

# Dual Status Youth and the 241.1 Process

CASA Training  
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# Introduction



*They Call Us Monsters* (2016) Trailer

# Part 1: What Does it Mean to be a Dual Status Youth?

- Any youth who has petitions in both dependency and juvenile justice courts.
- Any youth receiving services from both DCFS and Probation.
- Note: Also called "dually involved" or "crossover" youth.

## When Does WIC §241.1 Apply?

- Any youth who appears to come within the description of *both* WIC §300 and §602.
- Dependent youth gets arrested and is the subject of a new juvenile justice petition.
- Dependent youth on probation who commits a new offense or violates probation.
- Youth has pending petitions in both dependency and juvenile justice courts.
- Non-dependent youth who successfully completes probation but has no safe home to return to.
- Non-dependent youth on probation who gets detained by DCFS.

# Population Characteristics

- Frequently leave placements without permission (AWOL).
- Substance use.
- Mental health issues.
- Developmental delays.
- Educational deficits.
- Trauma background.
- Low self-worth.
- Mistrust of "The System."
- Multiple placements, often living in congregate care, DCFS's "problem children."
- Studies show they are treated more harshly by court systems and outcomes are worse.

# Foster Youth and Juvenile Justice

- Child abuse and neglect increases the risk of arrest as a juvenile by 55% (*Bilchik, 2007*);
- An Arizona study found that 73% of active dependents between the ages of 14-17 had been referred to juvenile justice court at least once in the past (*Halemba, Siegel, Lord & Zawacki, 2004*);
- In Massachusetts, over 50% of juvenile offenders served by the Department of Youth Services had previously been under the care of the Dept. Of Social Services (*Wiig & Tuell, 2008*);

# Foster Youth and Juvenile Justice

- When youth in foster care arrested, more likely than non-foster youth to be sent to juvenile detention facilities to await trial (*Conger & Ross, 2001*);
- Crossover youth receive harsher processing outcomes compared to probation youth who have no connection to dependency system. (*Hertz, Ryan & Bilchik, 2001*);
- Youth with histories of dependency court involvement are *twice* as likely to recidivate as juveniles with no dependency court involvement (*Halemba, et al., 2004*);
- Los Angeles study found dual status youth have worse outcomes than solely dependent or solely probation youth.

# Process Overview

- Arraignment/Detention Hearing
- Pre-Trial/241.1 Hearing
- Jurisdiction/Adjudication
- Disposition (sentencing/case plan)



# Youth is Arrested, Now What?

- Foster youth gets arrested. Law enforcement can:
  - Counsel and release;
  - Refer for diversion;
  - Cite to appear in court;
  - Detain.
- If youth is detained:
  - Law enforcement will take youth to one of the three juvenile halls where they will be received by Probation's Intake, Detention, and Control Unit for processing;
    - Central (Elite Family Care Unit), Los Padrinos (but closing soon), or Sylmar.
    - Each has mental health, medical and educational services.

# Youth Gets Charged With a Crime. What Happens Next?

- Youth will have an attorney appointed:
  - LA County Public Defender Juvenile Division (PD)
  - LA County Alternate Public Defender (APD)
  - Independent Juvenile Defender Office (IJD)
- If you do not know who the defense attorney is, you can call any of the Public Defender Juvenile Division's main lines and they can provide you with more information. (Try the Eastlake main line: 323-226-8998.)

# Arrestment/ Detention

- Juveniles have the same rights as adults, except:
  - No right to jury trial;
  - No right to bail;
  - Cannot file on youth under 12 years old (rare exceptions).
- First hearing, youth will be arraigned and will usually enter a denial.
- Court will also order a 241.1 Multidisciplinary Team Meeting ("MDT") Report.
- If youth was detained prior to first hearing, then at first hearing judge will also determine if minor will remain detained pending resolution of the case.
- If minor loses at initial detention hearing, defense attorney can request re-hearing (*Dennis H.* or *William M.*).

What Does  
WIC §241.1  
Require:  
MDT  
Members  
and Guests

- MDT comprised of:
  - DCFS CSW;
  - DCFS 241.1 Liaison;
  - Investigative Probation Officer;
  - DMH Clinician;
  - DCFS-contracted Education Specialist.
- Also invited, but not part of team:
  - CLC;
  - CASA.

# What Does WIC §241.1 Require: The MDT's Mandate

- MDT members share and evaluate the youth's strengths, needs, and risk factors.
- CASA and CLC are invited to participate in the first part of the meeting to share recommendations.
  - **CLC suggests that you do:** share youth's strengths, needs, trauma, and possible case plan changes to better support the youth.
  - **CLC suggests that you do not:** discuss the charges or argue with the team. There is a possibility of unintentionally harming the youth's case.

What Does  
WIC §241.1  
Require:  
The MDT's Joint  
Recommendation

- Los Angeles County 241.1 Protocol Requires DCFS and Probation to submit joint recommendation to the Court regarding the youth's status (i.e. which agency will place the youth).
  - The Protocol includes a conflict resolution mechanism if the agencies disagree.
- Neither DCFS nor Probation can present the court with a solo recommendation.

# 241.1 Hearing/ Pre-Trial

- The 241.1 Assessment is provided to the Court and counsel;
- The Court must read and consider the 241.1 assessment and decide which system, dependency or juvenile justice, best serves the interest of the child and the protection of the community.
  - Court is not bound by the MDT's recommendation;
  - Legal preference for the *least restrictive environment*.
- The 241.1 issue must be addressed prior to adjudication (exception: transfer hearings).

## 241.1 Hearing/Pre -Trial, cont.

- Often, the defense and the DA will work out a deal at this stage, and the Court will proceed to disposition.
  - CASA can:
    - Provide written statement;
    - Provide input on probation conditions and identify any potential barriers to success;
    - Consider any changes that may need to be made to the dependency case plan, if youth needs additional support or services.



# Adjudication

- Bench trial before a judge or commissioner;
- Prosecution must prove case beyond a reasonable doubt;
- Same rights as adults against self-incrimination, right to call witnesses and cross-examine witnesses, and to present evidence in defense;
- If allegations are found "true," the court "sustains" the juvenile justice petition.

# Disposition Options for Dual Status Youth

**Dismissal** of juvenile justice petition.



Youth remains 300 only (rare).  
Probation supervision ends.

**Informal probation** pursuant to WIC §654.2, 725(a), 790. There are specific requirements for each.



Youth remains 300 and receives informal supervision by a probation officer.

**Formal Probation** pursuant to WIC §602 (declared ward) and 300 youth. Dually adjudicated and youth is 300/602.



Lead agency should be designated for purposes of placement. Both Probation and DCFS supervise the youth.

**Youth declared 602** and 300 status is terminated.



Youth becomes 602 only (rare).  
DCFS involvement ends.

# Disposition: Lead Agency

- "Lead Agency" only applies to formal dual status youth.
  - Misunderstood and inconsistently implemented.
  - Choose lead agency based on best placement and case plan.
  - Preference for *least restrictive* status.
  - DA/defense attorney/court not bound by recommendation by MDT.
- Shared responsibilities:
  - Regardless of lead, each agency is required to **fully participate** in the case plan.
  - No duplication of services. Agencies should be communicating regularly.
  - Reality: youth fall through cracks and there is little to no service linkage.

# Lead Agency

- Some placements (Camp or Dorothy Kirby Center) require Probation to be the lead agency.
- Misconception: if Probation is lead, Probation has the ability to provide stricter oversight.
  - Reality: Probation has the same ability whether lead or not.
- Probation units are determined by the lead agency:
  - Informal probation/formal probation with DCFS lead: Probation officer is from "Dual Supervision Unit"
    - Better collaboration with the dependency system.
  - Formal probation with Probation as lead agency: Probation officer is from "Placement Supervision Unit"
    - Officers are not as familiar with dependency

# Common Lead Agency Issues

- When youth are detained, DCFS wants Probation to be the lead agency and will tell juvenile justice court they have no placements
  - **Tip:** Juvenile justice or dependency court can order DCFS to search for placement and provide a list of placement attempts/responses.
  - Does youth need a mental health or Regional Center assessments?
- Deciding lead agency when a youth is leaving Dorothy Kirby Center or Camp
  - DCFS often wants Probation to remain lead.
  - A non-dependent youth would go home to his/her parent.
  - Probation does not have foster homes.
- Important to attend transition meetings when a youth is transitioning from Dorothy Kirby or Camp into the community.

# Probation Placement Continuum: Probation as the Lead Agency

<b>Home on Probation</b>	House arrest ["CDP" (Community Detention Program)]
<b>Suitable Placement</b>	<p><b>Short Term Residential Treatment Programs</b> ("STRTP" - formerly referred to as Level 12 and 14 group homes)</p> <ul style="list-style-type: none"> <li>• Locked STRTP's require youth's consent (WIC §6552) or conservatorship</li> <li>• CDP possible at STRTP</li> </ul>
	<p><b>Dorothy Kirby Center ("DKC")</b></p> <ul style="list-style-type: none"> <li>• Locked</li> <li>• Only available to Probation lead cases</li> <li>• No consent or conservatorship required; only court order</li> </ul>
	<p><b>Out of state placements</b></p> <ul style="list-style-type: none"> <li>• Contracts with Probation</li> </ul>
<b>Camp</b>	5-7 or 7-9 month sentences
<b>Department of Juvenile Justice ("DJJ")</b>	<ul style="list-style-type: none"> <li>• Essentially prison</li> <li>• Rare</li> <li>• Youth can be placed until 25</li> </ul>

# Post- Disposition MDT

- If youth is placed on informal or formal probation, conditions will be set and a supervising Probation Officer ("PO") will be assigned
- Post-Disposition Meeting *should* happen within 30 days
  - Youth meets supervising PO, CSW
  - Obtains conditions of probation
  - Service linkage should occur
  - MDT sends a report to dependency court within 10 days regarding the results of the juvenile justice case

# Probation Violations and New Charges

- If a youth violates the terms of probation or faces new charges:
  - New/supplemental 241.1 assessment **shall** be ordered.
- It is helpful to consider:
  - Was the youth connected to the services identified as necessary to stabilize and rehabilitate the youth?
    - Are there changes to the 300 case plan that might help?
  - If the youth is not in compliance, are there barriers preventing the youth from meeting the terms and conditions of probation?
    - e.g. transportation, counseling, tutoring, a supportive adult who can encourage the youth to comply (CASA!).



## Part 2: What are the Best Practices When Representing Dual Status Youth?

- Ways that a CASA can support a dual status youth:
  - Identify and advocate for services to prevent a youth from entering the juvenile justice system in the first place;
  - Collaborate with the dependency and defense attorneys to advocate for best outcome possible;
  - Assist youth in navigating and successfully complete probation.

# Collaboration Among CASA, CLC, and Defense Attorney

- Shared advocacy.
- Helpful information for the defense attorney to have:
  - Abuse and neglect or maltreatment background;
  - Trauma since being in the child welfare system;
  - Current dependency case plan and services youth is receiving;
  - Placement options;
  - Current placement, medical, education, mental health, and Regional Center information;
  - Identifying the negative consequences of a 602 declaration;
    - Losing placement, no foster homes, sibling relationship, therapist, school changes, etc.

# Collaboration Among CASA, CLC, and Defense Attorney, continued.

- Important to explain CASA's role to the defense attorney. He/she may not be familiar.
- Defense attorneys may require a written waiver in order to communicate with you.
- Defense attorneys are not best interest attorneys.
  - Instead, considering loss of liberty, lifelong criminal records, immigration implications, etc.

# CASA Advocacy Statement

- A written advocacy statement can:
  - Provide background information to juvenile justice court;
  - Highlight youth's strengths, needs, and services dependency system can offer;
  - Present more holistic information and context about the youth's behavior and circumstances in placement.
- Highly recommend providing statement to defense attorney to review before filing.
- Per CASA policy, CASA's should submit their written advocacy statements to their Advocate Supervisors for review prior to submitting them to the defense attorney or juvenile justice court.

# Benefits of Attending Juvenile Justice Hearings

- Ability to provide information/advocacy to the Court and the defense attorney.
- Courts are more likely to see the humanity and potential of persons who have a support system.
- Youth feel supported.
- Provides an opportunity to give accurate information to the dependency court if DCFS misstates the information or overstates the seriousness of the allegations.
- Provides an opportunity to reframe the narrative.

# What to Bring to Juvenile Justice Court

- Next dependency court date and type of hearing.
- Results of last dependency hearing.
- Placement information/issues
- Positive information about the client
  - Settings or services where client thrived;
  - Prosocial activities;
  - Personal qualities and resilience.
- Advocacy statement (to provide to defense attorney).
- Potential Placement options
  - Previous caregiver?
  - Relatives?

# Practice Tips

<b>Introductions</b>	When you arrive, introduce yourself to the bailiff, court clerk, and probation court officer. They can all tell you which defense attorney is representing your client.
<b>Ask for Information</b>	If your client is in lockup, ask the defense attorney if you can meet with him/her.
<b>Provide Support to Client</b>	When meeting with the client, let him/her know that you are there as a support.
<b>Discuss</b>	<p>Provide information to the defense attorney. Preferably this will be done prior to the hearing, but if not, make sure to do it the day of.</p> <p>Provide the defense attorney with a copy of your advocacy statement and allow them to review it.</p>
<b>Make Sure To:</b>	Speak to your Advocate Supervisor before sharing any information about the charges with the DA, CSW, Probation or County Counsel. The Advocate Supervisor or CASA can reach out to the CLC or defense attorney if there are legal questions.

# Danger Zones

- If a dual status youth turns 18 while he/she is in Dorothy Kirby or Camp, he/she is at risk for denial of AB12 services. The law is unclear regarding AB12 eligibility under these circumstances.
  - If you are aware that your youth is approaching the age of 18 while placed at Dorothy Kirby or Camp, please reach out to the CLC attorney immediately.
- A termination of jurisdiction or a Home of Parent order right before the youth turns 18 can affect AB12 eligibility. Reach out to the CLC attorney if you have questions about the implications of such an order.



Part 3:  
What  
Additional  
Resources and  
Support are  
Available to  
Dual Status  
Youth?

- 241.1 Pilot Project Court
- Children's Law Center CARE Program

# 241.1 Pilot Project Court

- Judge Arakaki (Dept. 414) hears both the dependency and delinquency case.
- Participants include:
  - Youth and youth's dependency (CLC) and defense counsel (PD, APD, IJD, Private);
  - Parents counsel (LADL, Private);
  - County Counsel and DCFS Court Officers;
  - District Attorney and Probation Court Officer;
  - DMH;
  - 317(e) Education Attorney (if appointed);
  - Education liaison (from DCFS, Probation, and/or school district);
  - CASA;
  - Any other individual or entity supporting the youth.

CLC  
Crossover  
Advocacy and  
Resource  
Effort  
(CARE) Unit

- Specialized unit provides intensive case management and enhanced advocacy to support foster youth on probation or Expectant and Parenting Youth (EPY).
- All firms have CARE Unit:
  - CLC1: Expectant and Parenting Youth
  - CLC2: Dual status clients in APPLA
  - CLC3: Dual status clients
  - CLC4: First time offending dual status clients
- Each CARE team establishes regular contact with youth and stakeholders, including CASA's.
- Assess youth's needs and ensure service linkage.

Questions?

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