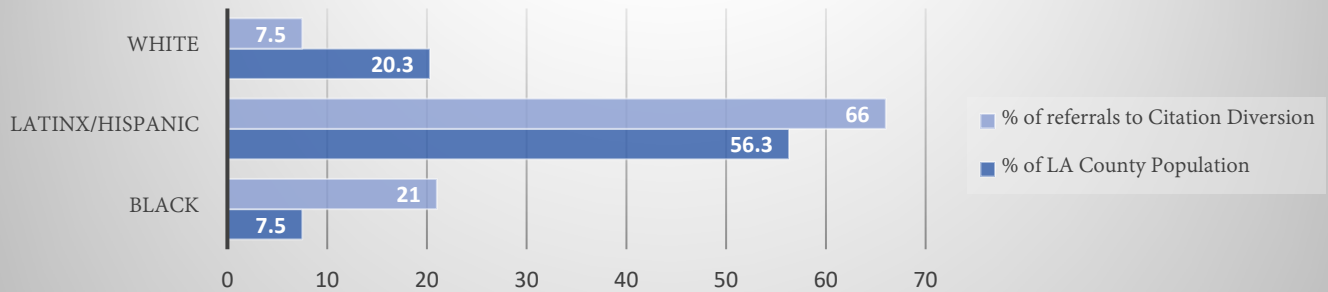
Probation’s data show that Black and Latinx youth were referred to CDP more often than white youth in 2019. In 2019, Black youth were 21% of all referrals to CDP and Latinx/Hispanic youth made up 66% of all referrals to CDP.<sup>51</sup> White youth were 7.5% of all referrals made to CDP, and 5.5% were categorized as “Other” in terms of race. In 2019, 68.2% of referrals to CDP were for male youth, while 31.7% of CDP referrals were female youth.

**Table 3: Citations by Demographics in 2019**

Violation Category	# of Citations	Gender			Ethnicity			
		Male	Female	Not Specified	Hispanic	Black	White	Other
Curfew	504	358	145	1	375	72	35	22
Vandalism Related	264	229	33	2	215	17	19	13
Marijuana Related	709	518	189	2	517	54	80	58
Alcohol Related	135	105	29	1	106	1	20	8
Fighting Related	300	165	135	0	169	117	6	8
Weapons/Criminal Threats Related	102	89	13	0	69	18	9	6
Theft Related	687	332	355	0	380	181	41	85
Battery Related	166	94	72	0	93	62	8	3
Vehicle Code	616	498	118	0	475	48	42	51
Other*	3482	2360	1116	6	2189	896	262	135
<b>Total</b>	<b>6965</b>	<b>4748</b>	<b>2205</b>	<b>12</b>	<b>4588</b>	<b>1466</b>	<b>522</b>	<b>389</b>

In 2019, Los Angeles County’s youth population was as follows: 7.5% Black youth; 56.3% Latinx/Hispanic youth; and 20% white youth.<sup>52</sup> Table 3 shows the racial breakdown of youth referred to CDP in 2019, as compared to the race of the youth population in Los Angeles County. As shown, the percentage of referrals to CDP of Black and Latinx youth in 2019 was disproportionate to the County’s population of Black and Latinx youth.

**Table 4: 2019 Youth Referrals to CDP vs LA County Youth Population, by Race**



### Fines and Fees Assessed

Many of the most common violations referred to CDP can be charged as either infractions or misdemeanors. In general, the disposition of an infraction results in a lower fine amount than a misdemeanor. For example, if a youth is referred to CDP for a petty theft charge, they could be required to pay a fine between \$257 and \$2,149 (or have the fine converted into community service), depending on whether the violation is charged as an infraction or misdemeanor. Pursuant to Welfare and Institutions Code section 258, the CDP hearing officer does not have the authority to incarcerate a young person as part of their sentencing order.<sup>53</sup>

**Table 5: Common Charges<sup>54</sup> Referred to CDP and Bail/Fine Assessed<sup>55</sup>**

Statute	Violation	Level of Charge – Infraction (I) or Misdemeanor (M)	Bail/Fine Assessed
<b>Business &amp; Professions Code § 25662<sup>56</sup></b>	Minor in possession of alcohol	I or M	\$1,129
<b>Penal Code § 450.1</b>	Petty theft under \$50	I or M	\$257-\$2,149
<b>Penal Code § 555</b>	Trespass on posted property	I or M	\$257-\$2,149
<b>Penal Code § 653b</b>	Loitering on school property	M	\$2,200
<b>Vehicle Code § 12500(a)</b>	Driving without a license	I or M	\$402-485
<b>Vehicle Code § 21212(a)</b>	Riding a skateboard w/out a helmet	I	\$197
<b>Vehicle Code § 40508(a)</b>	Failure to Appear	I or M	\$197-280

## Driver's License Suspensions

If a youth does not appear for a hearing date, they can be charged with a failure to appear, which results in a driver's license suspension. Young people who have not yet obtained their driver's license will have their ability to get their license suspended until they resolve their outstanding failure to appear by attending their CDP hearing. Unfortunately, Probation did not provide data on the total number of youth that are been charged with failing to appear at a CDP hearing or the number of youth who currently have driver's license suspensions issued by CDP for a failure to appear. Probation does not maintain data regarding how many youth have their licenses suspended.<sup>57</sup>

### III. Impact and Outcomes of the Citation Diversion Program

When a case is resolved through CDP, the most common outcomes are "the closure of the case, community service, counseling, and license suspension/delay."<sup>58</sup> CDP's policies have serious impacts on the outcomes for youth with tickets. What could be gathered about some of Probation's policies on assessing fines and fees, community service hours, license suspensions, and misdemeanor charges are detailed below.

#### Fines and Ability to Pay Determinations

Welfare and Institutions Code section 258 allows a hearing officer to perform an ability to pay analysis when a fine is ordered after an adjudication or a youth's admission to the charges. Pursuant to this section, the hearing officer has the authority to waive any or all of the fine if they find that the youth is unable to pay, and is prohibited from considering the youth's family's ability to pay.<sup>59</sup> Before CDP was closed, the hearing officer did not take into account relevant factors in determining a youth's ability to pay, such as: (1) status as a current or former foster youth; (2) housing instability; (3) family circumstances, such as being a single parent or helping to support parents/siblings; (4) previous involvement in the juvenile justice system; (5) full-time student status; and other factors. As an attorney familiar with CDP explained, ability to pay determinations can benefit youth and their families:

Between Penal Code Section 1385, which enables dismissal of cases in furtherance of justice, and [California] Rule of Court 4.335, which requires an ability to pay determination ..., indigent youth have many legal protections in traffic court. In Los Angeles Superior Court, I have handled over 40 cases for indigent youth with a 100% success rate of dismissals. Even though the same protections apply in CDP, outcomes are less predictable, with fines and community service regularly imposed on youth who struggle to fulfill these sentences.<sup>60</sup>

As this attorney's observation alludes, California courts are required to assess a defendant's ability to pay in an infraction case,<sup>61</sup> and there has been movement towards taking into consideration individual circumstances in assessing bail, fines and fees related to criminal, juvenile, and traffic courts.<sup>62</sup> If a young person is ordered to pay a fine without considering any relevant circumstances that could hinder their ability to pay, it could lead to a ripple effect of consequences, especially when driver's license reinstatement is dependent on the payment of the fine and resolution of the case. A youth's driver's license may be suspended for months, which could prevent the youth from obtaining employment to pay any CDP related fines. It also likely results in higher fines and more hours of community service assigned.

## Aldo's Story<sup>63</sup>

*“When I was 15 or 16, I got a ticket.* I don't remember an officer stopping me for anything or giving me the ticket. The only reason I know I had one is because I was incarcerated for one year, and the judge told me at one of my court hearings that my license was suspended, he never mentioned why. When I got out of camp, I was working with a reentry support organization, Arts for Healing and Justice Network, and one of the attorneys there told me about the ticket and said it was through the Citation Diversion Program.

I never received any mail about the ticket, and my public defender never mentioned anything to me either. My parents could have gotten something, but they never said anything to me.

Right after I got out, I was driving my brother's car to pick up my mom from work. I was driving because my brother's hand was sprained. I don't even remember why we got pulled over, but because I didn't have my license, they towed the car even though my brother was there and had his license. We got the car back two weeks later, but we had to pay more than \$300 to get it out.

My license is still suspended because of this ticket. I had someone helping me, but after the Citation Diversion program shut down during the pandemic, I couldn't get a hearing date. No one has followed up with me about resolving the ticket so I can get my license.

Right now, I am working in Boyle Heights. I live in El Monte. I work Monday through Thursday, and sometimes Fridays. My girlfriend is pregnant, and we go to weekly doctor's appointments. I also have meetings with Arts for Healing and Justice Network once a week in LA. I use the bus and Uber (if we're running late) to get to all these appointments, meetings, and work, and it is a lot of money. We try not to rely on other people, we don't want to be a burden. It is super important for me to have my driver's license no later than December when the baby is due. The money and time I'm spending on the bus and on Uber should be saved and spent on the baby.”

## Community Service

As mentioned, one of the most common outcomes of a CDP referral is an order for a youth to complete community service in lieu of paying their fines. It is unclear how Probation determines the amount of community service to assign. Prior to the implementation of CDP in Los Angeles County, about 30-40% of people who opted to do community service through traffic or criminal court in 2013-2014 were youth between the ages of 16-24.<sup>64</sup> Historically, community service was not widely offered through IJTCs. This changed in 2012 when the Juvenile Court Presiding Judge issued a policy titled “Community Service Availability in IJTC” that required community service to be offered at certain rates for any offense adjudicated in IJTC.<sup>65</sup> This policy stated that youth would be required to complete five hours of community service for every \$100 of fine, including assessments and fees, although it capped the maximum number of hours for any single citation at 50 hours.

It is unclear if Probation is still adhering to the provisions of this IJTC policy regarding how community service is calculated. The author requested CDP's policies and protocols as part of the CPRA but did not receive any documents about community service. However, the IJTC policy appears to have laid the groundwork for other policies that Probation adopted once CDP began processing cases, particularly the preference of offering community service to young people in

lieu of paying fines, as well as assessing additional penalties for youth with FTAs and youth who are not able to complete community service hours or pay their fines on time.

Before the COVID-19 pandemic, there was little process or flexibility in allowing youth to submit proof of completion paperwork to clear tickets that have been adjudicated through CDP. CDP's community service form states that proof of community service must be submitted in person.<sup>66</sup> In addition to this form, a young person must also get a verification letter on letterhead signed by the provider certifying the community service hours were completed.<sup>67</sup> In contrast, adult traffic court allows the submission of community service hours to be done in person or by mail and does not require a verification letter.

Probation's reliance on community service for young people also raises significant child labor concerns. Although community service is viewed as a viable alternative to paying hefty fines or incarceration, a recent UCLA Labor Center study analyzing data on the Los Angeles Superior Court's community service program concluded that community service is a system of coerced and unpaid labor that disproportionately affects low-income people of color.<sup>68</sup> Most people who are sentenced to complete community service hours face "widespread barriers to completion and serious consequences" in completing mandated community service, like collections and additional debt.<sup>69</sup> In this context, Probation's use of mandatory community service for youth raises similar concerns about possible exploitation and coercion of young people sentenced to community service.

## Failures to Appear

If a young person does not show up for their initial hearing, CDP will add a charge of failure to appear to the young person's citation case and notify the DMV to suspend their driver's license or their ability to get a driver's license.<sup>70</sup> An attorney who has represented youth in CDP described the significance of these license suspensions and their effects:

Failure to appear license holds are extremely harmful. They prevent my clients from driving to access work, school, and other opportunities as well as to pick up necessities like groceries. If my clients do drive, license holds put them at risk of misdemeanor citations and vehicle tows. Lifting these license holds is always a first priority for securing or maintaining a vulnerable young person's stability.<sup>71</sup>

### ***1. The Driver's Licenses of Youth Referred to CDP are Regularly Suspended Without Determining the Reasons Why the Youth Did Not Appear at CDP***

According to Vehicle Code section 40508, a person is guilty of failing to appear when they *willfully* fail to appear in court.<sup>72</sup> This means that a court needs to make a finding that the person *intentionally* did not appear.

Many youth, however, may not know when their hearing date is scheduled. Law enforcement officers are instructed to write that a youth will be "contacted by Probation," on the citation.<sup>73</sup> No court address, date of appearance, or time scheduled is listed on the citation. The first time a young person is told about the hearing date, time, and location occurs when Probation mails a letter to the youth's address. There are several ways in which a young person could fail to receive this initial letter. First, the law enforcement officer could have written the address down incorrectly. Second, the youth could have relocated since the citation was issued, or third, the address listed on a youth's ID card could be different from their residence.

Regardless, CDP will suspend a youth's driving privileges without giving the young person an opportunity to explain why they may have reasonably missed the hearing date before the suspension is issued.

## *2. Probation's Practice of Using License Suspensions to Compel Completion of Community Service or Payment of Fines May Violate State Law*

Until 2018, California courts had the authority to notify the DMV about people who agreed to pay a fine or complete community service in court, and then did not satisfy the obligation by the deadline for compliance.<sup>74</sup> This charge of failure to pay authorized the DMV to issue a driver's license suspension.<sup>75</sup>

In 2018, as a result of Assembly Bill 103, the authority of courts to suspend driver's licenses was repealed.<sup>76</sup> AB 103 specifically repealed text contained in Vehicle Code sections 13365, 13365.2, 40509, and 40509.5, two of which are statutes that CDP cites as its authority for issuing license suspensions.<sup>77</sup> The 2017-2018 state budget summary commented on AB 103, which stated that suspending driver's licenses for failure to pay and increasing fines and penalties for those violations can "place[] an undue burden on those who cannot afford to pay," including the inability to drive to work or take children to school.<sup>78</sup> The budget summary also noted that failure to pay charges have resulted in uncollected state debt totaling \$9.7 billion.<sup>79</sup>

A failure to appear can still result in a driver's license suspension.<sup>80</sup> Before the COVID-19 pandemic stay-at-home orders were issued, CDP regularly suspended youth's driver's licenses as a result of failures to appear. An attorney familiar with CDP describes the practice:

In cases where [a youth's license was suspended for a failure to appear and] CDP imposed a sentence after the hearing, the license hold was not lifted until the sentence was completed, and again sometimes not until our office has followed up to request the reinstatement. I have seen this practice lead to a range of consequences for youth with outstanding tickets, from denial of employment opportunities that require a license to a restricted ability to care for two young children at the height of the pandemic.<sup>81</sup>

In practice, CDP's use of driver's license suspensions to demand timely payment or community service makes the failure to appear charge in CDP the functional equivalent of the former failure to pay mechanism that has been repealed by the state legislature. As a result, this practice may violate AB 103.

It is important to acknowledge that CDP changed its practice in November 2020 and began lifting license suspensions as soon as a youth made a virtual appearance. However, in November 2020, Probation officials submitted a request to the DMV to continue suspending and unsuspending driver's licenses.<sup>82</sup> Without any written policy on the issue, it is unclear whether this new practice will continue once the CDP office begins in-person hearings again.

In contrast, since the COVID-19 pandemic started, the Superior Court has offered alternatives to adults with citations to delay payments and completion of community service in conjunction with reinstating suspended driver's licenses.

## **Misdemeanor Cases**

CDP accepts all misdemeanor vehicle code violations, as well as "any citable misdemeanor," pursuant to Welfare and Institutions Code section 256, which includes violations in the Penal Code, Business and Professions Code, and the Public Resources Code.<sup>83</sup> Minors have a statutory right to an attorney in all cases filed pursuant to Welfare and Institutions Code sections 601 and 602 in juvenile court.<sup>84</sup> However, according to CDP's FAQs, no lawyers are appointed to represent youth

charged with a misdemeanor who is referred to CDP. The Los Angeles County Public Defender's Office is also not notified when a youth is referred to CDP with a misdemeanor charge.

While a youth may not have the right to an appointed attorney in CDP, there are potential moments during CDP adjudications where an attorney's representation could help protect a youth. For example, if a young person enters a plea on a misdemeanor juvenile case in CDP, the resulting disposition may end up on DMV records (if it's a Vehicle Code violation) and could affect insurance rates and employment opportunities if the CDP disposition is not sealed. Although juvenile arrest and court records are technically confidential in California,<sup>85</sup> it is possible that an unsealed record may be accessible to potential employers, landlords, school officials, and immigration officials. Probation does not provide assistance in sealing juvenile records when a misdemeanor case is handled through CDP. It is not clear whether youth are informed of their right to seal their juvenile records, or what the process is for sealing the juvenile record for a young person who is referred to CDP.

## Appeal and Rehearing

There is an appellate process for CDP decisions. Welfare and Institutions Code section 262 provides youth and their parent or guardian the right to request that a juvenile court judge set aside or modify any order of a juvenile hearing officer.<sup>86</sup> The juvenile court judge may also conduct their own rehearing.<sup>87</sup> The decision of the juvenile court judge is the final determination of the case and there is no means of appeal to any higher state courts.<sup>88</sup>

Pursuant to state law, a request for a rehearing or reconsideration must be made within ten days of the CDP hearing<sup>89</sup> or, according to Probation's Request for Rehearing/Reconsideration Form, "within ten days . . . [of] the date of Notice of Decision form."<sup>90</sup> The Notice of Decision is mailed after the CDP process is completed.<sup>91</sup> In comparison, state law allows a person to appeal a traffic infraction within thirty days after the judgment.<sup>92</sup>

Attorneys representing youth in CDP may be unaware that an appeals process exists. Some attorneys have stated that they have not received Notice of Decision forms from the CDP hearing officer after their cases are decided, and neither have their clients. It is not clear how a young person would be notified of the ten-day appeals window or of how to appeal a CDP judgment if they do not receive a Notice of Decision form. Although Probation provided documents in response to the author's CPRA request that provide some explanation of the appeal process, those documents are not publicly available or accessible to youth or attorneys navigating the CDP process. Probation's website does not provide information about how a young person can appeal their decision or request a rehearing for their CDP case.

From 2019 to the time of publication, only five requests for rehearing or reconsideration were filed with CDP, and those appeals were all filed in 2019.<sup>93</sup> Probation does not track the underlying charge appealed or the basis for the appeal. None of the appeals were successful, meaning that the hearing officer's decision was upheld in each case.<sup>94</sup>



## IV. RECOMMENDATIONS

The information presented in this report raises several concerns about CDP, both for individual families navigating CDP and from a broader policy perspective.

From the data gathered, it is evident that CDP's publicly available policies may be misleading to youth and families who are attempting to understand the CDP process. In turn, young people and families navigating the program face troubling due process issues, such as receiving proper notice of CDP hearing dates and having a reasonable opportunity to prevent license suspensions. In certain misdemeanor cases, youth do not have access to an attorney even though they are facing serious charges that would entitle them to an attorney in juvenile court and that could result in a juvenile record. There is a distinct possibility that any young person who is found responsible after a CDP hearing could receive a costly fine or community service hours, without their personal circumstances being considered as the disposition is levied.

This research also raises broader policy questions for consideration, as Black and Latinx/Hispanic youth were disproportionately referred to CDP in 2019 and may currently be disproportionately represented in the number of youth with unresolved CDP violations and suspended licenses. Additionally, it must be considered whether this program should continue to exist while the County is expanding its youth diversion programming and can immediately provide other available, individually tailored options that do not include driver's license suspensions or fines.

Given the findings of this research, the author recommends several reforms to CDP in Los Angeles County. These recommendations are discussed in the remainder of this Part.

### End the Citation Diversion Program

Given the report's findings, it is recommended that the County move immediately to end CDP. Because Probation created CDP, ending the program requires Probation to relinquish responsibility for handling all citations that are currently referred to the program, which are citations issued pursuant to Welfare and Institutions Code section 256. Instead, those citations should be handled by YDD, as explained further in Recommendation Three below. This also means that any County funds that Probation receives to run CDP should also be reallocated to YDD in order to support the expansion of referrals YDD will experience upon taking on CDP's citation caseload.

This step is in alignment with the County's overall trajectory of youth decriminalization and several recent recommendations made by community and County stakeholders and organizations. In fact, the Youth Justice Reimagined initiative, which was unanimously passed by the Board of Supervisors, calls for the end of Probation-run "diversion programs" by Spring 2022 and specifically names school-based Probation and CDP as examples.<sup>95</sup>

Additionally, since the passage of Youth Justice Reimagined, the Los Angeles County Board of Supervisors has taken concrete steps to follow through on the initiative's recommendations with a July 2021 motion to create a detailed plan for ending Probation's role in CDP.<sup>96</sup> Although this is a positive step, the Board's motion does not go far enough. Instead, the motion should recommend that CDP be ended. For the reasons explained in Recommendation Three below, CDP's policies and practices should be completely retired and YDD should take over responsibility for handling Welfare and Institutions Code section 256 citations.

## **Dismiss All Currently Pending Citations Referred to the Citation Diversion Program**

When CDP closes, all currently pending citations should be dismissed.

There is precedent for this type of mass dismissal. In December 2015, the Juvenile Court Presiding Judge granted amnesty on 250,000 pre-2012 tickets originally filed in IJTC in December 2015. The Presiding Judge also ordered that the DMV holds associated with these tickets be cleared before the tickets were dismissed.<sup>97</sup> Additionally, as noted above, in 2018, the Board ordered Probation to stop collecting and accepting any pre-2009 juvenile detention fees, essentially discharging the debts of approximately 52,000 accounts.<sup>98</sup> At the time, nearly \$89 million in pre-2009 juvenile detention debt was outstanding.<sup>99</sup>

Probation reported that in March 2020 CDP had 666 pending citations that had not yet been resolved, for 564 individual youth. There must be many fewer pending citations now than in 2015 considering CDP's closure and reopening. This presents fewer bureaucratic barriers for granting a mass dismissal than the amnesty granted in 2015 or the 2018 juvenile detention debt discharge. Additionally, these pending citations are pre-filing citations, which have not been filed in the juvenile court or presented to the District Attorney's office for processing, thus also representing less of a bureaucratic barrier to amnesty than having to go through a court process to get these citations dismissed.

## **Transfer the Responsibility for Handling All Welfare & Institutions Code 256 Citations to Los Angeles County's Youth Diversion and Development (YDD) Office**

Once the County ends CDP, it is recommended that all citations formerly referred to CDP are instead referred to YDD and its community-based organization partners for diversion. Transferring responsibility of Welfare and Institutions Code section 256 citations to YDD would further the County's commitment to Youth Justice Reimagined, as this move would align with the recommendations contained in the Youth Justice Reimagined initiative. Additionally, this push to decriminalize lower-level youth offenses is aligned with the current district attorney's priorities. DA Gascón's Youth Justice Special Directive 20-09 includes a commitment to support and work with the Youth Justice Workgroup and Office of Youth Development to eliminate Probation and law enforcement run diversion programs such as "Probation's Juvenile Citation Diversion Program . . . , and instead dismiss or refer such cases where appropriate to YDD's expanding diversion infrastructure."<sup>100</sup>

Right now, YDD exists concurrently with CDP. However, both entities handle similar types of cases in vastly different ways, with YDD centered on healing, accountability, and youth development and CDP focused on traditional, punitive measures. While YDD's programming was devised through community workgroups over several months of collaborative work and is supported by evidence-based studies on diversion programs,<sup>101</sup> CDP's methods are not supported in the same way, as Probation either does not have or could not provide much data or written materials on outcomes, recidivism rates, and policies that would evidence its practices or support its methods.

**Table 6: Practical and Policy Differences Between Youth Diversion & Development (YDD) and Citation Diversion Program (CDP)**

	YDD	CDP
<b>Agencies accepting referrals</b>	Referrals from law enforcement are sent to community-based organizations (CBOs)	Referrals from law enforcement are sent to Probation
<b>Types of cases</b>	All violations may be referred, except Welfare and Institutions Code (WIC) 707(b) violations	Low-level misdemeanor and infraction violations may be referred pursuant to WIC 256. Felonies are not eligible.
<b>Juvenile record after completion?</b>	If a youth substantially completes diversion, no juvenile record	Alleged violations can appear on DMV records (even if a young person never appears to contest the allegation) and may require juvenile record sealing
<b>Driver’s license suspensions</b>	No failures to appear (FTAs) or driver license suspensions ever issued	FTA/license suspension issued if youth does not appear and as part of disposition in some cases
<b>Services provided</b>	Case managers create, in partnership with the youth, individualized case plans for youth that may include life skills, mentoring, academic support, and mental health services	No services provided. Youth appear at a hearing and are generally required to pay a fine or complete community service. Depending on the charge, youth may also receive a driver’s license suspension.
<b>Opportunities for self-direction</b>	Once the diversion program is completed, youth is invited to continue in CBO’s programming voluntarily	Compulsory. License suspension is not lifted until youth pays fine or completes community service.
<b>Accessibility</b>	Currently, there are 7 CBOs located throughout LA County	Currently, youth can only appear at one location in Van Nuys

It is difficult to see the nexus between issuing a fine or fee as a way of adequately addressing any underlying issues that lead to a low-level violation such as the ones processed through CDP. These types of offenses may be more adequately addressed with mentorship services, drug counseling, financial support, or other forms of community assistance, which are the types of services that YDD provides. Additionally, YDD’s programs do not issue license suspensions, nor do youth have a juvenile record if they successfully complete diversion.

### Encourage Law Enforcement to Counsel and Release

Welfare & Institutions Code section 626 grants broad discretion to a law enforcement officer who takes a young person into temporary custody to not only arrest or cite the youth, but to exercise the option to counsel and release.<sup>102</sup> Counsel and release means that the officer determines that a situation can be resolved with an informal warning, information, or connection to school- or community-based services rather than either formal diversion programming or an arrest or citation. If a young person decides not to follow up on the connection, there are no legal consequences or further interactions with law enforcement.

In 2015, approximately 11,000 youth arrests were legally eligible for diversion or counsel and release in lieu of arrest or citation.<sup>103</sup> More than half of the low-level violations that were referred to CDP in 2019, like curfew, daytime loitering, disturbing the peace, trespassing, and truancy may not have merited any law enforcement response or even a referral to

YDD. Instead, these types of cases may only require an informal warning, connection with those in the young person's support system, and release back into the community.

In 2017, the Board of Supervisors convened an ad-hoc Youth Diversion Subcommittee of the Countywide Criminal Justice Coordination Committee (YDS). YDS wrote a report laying the groundwork for the creation of pre-arrest and pre-booking diversion programs in LA County.<sup>104</sup> As part of this report, YDS developed a set of eligibility guidelines and a sample decision-making matrix for law enforcement agencies making referrals to diversion. These guidelines include recommendations for law enforcement to counsel and release all status offense cases; low-level misdemeanor or infraction cases where no DMV follow-up is required; and more generally, "incidents where underlying circumstances are better addressed by school administration, family/caregivers, or other youth-serving systems."<sup>105</sup>

Another benefit of relying more on counsel and release is the prevention of net-widening, or the over-reliance on prevention and early intervention programs, like diversion, to involve more youth than before in the juvenile justice system. Policy makers, County officials, and law enforcement agencies should adopt the eligibility guidelines and decision-making matrix created by YDS, or create their own guidelines as CDP closes and YDD's referrals increase as a result.

### **While the Citation Diversion Program Remains Open, Immediately Cease Suspending Youth's Driver's Licenses**

CDP's policy of suspending youth's driver's licenses represents a huge barrier to a young person's transition into adulthood and is extremely harmful. While CDP will not lift driver's license holds until fines are paid or community service is completed, this is contrary to research showing that suspending driver's licenses has been found to inhibit the court's ability to collect debt. The year after California stopped issuing license suspensions for FTPs, on-time collections increased.<sup>106</sup> The San Francisco Superior Court eliminated license suspensions for FTPs in 2015, two years before AB 109 was passed, and found that in subsequent years, collection revenue increased.<sup>107</sup>

Having a driver's license is a more accurate predictor of sustained employment than a General Education Development (GED) diploma.<sup>108</sup> Research has shown driver's license suspensions can lead to income and job loss, as well as other serious consequences like loss of freedom, increased stress, and family strain.<sup>109</sup> Data also shows that suspending driver's licenses does not achieve its primary objective, to compel a court appearance. Relieving youth of the strain of these suspensions provides an opportunity for young people to move forward with their lives. The use of driver's license suspensions to compel compliance is outdated and not supported by evidence. Using failures to appear and driver's license suspensions to compel youth to attend CDP hearings and to complete their obligations is not only poor policy, but possibly a violation of state law as it has been used in practice.

### **While the Citation Diversion Program Remains Open, Ensure that the Hearing Officer Makes Ability to Pay Determinations and Provides Flexible Community Service Options at all Hearings**

At all hearings, the CDP hearing officer should make ability to pay determinations and provide community service options that are individually tailored to each young person's circumstances. One way to ensure that CDP has the information needed to make these assessments is to provide a one-page document to fill out when checking in, written in readable language, to every young person who appears for a CDP hearing. This form should explain and offer the youth an ability to

pay determination, with questions about the youth's sources of income and other extenuating circumstances. This form should be considered by the hearing officer in every CDP case. For example, questions that the hearing officer asks could include, "Are you or have you ever been in the foster system?" "Do you have a car?" "Do you have kids?" and "Are you in school?" The hearing officer should consider the youth's individualized circumstances with a preference for reducing the amount of the fine or community service levied. Additionally, if the youth admits the charge or is found to have committed a violation, the hearing officer has the option to reprimand a youth and take no further action or waive the entire amount of the fine if the youth is unable to pay.<sup>110</sup>

## Conclusion

There is much for youth, formerly incarcerated people, advocates, and community to take pride in as the County moves towards implementing a vision of youth justice that is rooted in mutual support, care, and healing. To that end, the County must phase out programs that no longer align with the changes it is implementing. The Citation Diversion Program is one of those programs. CDP has had little to no oversight since its inception, does not appear to have any comprehensive written policies or procedures although it has existed for almost a decade, and provides no data to show that youth are positively affected after referral to this program. Based on the information available, there is more reason to believe that CDP enhances negative outcomes for youth and the greater community given the racial disproportionality in referrals, long-term license suspensions that prevent youth from moving forward with their lives, and onerous fines and community service issued as punishment. Ending the Citation Diversion Program in Los Angeles County is one more step towards fulfilling the goal of reimagining what youth justice looks like in this County.

## APPENDIX A – CITATION DIVERSION FAQ

### CITATION DIVERSION FAQ

The Citation Diversion Program (formerly Informal Juvenile Traffic Court) addresses citations issued and referred by law enforcement agencies countywide as outlined in Welfare and Institutions Code (WIC) Section 256, including but not limited to vehicle code violations, misdemeanors and infractions.

#### ***How does the Citation Diversion Program receive Citations/Arrest Referrals?***

Directly from Law Enforcement agencies or eligible misdemeanors received through Probation Sorting locations

#### ***How will I be notified about my Citation/Arrest Referral?***

Probation Youth – your assigned Deputy Probation Officer (DPO) will contact you

Non-Probation Youth – you will receive notification to appear for an appointment with a Citation Diversion DPO or a hearing with the Citation Diversion hearing officer within 30-60 days of Probation's receipt of your citation

#### ***How can I contact the Citation Diversion Program?***

Citation Diversion Program (Headquarters)  
7555 Van Nuys Boulevard  
Van Nuys, California 91405  
818 901-3001  
(Hours of Operation: Monday – Friday, 8:00am – 5:00pm)

#### ***How are Citation/Arrest Referrals addressed through the Program?***

Probation Youth – Citation/Arrest Referral forwarded to your assigned DPO to address (community service or notification to Delinquency Court)

Non-Probation Youth – Citation/Arrest Referral will be assigned to a Citation Diversion DPO (Welfare and Institutions Code or WIC Section 257 b) or scheduled for a hearing with the Citation Diversion Hearing Officer (WIC Section 255) depending on the charge(s) (All Vehicle Code and drug possession charges require a hearing and possible DMV notification).

#### ***What are the potential outcomes?***

The most common outcomes are closure, community service, counseling and/or license suspension/delay (VC Section 13202.5), depending on the charge(s).

#### ***What if I do not agree with the decision?***

Probation Youth – can deny the allegations in the Citation/Arrest Referral and request a hearing with the Citation Diversion hearing officer

Non-Probation Youth – can deny the allegations during a meeting with Citation Diversion DPO and request a hearing with the Citation Diversion Hearing Officer

Following a hearing with the Citation Diversion Hearing Officer – can request a rehearing/ reconsideration in accordance with WIC 262 at no charge. The Request for Rehearing/ Reconsideration form must be filed in person no later than ten (10) days after the hearing or the date on the Notice of Decision (mailed to you after the trial process is completed). The matter is referred to the Presiding Judge of the Juvenile Court for final decision.

## APPENDIX B – CITATION DIVERSION PROGRAM FACT SHEET

### County of Los Angeles Probation Department Citation Diversion Program Fact Sheet

#### **Program Overview**

The Citation Diversion Program addresses citations issued and referred by law enforcement agencies countywide as outlined in Welfare and Institutions Code (WIC) Section 256, including but not limited to vehicle code violations, misdemeanors and infractions. Probation implemented the Program in June 2012, after the transition from the Informal Juvenile Traffic Court (IJTC). The Program is designed to serve the needs of the community and youth.

**Legal Basis Summary:** Welfare and Institutions Code (WIC) Sections 255, 256, 257, 258; Penal Code (PC) Section 853.6 (a), and Vehicle Code (VC) Sections 13202.5, 40508 and 40509

#### **Program Process**

After receipt from Law Enforcement, Program staff process citations as follows 1) sends the citation for youth on Probation to the youth's Deputy Probation Officer to address through community service or notification to Delinquency Court; 2) Program staff (WIC Section 257 b) or Program Hearing Officer (WIC Section 255) address the matter within 30-60 days of the Department's receipt of the citation for youth not on Probation through case closure, community service, counseling and/or license suspension/delay (VC Section 13202.5), depending on the charge(s). Note: all Vehicle Code and drug possession charges require a hearing with the Program Hearing Officer and possible DMV notification.

Should a youth disagree with the initial decision, they can request a hearing with the Program Hearing Officer.

#### **Rehearing/Reconsideration Process**

Following a hearing with the Program Hearing Officer, youth can request a rehearing/reconsideration in accordance with WIC Section 262 (at no charge). In order to do this, the youth completes the Request for Rehearing/Reconsideration form and submits the form in person, to Probation (locations listed on form) no later than 10 days after the hearing or the date on the Notice of Decision (mailed to a youth after the trial process is completed through the Program). The matter is referred to the Presiding Judge of the Juvenile Court for final decision.

#### **Citation Diversion Program Contact Information**

Questions regarding the Program can be directed to:

Citation Diversion Program Headquarters  
7555 Van Nuys Boulevard  
Van Nuys, California 91405  
818 901-3001  
(Hours of Operation: Monday – Friday, 8:00am – 5:00pm)

APPENDIX C – REQUEST FOR REHEARING/RECONSIDERATION FORM PAGE 1

County of Los Angeles  
Probation Department  
**Citation Diversion Program**  
7555 Van Nuys Blvd. Van Nuys, CA 91405  
818 901-3001

**REQUEST FOR REHEARING/RECONSIDERATION FORM**

**INSTRUCTIONS/INFORMATION**

May be completed by youth, parent or youth’s attorney

Must submit in person no later than ten (10) days after the hearing or the date of the Notice of Decision form. No exceptions (pursuant to WIC 262 and In Re Conley 244 Cal App 2<sup>nd</sup> 744)

Include a statement identifying reason(s) for rehearing request (pursuant to WIC 262)

There is no charge for filing this form

Submit the completed form to the Citation Diversion Program at one of the following Area Offices:

<b>Location</b>	<b>Address</b>	<b>Telephone Number</b>
Antelope Valley	43917 Division St. Lancaster, CA 93535	661 582-7000
East Los Angeles	4849 Civic Center Way Los Angeles, CA 90022	323 262-8418
Firestone	8526 S. Grape St. Los Angeles, CA 90001	323 586-6469
Harbor	3221 Torrance Blvd Torrance, CA 90503	310 222-2672
Long Beach	275 Magnolia Ave Suite 1985 Long Beach, CA 90802	562 247-2200
San Gabriel Valley	11234 E. Valley Blvd. Suite 302 El Monte, CA 91731	626 5754059
Van Nuys	7555 Van Nuys Blvd. Van Nuys, CA 91405	818 901-3001



County of Los Angeles  
Probation Department  
**Citation Diversion Program**  
7555 Van Nuys Blvd. Van Nuys, CA 91405  
818 901-3001

**REQUEST FOR REHEARING/RECONSIDERATION FORM**

LAST NAME _____	FIRST NAME _____
HOME ADDRESS _____	
MAILING ADDRESS <i>(if different than mailing)</i> _____	
TELEPHONE NUMBER _____	
CITATION NUMBER _____	
HEARING/TRIAL DATE _____	
CHARGE(S) ON YOUR CITATION _____	

Reason(s) you would like a rehearing/reconsideration *(provide a FULL explanation and use an additional sheet if necessary):*

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## ENDNOTES

---

<sup>1</sup> Leah Gasser-Ordaz is Youth Justice Policy Lead of the Criminal Justice Program at UCLA School of Law. Many thanks to: Sarah True and Hope Bentley, UCLA Law students, for their research and writing on the Citation Diversion Program; Doreen Govari, CJP's summer clerk, who conducted interviews and provided helpful research support; Milinda Kakani, my number one fan, who provided feedback, insight into the day-to-day workings of CDP, and interviewed clients about their CDP experiences; the folks at Public Counsel, the Collective for Liberatory Lawyering, Arts for Healing and Justice Network, and the Public Defender's Office for their collaboration and their knowledge; and Alicia Virani and Ingrid Eagly for the very thorough editing process.

<sup>2</sup> Cal. Welf. & Inst. Code §§ 255, 256 (West 2021).

<sup>3</sup> Tami Abdollah, *All LA County Informal Juvenile and Traffic Courts to Close June 15*, *Southern California Public Radio*, KPCC, May 2012, <https://archive.kpcc.org/blogs/education/2012/05/09/6038/all-la-county-informal-juvenile-and-traffic-courts/> (last visited July 13, 2021).

<sup>4</sup> Tami Abdollah, *Plan Calls for Major Cuts to LA County Juvenile Courts System*, *Southern California Public Radio*, KPCC, Apr. 2012, <https://archive.kpcc.org/blogs/education/2012/04/09/5485/plan-calls-major-cuts-la-county-juvenile-courts-sy/> (last visited July 26, 2021).

<sup>5</sup> Alexandra Zavis & Ashley Powers, *An LA County Court for Young Offenders Closes*, *L.A. Times*, June 14, 2012, <https://www.latimes.com/local/la-xpm-2012-jun-14-la-me-kid-court-cuts-20120615-story.html> (last visited Sept. 8, 2021).

<sup>6</sup> David Sapp et al., *Counterproductive and Wasteful: Los Angeles' Daytime Curfew Pushes Students Away From School And Diverts Resources Away From Real Community Safety*, 2 (2012) [http://www.publiccounsel.org/tools/assets/files/Counterproductive-and-Wasteful-Los-Angeles-daytime-curfew-report\\_FINAL-los-res.pdf](http://www.publiccounsel.org/tools/assets/files/Counterproductive-and-Wasteful-Los-Angeles-daytime-curfew-report_FINAL-los-res.pdf).

<sup>7</sup> Memorandum from Juvenile Court Presiding Judge Michael Nash to All Informal Juvenile and Traffic Court (IJTC) Judicial Officers (Jan. 3, 2012) (on file with author).

<sup>8</sup> Susan Ferriss, *Los Angeles Moves Haltingly Toward Ending Fines For Truancy*, *The Center for Public Integrity*, <https://publicintegrity.org/education/los-angeles-moves-haltingly-toward-ending-fines-for-truancy/> (June 16, 2015, 9:49 AM ET).

<sup>9</sup> Memorandum from Presiding Judge Lee Smalley Edmon et al. to All Judicial Officers and Court Staff (Mar. 5, 2012), <http://s3.documentcloud.org/documents/323468/los-angeles-superior-court-budget-plan.pdf>.

<sup>10</sup> Abdollah, *supra* note 3.

<sup>11</sup> *Id.*

<sup>12</sup> Memorandum from the County of Los Angeles Probation Department on Guidelines for Forwarding Citation Cases to Citation Diversion Program for Handling, (Dec. 2017) (on file with author) [hereinafter CDP Guidelines].

<sup>13</sup> Zavis & Powers, *supra* note 5.

<sup>14</sup> *Id.*

<sup>15</sup> County of Los Angeles Probation Department, Citation Diversion Fact Sheet (on file with author) [hereinafter CDP Fact Sheet].

<sup>16</sup> Cal. Welf. & Inst. Code § 255 (West 2021).

<sup>17</sup> *Id.* § 258 (West 2021).

<sup>18</sup> *Id.*

---

<sup>19</sup> The text of Cal. Welf & Inst. Code § 256 states:

Subject to the orders of the juvenile court, a juvenile hearing officer may hear and dispose of any case in which a minor under the age of 18 years as of the date of the alleged offense is charged with (1) any violation of the Vehicle Code, except Section 23136, 23140, 23152, or 23153 of that code, not declared to be a felony, (2) a violation of subdivision (m) of Section 602 of the Penal Code, (3) a violation of the Fish and Game Code not declared to be a felony, (4) a violation of any of the equipment provisions of the Harbors and Navigation Code or the vessel registration provisions of the Vehicle Code, (5) a violation of any provision of state or local law relating to traffic offenses, loitering or curfew, or evasion of fares on a public transportation system, as defined by Section 99211 of the Public Utilities Code, (6) a violation of Section 27176 of the Streets and Highways Code, (7) a violation of Section 640 or 640a of the Penal Code, (8) a violation of the rules and regulations established pursuant to Sections 5003 and 5008 of the Public Resources Code, (9) a violation of Section 33211.6 of the Public Resources Code, (10) a violation of Section 25658, 25658.5, 25661, or 25662 of the Business and Professions Code, (11) a violation of subdivision (f) of Section 647 of the Penal Code, (12) a misdemeanor violation of Section 594 of the Penal Code, involving defacing property with paint or any other liquid, (13) a violation of subdivision (b), (d), or (e) of Section 594.1 of the Penal Code, (14) a violation of subdivision (b) of Section 11357 of the Health and Safety Code, (15) any infraction, (16) any misdemeanor for which the minor is cited to appear by a probation officer pursuant to subdivision (f) of Section 660.5, or (17) a violation of subdivision (b) of Section 601 that is due to having four or more truancies, as described in Section 48260 of the Education Code, within one school year.

<sup>20</sup> The term “refer” rather than “file” is used throughout this report to refer to how cases are sent to CDP because CDP is an informal hearing process, not a court.

<sup>21</sup> CDP Guidelines, *supra* note 12.

<sup>22</sup> County of Los Angeles Probation Department, Citation Diversion FAQ (on file with author) [hereinafter CDP FAQ].

<sup>23</sup> CDP Guidelines, *supra* note 12.

<sup>24</sup> County of Los Angeles Probation Department, *Citation Diversion*, Juvenile Probation FAQ’s <https://probation.lacounty.gov/juvenile-probation-faqs/#citationDiversionTab> (last visited Aug. 11, 2021) [hereinafter Probation Website FAQ].

<sup>25</sup> *Id.*

<sup>26</sup> If the citing officer does not appear, the charges are dismissed. If a failure to appear is charged because the youth missed their first hearing date, it is adjudicated separately from the underlying charge.

<sup>27</sup> For example, advocates have had youth clients charged with drug possession who are required to attend drug classes. Additionally, some have had their driver’s licenses suspended for up to a year pursuant to California Vehicle Code § 13202.5.

<sup>28</sup> Interview with attorney who has represented clients in CDP in L.A., Cal. (June 17, 2021) [hereinafter *Attorney Interview*].

<sup>29</sup> The Los Angeles Superior Court’s website, [lacourt.com](http://lacourt.com), allows the public to view citations, so long as the correct citation number or driver’s license number and date of birth are entered. Traffic tickets for minors are not searchable. Attorneys who have represented youth in CDP have been told by adult traffic court clerks that minor’s citations are not searchable in the adult traffic database. DMV abstracts, which provide an individual’s driving record, include all citations issued and which court issued the citation, and Probation has a different issuing entity number than the Superior Courts.

<sup>30</sup> *Traffic Division – LA Court*, Superior Court of California County of Los Angeles, <http://www.lacourt.org/division/traffic/traffic2.aspx> (last visited July 7, 2021); *Juvenile Division – LA Court*, Superior Court of California County of Los Angeles, <http://www.lacourt.org/division/juvenile/juvenile.aspx> (last visited July 7, 2021).

---

<sup>31</sup> SUPERIOR CT. OF CAL. CNTY. OF LOS ANGELES, CHAPTER SEVEN JUVENILE DIVISION RULES (2021) <https://www.lacourt.org/courtrules/CurrentCourtRulesPDF/Chap7.pdf#page=1>.

<sup>32</sup> *Judicial Orders*, Superior Court of California County of Los Angeles, <http://www.lacourt.org/newsmedia/ui/JudicialOrders.aspx> (last visited July 13, 2021).

<sup>33</sup> *Id.*

<sup>34</sup> One way in which the line between the courts and Probation is blurred has to do with the way Probation presents the Los Angeles Superior Court as an authority over its operations but does not appear to follow the court’s mandates. For example, Probation provided a June 22, 2020 general order from the Los Angeles Superior Court as part of its California Public Record Act response to CJP’s inquiry about when CDP will be reopening. The general order references delinquency courts and states that they will “resume full operations,” beginning immediately. But Probation did not start processing cases until November 2020.

<sup>35</sup> *Youth Diversion and Development*, Office of Diversion and Reentry, <https://dhs.lacounty.gov/office-of-diversion-and-reentry/our-services/office-of-diversion-and-reentry/youth-diversion-and-development/> (last visited July 14, 2021).

<sup>36</sup> L.A. County, Cal., Discontinuing Collection of Outstanding Juvenile Detention Fees (Oct. 9, 2018), <http://file.lacounty.gov/SDSInter/bos/supdocs/128147.pdf>.

<sup>37</sup> L.A. County, Cal., Youth Justice Reimagined: A New Model for Youth Justice in Los Angeles County (Nov. 24, 2020), <http://file.lacounty.gov/SDSInter/bos/supdocs/150833.pdf>.

<sup>38</sup> *Home-Probation Oversight Commission*, Los Angeles County Probation Oversight Commission, <https://poc.lacounty.gov/> (last visited Aug. 11, 2021).

<sup>39</sup> Letter from Chereise Martin, Los Angeles County Probation Department Civil Litigation Unit, to Leah Gasser-Ordaz Regarding California Public Records Act - Request for Records (Feb. 26, 2021) (on file with author).

<sup>40</sup> CDP Fact Sheet, *supra* note 15.

<sup>41</sup> CDP FAQ, *supra* note 22.

<sup>42</sup> *Id.*

<sup>43</sup> Probation Website FAQ, *supra* note 22.

<sup>44</sup> *Id.*

<sup>45</sup> See Cal. Welf. & Inst. Code §§ 675, 676 (West 2021).

<sup>46</sup> JUDICIAL COUNCIL OF CALIFORNIA, 2020 COURT STATISTICS REPORT 140 (2020), <https://www.courts.ca.gov/documents/2020-Court-Statistics-Report.pdf>.

<sup>47</sup> County of Los Angeles Probation Department, Chart—Citation by Demographics—2019 (on file with author). According to this chart, the “Other” category includes citations for offenses such as “daytime loitering, disturbing the peace, trespassing, truancy, and other cases needing research.”

<sup>48</sup> *Id.*

<sup>49</sup> County of Los Angeles Probation Department, Referrals to Citation Diversion by Law Enforcement, 2019 (on file with author).

<sup>50</sup> *Id.*

<sup>51</sup> *Id.*

---

<sup>52</sup> Population Reference Bureau, Child Population by Race/Ethnicity, KIDS DATA, <https://www.kidsdata.org/topic/33/child-population-race/table#fmt=144&loc=364&tf=124&ch=7,11,726,10,72,9,73&sortColumnId=0&sortType=asc> (last visited Aug. 11, 2021).

<sup>53</sup> Cal. Welf. & Inst. Code § 258 (West 2021).

<sup>54</sup> CDP Guidelines, *supra* note 12.

<sup>55</sup> *Bail Schedule for Infractions and Misdemeanors*, Superior Court of California Los Angeles, <https://www.lacourt.org/division/criminal/pdf/misd.pdf> (last visited July 13, 2021); *Uniform Bail and Penalty Schedules*, Judicial Council of California (2019), <https://www.courts.ca.gov/documents/2019-JC-BAIL.pdf> (last visited Jul 13, 2021). Pursuant to Section 258 of the Welfare and Institutions Code, a youth can be sentenced up to the amount that an adult would pay for the same violation, with limited exceptions. Welf. & Inst. Code § 258(a)(3).

<sup>56</sup> Pursuant to Cal. Pen. Code §§ 19.8 and 17(d), Cal. Bus. & Prof. Code § 25662 may be charged as an infraction or a misdemeanor.

<sup>57</sup> Letter from Chereise Martin, Los Angeles County Probation Department Civil Litigation Unit, to Leah Gasser-Ordaz Regarding California Public Records Act - Request for Records (Mar. 5, 2021) (on file with author).

<sup>58</sup> CDP FAQ (on file with author). Probation does not define the meaning of the terms “case closure” or “counseling” in the FAQ.

<sup>59</sup> Cal. Welf. & Inst. Code § 258 (West 2021).

<sup>60</sup> Attorney Interview, *supra* note 28.

<sup>61</sup> Cal. Rules of Court, Rule 4.335 (2021).

<sup>62</sup> See, e.g. 2017 California Senate Bill No. 190, California 2017-2018 Regular Session (eliminating certain administrative fees in juvenile delinquency cases) (last visited July 14, 2021); *People v. Duenas*, 30 Cal.App.5th 1157 (2019) (holding that due process requires a criminal court to conduct an ability to pay hearing before imposing certain court assessments); *In re Humphrey*, 276 Cal.Rptr.3d 232 (2021) (holding that courts must consider an arrestee’s ability to pay bail and may not detain an arrestee solely because they lack the resources to post bail); *Online Traffic: Ability to Pay*, California Courts, <https://www.courts.ca.gov/abilitytopay.htm> (last visited July 14, 2021) (explaining the process for a traffic court defendant to request an ability to pay determination).

<sup>63</sup> Aldo’s name has been changed to protect his identity.

<sup>64</sup> Lucero Herrera et al., *Work, Pay, or Go to Jail Court-Ordered Community Service in Los Angeles*, UCLA Labor Center 2-3 (2019), [https://www.labor.ucla.edu/wpcontent/uploads/2019/10/UCLA\\_CommunityServiceReport\\_Final\\_1016.pdf](https://www.labor.ucla.edu/wpcontent/uploads/2019/10/UCLA_CommunityServiceReport_Final_1016.pdf).

<sup>65</sup> Nash, *supra* note 7.

<sup>66</sup> County of Los Angeles Probation Department, Community Service Referral Form, revised January 21, 2020 (on file with author).

<sup>67</sup> *Id.*

<sup>68</sup> Herrera, *supra* note 49, at 3-4.

<sup>69</sup> *Id.*

<sup>70</sup> Cal. Veh. Code §§ 40508, 40509.5 (West 2021).

<sup>71</sup> Attorney Interview, *supra* note 28.

<sup>72</sup> *Id.* § 40508.

<sup>73</sup> CDP Guidelines, *supra* note 12.

---

<sup>74</sup> *California AB 103: Ends Driver's License Suspension for Fines and Fees*, Fines and Fees Justice Center (2020), <https://finesandfeesjusticecenter.org/articles/california-ab-103-public-safety-omnibus-budget-trailer-bill-ends-drivers-license-suspension-for-unpaid-fines-and-fees/>.

<sup>75</sup> 2017 California Assembly Bill No. 103, California 2017-2018 Regular Session (eliminating provisions requiring court notifications of failure to pay to DMV in Vehicle Code §§ 40509, 40509.5)

<sup>76</sup> *Id.*

<sup>77</sup> CDP Guidelines, *supra* note 12.

<sup>78</sup> STATE OF CAL. DEP'T OF FIN., 2017-2018 CALIFORNIA STATE BUDGET ENACTED BUDGET SUMMARY, at 35 (2017) <http://www.ebudget.ca.gov/2017-18/pdf/Enacted/BudgetSummary/PublicSafety.pdf>.

<sup>79</sup> *Id.*

<sup>80</sup> Cal. Veh. Code §§ 40508, 40509.5 (West 2021).

<sup>81</sup> Attorney Interview, *supra* note 28.

<sup>82</sup> Government Requestor Account Application submitted by LA County Probation Department to California Department of Motor Vehicles dated October 12, 2020 (on file with author).

<sup>83</sup> Cal. Welf. & Inst. Code §256 (West 2021); CDP Guidelines, *supra* note 12.

<sup>84</sup> Cal. Welf. & Inst. Code §§ 633, 634 (West 2021); *In re Elijah C.*, 248 Cal.App.4th 958, 960 (2016) (as modified on denial of reh'g).

<sup>85</sup> Cal. Welf. & Inst. Code §§ 827, 827.9, 831 (West 2021).

<sup>86</sup> Cal. Welf. & Inst. Code § 262 (West 2021).

<sup>87</sup> *Id.*

<sup>88</sup> *In re Conley*, 244 Cal.App.2d 755, 761 (1966).

<sup>89</sup> Cal. Welf. & Inst. Code § 262 (West 2021).

<sup>90</sup> County of Los Angeles Probation Department, Request for Rehearing/Reconsideration Form, Revised July 2020 (on file with author).

<sup>91</sup> CDP FAQ, *supra* note 22.

<sup>92</sup> Cal. Rules of Court, Rule 8.902 (2021).

<sup>93</sup> County of Los Angeles Probation Department, Citation Diversion Rehearing Requests/Appeals, 2019-2021 (on file with author).

<sup>94</sup> *Id.*

<sup>95</sup> W. HAYWOOD BURNS INSTITUTE, LOS ANGELES COUNTY: YOUTH JUSTICE REIMAGINED—RECOMMENDATIONS OF THE LOS ANGELES COUNTY YOUTH JUSTICE WORKGROUP 60-61 (2020), <https://lacyouthjustice.org/wp-content/uploads/2020/10/Youth-Justice-Reimagined-1.pdf>.

<sup>96</sup> L.A. County, Cal., Youth Justice Reimagined: Fulfilling Los Angeles County's Commitment to a New Youth Justice Model (July 13, 2021), <http://file.lacounty.gov/SDSInter/bos/supdocs/159900.pdf>.

<sup>97</sup> Order from Juvenile Court Presiding Judge Michael I. Levanas on Dismissal of Former Informal and Juvenile Traffic Citations (Dec. 17, 2015) (on file with author).

<sup>98</sup> L.A. County, Cal., *supra* note 35.

---

<sup>99</sup> *Id.*

<sup>100</sup> Special Directive 20-09 from George Gascón to All Deputy District Attorneys (Dec. 7, 2020), <https://da.lacounty.gov/sites/default/files/pdf/SPECIAL-DIRECTIVE-20-09.pdf>.

<sup>101</sup> LOS ANGELES COUNTYWIDE CRIMINAL JUSTICE COORDINATION COMMITTEE YOUTH DIVERSION SUBCOMMITTEE, A ROADMAP FOR ADVANCING YOUTH DIVERSION IN LOS ANGELES COUNTY (2017) <http://ccjcc.lacounty.gov/LinkClick.aspx?fileticket=958nu4vFXQQ%3d&portalid=11> [hereinafter ADVANCING YOUTH DIVERSION].

<sup>102</sup> Cal. Welf. & Inst. Code § 626 (West 2021).

<sup>103</sup> ADVANCING YOUTH DIVERSION, *supra* note 88, at 13.

<sup>104</sup> *Id.*

<sup>105</sup> *Id.* at 69.

<sup>106</sup> CHRISTA BROWN ET AL., DRIVING TOWARDS JUSTICE, SAN FRANCISCO FINANCIAL JUSTICE PROJECT (2020), <https://sfgov.org/financialjustice/sites/default/files/2020-04/DrivingTowardJustice.pdf>.

<sup>107</sup> *Id.*

<sup>108</sup> ALEX BENDER ET AL., NOT JUST A FERGUSON PROBLEM: HOW TRAFFIC COURTS DRIVE INEQUALITY IN CALIFORNIA 7 (2015), <https://lccrsf.org/wp-content/uploads/Not-Just-a-Ferguson-Problem-How-Traffic-Courts-Drive-Inequality-in-California-4.20.15.pdf>.

<sup>109</sup> ALAN M. VOORHEES TRANSPORTATION CENTER ET AL., MOTOR VEHICLES AFFORDABILITY AND FAIRNESS TASK FORCE FINAL REPORT (N.J. 2006), [https://www.state.nj.us/mvc/pdf/about/AFTF\\_final\\_02.pdf](https://www.state.nj.us/mvc/pdf/about/AFTF_final_02.pdf).

<sup>110</sup> Cal. Welf. & Inst. Code § 258 (West 2021).



School of Law  
**Criminal Justice Program**

UCLA SCHOOL OF LAW  
BOX 951476  
LOS ANGELES, CALIFORNIA 90095-1476  
Email:  
[gasser-ordaz@law.ucla.edu](mailto:gasser-ordaz@law.ucla.edu)

October 8, 2021

Dear Probation Oversight Commission:

This is a transformative moment in Los Angeles County for young people, as we move to replace traditional, punitive and harmful systems with youth development programs that emphasize healing, justice, and accountability. In response to this countywide shift, I am enclosing a report published by the Criminal Justice Program this week about Los Angeles County's Citation Diversion Program (CDP), titled "A Closer Look at Los Angeles County's Citation Diversion Program" (CJP Report). This report provides an overview of the program's history, processes, and outcomes, drawing on data from publicly available sources, interviews with attorneys and youth who have experienced CDP, and several California Public Records Act requests submitted to the Probation Department.

At the Commission meeting on September 23, 2021, Probation gave a report back that mentioned CDP and its progress towards transferring citations from its program to the Youth Development and Diversion office (YDD). This transition is occurring in alignment with the July 13, 2021 Board of Supervisors motion titled "Youth Justice Reimagined: Fulfilling Los Angeles County's Commitment to A New Youth Justice Model," and the June 9, 2020 motion titled, "Maintaining the Decreased Population of Incarcerated Youth in Los Angeles County." I write to raise some of the data and legal findings of CJP's report that may be relevant to CDP's closure and the Commission's work.

During the September 23, 2021 Commission meeting, an advocate requested an update on Probation's March 2021 letter to the Board of Supervisors on reducing the incarcerated youth population, specifically the types of violations Probation plans to refer to YDD. In the March 2021 report back, Probation specified that it would refer habitual truancy, possession of tobacco, skateboarding/bicycle violations, fare evasion, and firework possession/detonation cases to YDD.

In writing the report, the Criminal Justice Program (CJP) requested data from Probation on the types of violations it processed from January 2016 through October 2020, but Probation only provided data from 2019. 3,482 citations (about half of the citations issued in 2019) were categorized as "Other," which according to Probation, includes citations for offenses such as "daytime loitering, disturbing the peace, trespassing, truancy, and other cases needing research." Probation did not provide a definition of what "other cases needing research" meant. Because so many categories of violations fall into the "Other" category, the Commission and the community does not know how many citations fall into the



categories that Probation is prioritizing for referral to YDD. It is also important to note that all CDP eligible offenses are also eligible for YDD. There has been no explanation as to why Probation limited the list of offenses that it says will be referred to YDD and why the list cannot be immediately expanded.

Additionally, the enumerated offenses raise concerns because they are very low level or status offenses. Our report recommends decriminalization of the types of offenses Probation has stated it plans to refer to YDD. These types of incidents may be better handled by the young person's family and support network.

Probation also stated at the Commission meeting that it had about 185-190 tickets ready to be sent over to YDD. Our report shows that in 2019, almost 7,000 citations were referred to CDP. From March through November 2020, as a result of the COVID-19 pandemic, CDP was completely closed, not holding hearings or resolving tickets. However, law enforcement agencies were still making referrals, and so it is unclear how many citations are currently pending through CDP. It is reasonable to assume from the data that there may be several thousand outstanding tickets waiting to be processed. Sending 190 tickets to YDD in light of this information seems to be a small fraction of the pending citations, especially since all CDP eligible violations are also eligible for YDD.

Finally, Probation reported that it sent a letter to the Superior Court to request that all citations of youth be dismissed that were referred to CDP during CDP's closure. This is a step in the right direction as our report includes a recommendation to request a court order for mass dismissal of CDP citations. However, from Probation's description, its letter to Superior Court did not request dismissal of any tickets youth received before CDP's closure in March 2020. Our recommendations are broader, as we recommend mass dismissal of all tickets issued before the pandemic as well as all tickets issued during CDP's closure.

I urge the Commission to look more closely at CDP and to ask for any data it needs to ensure that the program's closure is done thoughtfully and with a focus on racial equity. Some of the CJP report's main findings include that the consequences for minors whose cases are referred to CDP create barriers that can lead to harmful outcomes, such as large fines, burdensome community service hours, and driver's license suspensions. We also found that Black and Latinx youth were referred to CDP more often than white youth in 2019. As long as this program continues to operate, these harms will continue to occur.


If the Commission has any questions about the report or data we received, please do not hesitate to reach out.

Sincerely,  
Leah Gasser-Ordaz  
Youth Justice Policy Lead  
UCLA School of Law Criminal Justice Program  
[gasser-ordaz@law.ucla.edu](mailto:gasser-ordaz@law.ucla.edu)

Attachments

SPECIAL DIRECTIVE 20-09

TO: ALL DEPUTY DISTRICT ATTORNEYS

FROM: GEORGE GASCÓN   
District Attorney

SUBJECT: YOUTH JUSTICE

DATE: DECEMBER 7, 2020

This Special Directive addresses current policies in the previously named Juvenile Delinquency Practice Manual. Effective **December 8, 2020**, the policies outlined below supersede the relevant sections of the Juvenile Delinquency Practice Manual.

**INTRODUCTION**

In upholding the laws as they presently stand, this office will support efforts that recognize children as a separate class in line with decisions<sup>1</sup> from the Supreme Court of the United States and state-wide legislation<sup>2</sup>. This office will do its part to find alternatives to detention and make diversion the default. The following changes to existing practices seek to bring this office in step with the trend to seek “care over cages” and address “need over deed.” This will also include the creation of a juvenile division that allows for specialization and promotability, and that receives specialized training.

All prosecutorial practices in youth justice will account for the established science demonstrating young people’s unique vulnerabilities (including their impulsivity, susceptibility to peer influences, risk-taking and lesser ability to fully appreciate long-term consequences, and their lack of control over their home/family/life circumstances), their malleability and capacity for growth and maturation, and thus their diminished culpability and potential for rehabilitation.

Specifically, we will be guided by the following principles:

- Our prosecutorial approach should be biased towards keeping youth out of the juvenile justice system and when they must become involved, our system must employ the “lightest

---

<sup>1</sup> *Roper v. Simmons* 543 U.S. 51 (2005), *Graham v. Florida* 560 U.S. 48 (2010), *Miller v. Alabama* 567 U.S. 460 (2012), *Montgomery v. Louisiana* 577 U.S. \_\_ (2016).

<sup>2</sup> Proposition 57 (Eliminated prosecutors’ direct file authority and established new court procedures for transferring a youth’s case to adult court), SB 1391 (Repealed prosecutors’ authority to motion to transfer a case of youth age 14 or 15 to adult court), SB 439 (Set minimum age of juvenile court jurisdiction at 12, excluding murder and violent rape offenses), SB 395 & 203 (Require youth under age 18 to consult with legal counsel prior to custodial interrogation or waiving constitutional rights), SB 823 (Plans closure of DJJ and transferring the responsibility for youth to the counties).

- touch” necessary in order to provide public safety;
- A juvenile justice system must be family and child centered, holistic and collaborative with other systems and communities in order to heal trauma, foster positive youth development, and promote true public safety;
  - A juvenile justice system must incorporate research and data in order to create effective responses to crime and youth need;
  - We must invest in community-based services, schools, health and mental health programs and other resources that allow all children to thrive, no matter their zip code, race or gender;
  - Any court involvement in a young person’s life should be proportionate, for the shortest duration possible and result in a pathway towards a better future for youth; and
  - Youth justice approaches should reflect what science and data clearly demonstrate-that youth are malleable and continue to mature until their early-to mid-20s, affording the juvenile justice system a unique opportunity to support youth in achieving well-being.

The following policies shall be implemented **immediately**:

### **I. FILING DECISIONS**

1. **Youth accused of misdemeanors will not be prosecuted. If deemed necessary and appropriate, youth accused of misdemeanor offenses and low-level felonies will be referred to pre-filing, community-based diversion programs.**
2. **Crimes involving property damage or minor altercations with group home (STRTP) staff, foster parents, and/or other youth shall not be charged** when the youth’s behaviors can reasonably be related to the child’s mental health or trauma history. Involvement in the justice system can exacerbate, rather than improve, mental health issues or trauma and seeking resolution or supports through alternatives like restorative justice and health systems can better address the root causes of such behaviors,
3. **We will decline charges for property damage or minor altercations with members of the youth’s household** when the family can be better served by DCFS, or by way of an appropriate plan by a parent or legal guardian, and the behaviors can reasonably be related to the child’s mental health, trauma history, or alleged child abuse or neglect.
4. **We will continue to work with the Youth Justice Workgroup to develop collaborative decision-making teams** that facilitate information sharing, collaboration and input into filing decisions by other key partners, including schools, health systems, families and youth themselves.
5. **We will support and work with the Youth Justice Workgroup and Office of Youth Development to eliminate provision of diversion programs by probation and law enforcement, such as** Probation’s Juvenile Citation Diversion Program (in which youth are cited for infractions to appear in juvenile traffic court), and instead dismiss or refer such cases where appropriate to YDD’s expanding

diversion infrastructure.

6. **EFFECTIVE JANUARY 1, 2021: The Abolish Chronic Truancy (ACT) unit and other truancy interventions by the District Attorney is disbanded.**

## II. PETITIONS

1. **Filings will consist of the lowest potential code section that corresponds to the alleged conduct and mandate one count per incident.** (a) The only exception to misdemeanor filings will be in the case of “wobbler” offenses that warrant intervention (such as assault (Penal Code § 245)). Absent a documented history of violence, such cases will be filed as misdemeanors and require approval from the Deputy in Charge (DIC) to bypass diversion. (b) Filing Wobbler offenses as felonies will require a documented history of violence for the charged youth and/or serious injury to the alleged victim. In such cases, appropriate charging, including the decision to file a felony, must receive Head Deputy approval. Request for permission to file a felony shall include the basis for the request on a written memorandum. *This memorandum shall be forwarded from the Head Deputy to the appropriate Bureau Director.*
2. **Filing deputies are instructed to NOT file any potential strike offense if the offender is 16 or 17 years of age at the time of the offense. The only exception to this policy shall be charges involving forcible rape and murder.**
  - a. For example, all robberies will be filed, at most, as a grand theft person and/or assault by means likely to cause great bodily injury. For all open cases, a strike offense shall be withdrawn or refiled/amended as a non-strike offense, or vacated and replaced with a finding of a non-strike offense, or dismissed.
3. **Enhancements shall not be filed** on youth petitions consistent with the office wide directives on ending enhancement filings.
4. **The office will immediately END the practice of sending youth to the adult court system.**
  - a. **All pending motions to transfer youth to adult court jurisdiction shall be withdrawn** at the soonest available court date, including agreeing to defense counsel’s request to advance.
  - b. Cases will proceed to adjudication or disposition within the existing boundaries of juvenile jurisdiction.
5. **The following guidelines shall be followed in sexual offense cases:**
  - a. **We will avoid labeling normative adolescent behavior as a sex offense** and instead collaborate with appropriate partners to provide effective interventions that reduce recidivism and support a youth’s education and development around healthy sexual behavior.
    - i. Example: Child pornography statutes shall not be used to charge

- youth who consensually own or send sexually explicit photographs.
- b. **We will strive to structure charges, filing and prosecution wherever possible to avoid the requirement of sex offense registration.**
  - c. **We will withhold objections to removal from sex offense registries** for individuals who were youth when they committed their offenses.

### **III. TRANSPARENCY**

1. **Provide timely, complete and “open discovery”**, including Brady and other information calling into question the integrity of law enforcement action involved at the earliest opportunity-- including with the initial discovery packet when available.
  - a. Consistent with the ABA rules and best prosecutorial practices, our office will approach discovery in a manner that maximizes transparency and accountability.

### **IV. DETENTION**

1. **The office Presumption shall be against detention<sup>3</sup>.**
  - a. In the vast majority of cases, youth should be released to their families and/or caregivers, or to the least restrictive environment possible consistent with WIC § 636.
  - b. In line with the spirit of WIC § 202(a), detention will only be sought where a child poses an immediate danger to others, and only *for as long* as the child represents a danger to others.
  - c. Detention will not be sought on the grounds that a child has no other place to go, or that a child has serious mental health problems. If detention is sought in an exceptional case, the request should be for a minimal period and should only be after failed attempts at community detention (CDP).
2. **Deputies shall not seek detention for a probation violation** unless the violation constitutes an independent, serious crime that poses an imminent risk of harm to others.
3. **Deputies shall not seek detention for leaving placement.**
  - a. Engaging a Child Family Team (CFT) meeting shall be the first remedial measure taken to assist in stabilizing the youth.
  - b. If immediate replacement is not available, the youth should be sent to DCFS Transitional Shelter Care (TSC) to await Probation identifying placement.
4. **House arrest (CDP) shall not be sought in excess of 15 days** and deputies shall stipulate to house arrest credits toward maximum confinement.

### **V. DISPOSITION AND RESOLUTION OF CASES**

---

<sup>3</sup><http://www.pjdc.org/wp-content/uploads/Californias-County-Juvenile-Lockups-November-2020-Final.pdf>

1. **Deputies shall not oppose dismissal on competency grounds** when presented with evidence of incompetence.
2. **Deputies shall seek to avoid immigration consequences.**
  - a. Deputies are instructed to offer dispositions in accordance with Penal Code § 1016.3(b):
    - i. “The prosecution, in the interests of justice, and in furtherance of the findings and declarations of Section 1016.2, shall consider the avoidance of adverse immigration consequences in the plea negotiation process as one factor in an effort to reach a just resolution.”<sup>4</sup>
3. **Deputies shall only seek probation supervision in serious felony cases and request terms that are individually tailored to a youth’s needs.**
  - a. Probation conditions will not include automatic search conditions, gang conditions, and other conditions that are overboard.
4. **Deputies shall not object to sealing records** pursuant to WIC § 786 and 781, or dismissing strike offenses pursuant to WIC § 782.

## **VI. DUAL STATUS (CROSS-OVER) YOUTH**

5. **Deputies shall make every effort to prevent a dependent youth from crossing over into the delinquency system.**
  - a. If the court determines dual status is appropriate, deputies will encourage a dependency lead for children involved in the dependency system. When available, diverting cases to other systems will be the default position.
6. **No delinquency filing if the circumstances that give rise to the potential petition also give rise to the dependency petition.**
  - a. Examples: Parent and youth are delivering drugs; both are arrested and charged with drug trafficking; dependency petition is filed; teen will not be charged.
  - b. In a physical fight where the parent is hitting teen and the teen responds by hitting back, resulting in a dependency petition, the teen will not be charged.
7. **For any child awaiting placement, the District Attorney will support the release of youth to a temporary, non-secure setting** so that youth do not face prolonged detention simply because no safe placement has been identified.
8. **The presumption for youth in congregate care and housing based on mental health needs** will be that the alleged conduct was within the scope of behaviors to be managed or treated by the foster home or facility.

---

<sup>4</sup> 1016.2 codifies Padilla v. Kentucky 559 U.S. 356 (2010)

- a. Formal filing in these situations will require DIC approval and conform to all other policies enumerated herein regarding misdemeanors and charging the lowest possible offense.

***The policies of this Special Directive supersede any contradictory language of the Legal Policies Manual.***

gg