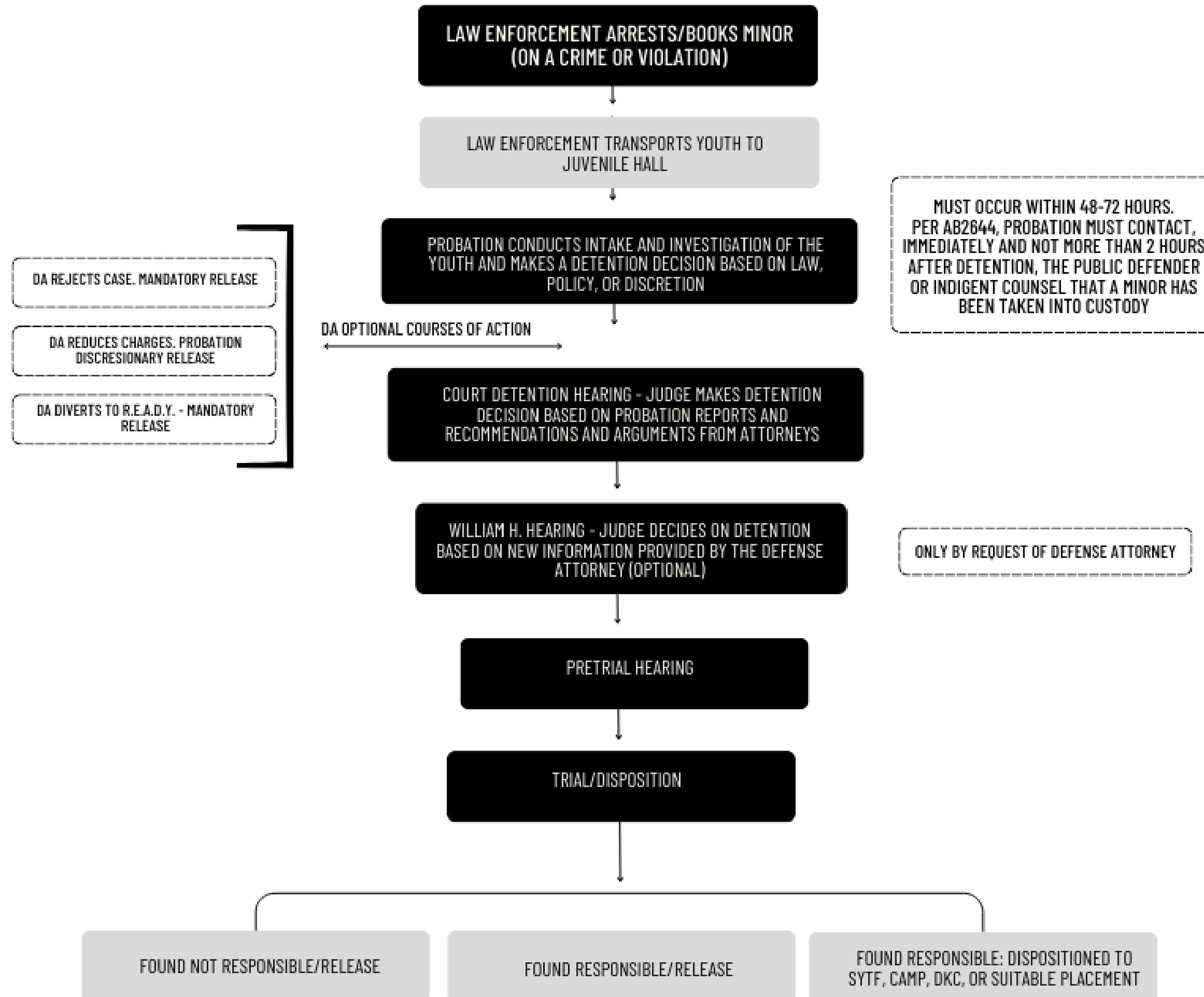


# L.A. County Juvenile Justice: Stages of Detention







LOS ANGELES COUNTY  
PROBATION OVERSIGHT COMMISSION

# Court Findings



# **The Court has read and considered the Probation Officer's; it is admitted into evidence by reference.**

- A prima facie showing has been made that the minor is a person described by Section 602 WIC.
- It is a matter of immediate and urgent necessity for the protection of the minor and the person and property of others that the minor be detained.
- **Continuance in the home is contrary to the minor's welfare.**
- **Reasonable efforts have been made to prevent or eliminate the need for removal.**
- **There are no available services that would prevent the need for further detention.**
- Minor's temporary placement and care are the responsibility of the Probation Department.

# California Code, Welfare and Institutions Code - WIC § 625.3

Notwithstanding Section 625; a minor who is 14 years of age or older and who is taken into custody by a peace officer for the personal use of a firearm in the commission or attempted commission of a felony or any offense listed in subdivision (b) of Section 707 shall not be released until that minor is brought before a judicial officer.

# California Code, Welfare and Institutions Code - WIC § 203

An order adjudging a minor to be a ward of the juvenile court shall not be deemed a conviction of a crime for any purpose, nor shall a proceeding in the juvenile court be deemed a criminal proceeding.

# California Code, Welfare and Institutions Code - WIC § 202

The purpose of this chapter is to provide for the protection and safety of the public and each minor under the jurisdiction of the juvenile court and to preserve and strengthen the minor's family ties whenever possible, removing the minor from the custody of his or her parents only when necessary for his or her welfare or for the safety and protection of the public. **If removal of a minor is determined by the juvenile court to be necessary, reunification of the minor with his or her family shall be a primary objective.** If the minor is removed from his or her own family, it is the purpose of this chapter to secure for the minor custody, care, and discipline as nearly as possible equivalent to that which should have been given by his or her parents. This chapter shall be liberally construed to carry out these purposes.

Minors under the jurisdiction of the juvenile court who are in need of protective services shall receive care, treatment, and guidance consistent with their best interest and the best interest of the public. **Minors under the jurisdiction of the juvenile court as a consequence of delinquent conduct shall, in conformity with the interests of public safety and protection, receive care, treatment, and guidance that is consistent with their best interest, that holds them accountable for their behavior, and that is appropriate for their circumstances.** This guidance may include punishment that is consistent with the rehabilitative objectives of this chapter. If a minor has been removed from the custody of his or her parents, family preservation and family reunification are appropriate goals for the juvenile court to consider when determining the disposition of a minor under the jurisdiction of the juvenile court as a consequence of delinquent conduct when those goals are consistent with his or her best interests and the best interests of the public. When the minor is no longer a ward of the juvenile court, the guidance he or she received should enable him or her to be a law-abiding and productive member of his or her family and the community.

# California Code, Welfare and Institutions Code - WIC § 281

The probation officer shall upon order of any court in any matter involving the custody, status, or welfare of a minor or minors, make an investigation of appropriate facts and circumstances and prepare and file with the court written reports and written recommendations in reference to such matters. The court is authorized to receive and consider the reports and recommendations of the probation officer in determining any such matter.



# California Code, Welfare and Institutions Code - WIC § 636.2

The probation officer may operate and maintain nonsecure detention facilities, or may contract with public or private agencies offering such services, for those minors who are not considered escape risks and are not considered a danger to themselves or to the person or property of another. Criteria to be considered for detention in such facilities shall include, but not be limited to: (a) the nature of the offense, (b) the minor's previous record including escapes from secure detention facilities, (c) lack of criminal sophistication, and (d) the age of the minor. A minor detained in such facilities who leaves the same without permission may be housed in a secure facility following his apprehension, pending a detention hearing pursuant to Section 632.



# ADDRESSING JUVENILE OVER-DETENTION

ERIN PALACIOS ❖ APRIL 2, 2024



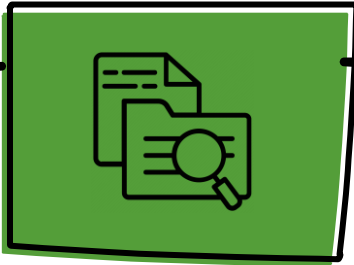
Whatever it is that needs to be done, it is not what we are doing right now.

We do need to make take risks and make changes—big one.



**“What if we don’t change at all ...  
and something magical just happens.”**

# The Post-Its



1.

Assess current data and improve data collection.

Establish multidisciplinary reviews of past cases.



2.

Define current legal obligations and requirements?

Differentiative practice and policy from legal mandates.



3.

Identify existing tools, resources, and processes available to build alternatives to detention and meet youth/ family needs.



4.

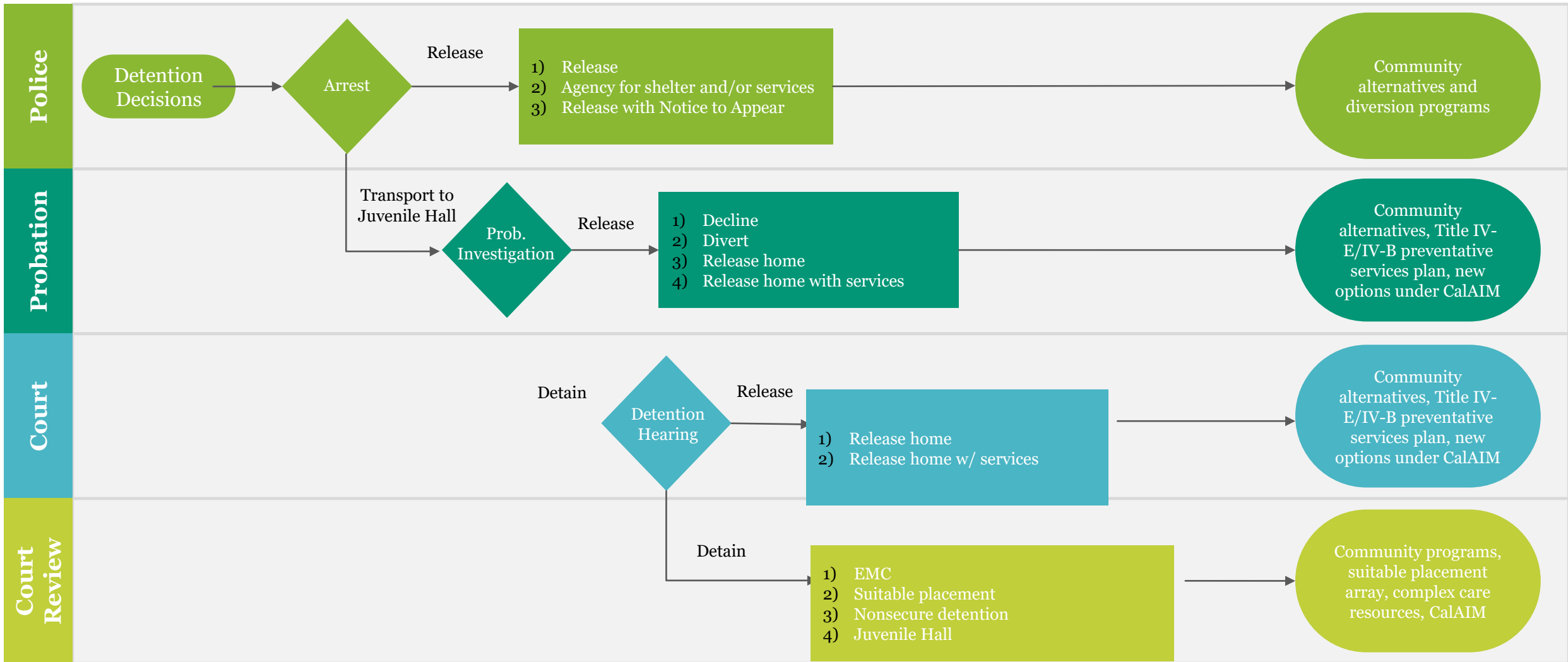
Individualize everything.

Use every resource.

Say YES.



# DETENTION DECISION POINTS



# OPTIONS AVAILABLE TO LAW ENFORCEMENT

- Admonishment

After taking a youth into custody:

- Release
- Deliver to an agency that contracts to provide shelter care, counseling or diversion services
- Issue a Notice to Appear
- Deliver to Probation

Law enforcement must choose “the alternative which least restricts the minor’s freedom of movement, provided that alternative is compatible with the best interests of the minor and the community.”

**CUSTODY REQUIREMENT:** When law enforcement takes youth into custody for certain reasons it may not release them but must instead deliver them to probation. This is only true in for youth at least age 14 charged with: 1) personal use of a firearm in the attempt or commission of a felony or 2) an offense listed in WIC 707(b).

**IN ALL OTHER CASES:** Law enforcement may exercise its discretion as to how best to proceed.

# PROBATION DETERMINATION – REFERRAL

When Probation has a reason to believe that a youth has committed a delinquent act, it must immediately investigate and determine whether to make a referral to commence juvenile court proceedings.

- Settle the case at intake
  - State reasons and provide notice to law enforcement
- Informal supervision
- Referral to District Attorney

**REQUIRED REFERRALS:** When Probation receives an application from law enforcement and the affidavit alleges the youth committed certain acts, it must refer the case to the District Attorney within 48 hours.

**DISTRICT ATTORNEY HAS BROAD DISCRETION:**

- When Probation decides to or is required to refer a case to the DA, the DA has discretion as to whether to file a petition.
- In addition, the District Attorney shall refer the matter back to probation for probation to take appropriate action if:
  - It appears the case was not properly referred,
  - The offense referred should have been charged as a misdemeanor, or
  - That the youth would benefit from a program of informal supervision.

# PROBATION DETERMINATION – RELEASE OR DETAIN

When Police deliver youth to Probation they must provide “a concise written statement of the probable cause for taking the minor into temporary custody and the reasons the minor was taken into custody and shall provide the statement to the probation officer at the time the minor is delivered to the probation officer.”

When a youth is delivered with a sufficient affidavit, Probation must immediately investigate the youth’s case and must immediately release the youth to a parent, legal guardian, or responsible relative UNLESS if finds evidence to conclude:

- Continuance in the home is contrary to the youth’s welfare AND
- One of the following conditions exists:
  - Continued detention is a matter of immediate and urgent necessity for the protection of the minor, or reasonable necessity for the protection of the person or property of another; or
  - The minor is likely to flee the jurisdiction of the court; or
  - The minor has violated an order of the juvenile court.

**DISCRETION:** Even when sufficient facts exist to detain, Probation may still chose to release a youth.

**CUSTODY REQUIREMENT:** Youth at least age 14 charged with: 1) personal use of a firearm in the attempt or commission of a felony or 2) an offense listed in WIC 707(b) may not be released until they appear before a judge.



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## COMMON MISCONCEPTIONS

- Youth required to be held in custody must be held in detention. FALSE
- Detained youth must be held in the juvenile hall. FALSE
- No judicial determinations are required on weekends and/ or holidays. FALSE
- A detention hearing will can only take place upon the filing of a petition. FALSE
- The first requirement for a judge to review the case is the detention hearing. FALSE

# DETENTION HEARING REQUIREMENTS

All youth Probation holds in detention must be brought before a judge for a detention hearing as soon as possible. If the hearing is not held within the maximum timeframe, the youth must be released.

If Probation is recommending continued detention, it must submit a report to the court detailing the reasons it believes the minor is at risk of entering foster care placement that includes all of the following:

- The reasons why the minor has been removed from the parent's custody.
- Any prior referrals for abuse or neglect of the minor or any prior filings regarding the minor pursuant to Section 300.
- The need, if any, for continued detention.
- The available services that could facilitate the return of the minor to the custody of the minor's parents or guardians.
- Whether there are any relatives who are able and willing to provide effective care and control over the minor.

# OPTIONS BEFORE THE COURT AT A DETENTION HEARING

Unless the court finds certain factors are present, it must order that the youth be released. In order to detain it must find all of the following:

- That a “prima facie” showing has been made that there is evidence to believe that the youth committed the charged criminal offense;
- B) That continuance in the home is contrary to the youth’s welfare; AND
- C) That one of the following grounds for detention exists:
  - The child has violated an order of the court;
  - The child has escaped from a commitment of the court;
  - The child is likely to flee the jurisdiction of the court;
  - Detention is a matter of immediate and urgent necessity for the protection of the child; or
  - Detention is reasonably necessary for the protection of the person or property of another.

# OPTIONS BEFORE THE COURT AT A DETENTION HEARING

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  - The child has escaped from a commitment of the court;
  - The child is likely to flee the jurisdiction of the court;
  - Detention is a matter of immediate and urgent necessity for the protection of the child; or
  - Detention is reasonably necessary for the protection of the person or property of another.

The law does not require a court to order a youth detained even when all of these factors are present. The court is not required to detain a youth in any case.



# OPTIONS BEFORE THE COURT AT A DETENTION HEARING

If the court finds grounds for detention, it must consider whether there are available services that would prevent the need for further detention; and if such services are available, the court must release the child to the parent and order that those services be provided.

The Court must also find that Probation has made reasonable efforts to avoid the need to remove the youth from their home. Or it must order that reasonable efforts immediately be made to eliminate the need for continued detention.

When the Court does order a youth detained, it may be in the juvenile hall or any other suitable placement. This includes:

- The “least restrictive or most family-like”
- “In proximity to the minor’s home”
- “in order of priority:”
  - Placement with relatives or nonrelated extended family members
  - Tribal members
  - Foster family homes and certified homes or resource families of Foster Family Agencies (FFAs)
  - Treatment certified homes/resource families, or therapeutic foster care homes
  - Group Care (aka STRTP)
  - Therapeutic placement such as STRTP-E, TFC, ISFC, or ISFC-E

## NOW WHAT?

- Child Welfare Services – all those services intended to protect and promote the welfare all children; prevent or remedy problems that may result in neglect, abuse, exploitation, or delinquency; prevent separation of youth from their families; restore children who have been removed back to their families; and ensure adequate care of children away from their homes – WIC 16501
- Case Plans – the “central unifying tool” through which child welfare services are delivered and mandated under state and federal laws – WIC 16501.1; WIC 706.6; ACL 14-36; 42 USC 675; 42 USC 675a
- Child and Family Team – collaborative, non-adversarial, team-based approach to case planning and assessment – ACL 16-84 & ACL 18-23
- New Complex Care Resources
- New services available under CalAIM– the State’s new Medicare waiver developed to significantly expand community-based services.