

## Key Comparisons of Adult Criminal and Juvenile Delinquency Defense

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Many defense attorneys assume that practicing in juvenile delinquency court must be the same as in adult criminal court. Such an assumption can do a disservice to the minor involved in the delinquency proceedings. This article highlights a few of the key differences and similarities between the two courts and points out a few cross-over issues between them.

The differences between the courts are not limited to simply the language used (e.g. juveniles "admit" or "deny" allegations in a "petition"; they do not plead guilty or not guilty to counts in a complaint). For example:

\*Detention decisions: juveniles are not entitled to bail. However, the court may release a detained juvenile outright or on House Arrest at a detention hearing. If denied, juveniles may renew this request at later stages in the proceedings. Juveniles are also statutorily entitled to immediate release if the D.A.'s office does not file a petition within 48 court hours of detention. W&I §631(a). The case continues on an out-of-custody basis.

\*Shorter time frames: detained juveniles are entitled to a jurisdictional hearing (trial) within 15 court days; non-detained minors within 30 calendar days. W&I §657.

\*Broader sentencing options: because rehabilitation is an important objective of the juvenile system, several diversion programs are available to certain juveniles (through probation without the filing of a petition, through the court without an admission, or through the court with an admission to a felony charge). W&I §§654, 654.2, 790.

\*Availability of social services: sometimes minors are current wards of the dependency system (or need to become dependency wards). In certain cases, the delinquency case may be dismissed or resolved in a non-wardship manner so that the minor can receive the broader services of the dependency system. W&I §300.

\*Continued representation of minors post-disposition: Rule of Court 5.663 (formerly CRC 1479) appears to obligate delinquency attorneys (publicly provided or privately retained) to verify that minors are receiving appropriate services and to bring minors back to court for further dispositional hearings if necessary. This raises some practical issues for a privately-retained attorney, who might assume the job is done after the dispositional hearing.

Many aspects of the juvenile system, particularly the more punitive aspects, are unfortunately similar to the adult system. For example:

\*Not all juvenile cases are confidential: for specified serious offenses, the proceedings are open to the public and the adjudication is a matter of public record. W&I §676(a).

\*Waiver to adult court: more juveniles are now subject to adult criminal prosecution, either through direct filing or judicial waiver.

\*Sex offender registration: If a juvenile is sent to DJJ (formerly CYA) on certain sex offenses, the juvenile is subject to sex offender registration. Penal Code §290(d).

Criminal attorneys who have never practiced and never intend to practice delinquency law may also find themselves dealing with cross-over issues. For example:

\*Juveniles may be subject to strike priors: if minors age 16 and above commit certain crimes, those adjudications could be used in future proceedings as strike priors. The list of strike offenses for adults is not the same as juveniles (i.e., residential burglary is not a strike for a juvenile). However, the Sixth District last month held in *People v. Nguyen* (2007) 2007 WL 1866343 that juvenile adjudications cannot be used as strike priors since juveniles are not entitled to jury trials. Because this issue is of tremendous importance, I suspect the *Nguyen* decision will not be the last we hear on the topic. W&I §707(b).

\*Availability of reverse remand to juvenile court for sentencing of a minor directly filed upon in adult court. Penal Code § 1170.17-.19.

\*Obtaining access to a juvenile court file through W&I §827 (this information cannot be obtained through subpoena).

Attorneys needing quick answers to juvenile delinquency issues can find reliable information in the Lexis publication *California Juvenile Courts*, "A Practical Guide to Juvenile Delinquency Law" (aka "The Dogbook"), available through the L.A. County Public Defender, or even the State Bar publication "Kids & The Law."

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