



Court Process Overview



Agenda

Overview of Court processes and Timelines

- Protective warrant, petition and the detention hearing
- Paternity
- Jurisdiction/Disposition hearings
- Review hearings and timelines
- Understanding who will be involved/players in the child-welfare case (attorneys, social workers, community providers) **VIDEO WOULD BE GREAT**
- Difference between Criminal Court, Family Court and Juvenile Dependency Court

What to expect during Court investigation



Overview of Court Process and Timelines



Paternity/Parentage

Legal Terms:

Presumed father: A father who has full rights in the dependency case and who will also be assessed and held accountable for their behaviors.

Alleged father: A father who may or may not be the biological father and has limited rights in the child's case. An alleged father does not have the right to receive reunification services.

Mere biological father or biological father: A father who is biologically the father of a child, but does not have a legal status as a parent



Paternity/Parentage

What does the Judge want to see?

The Judge will ask your attorney and the Court Investigator (social worker) to collect detailed information that will then help to legally determine your parentage status. The Judge may ask you to DNA test, as this is an important information for the Court to understand, as well as for you to know. One of the most important things for the Judge to understand is what your relationship is to the child. It matters if you have seen this child every Saturday since they were born, vs. just met them. Be detailed with your answers to your attorney and to your social worker.

What rights do I have?

Paternity findings will determine what rights you subsequently have to request custody of your child. Paternity findings can be made at any Court Hearing, but are most commonly made before or at the Jurisdiction Hearing.

IMPORTANT: Do Not Wait. The Court does NOT have to grant you reunification services if you come to Court later on in the case. Talk about this issue early and often with your attorney until the Court makes a ruling.



Protective Custody Warrants/Detention Hearings

Your child was originally separated from your physical custody on an emergency and temporary basis.

The law allows the Department to seek a **Protective Custody Warrant** from a Judge if the Department has evidence that the child is not safe in your care. If the Judge signs the Warrant, the Department will detain your children on an emergency temporary basis.

Law enforcement can detain a child under temporary and emergency status without consulting a Judge.

In either of these situations, the next step is to have the case go before the Court at a **Detention Hearing**.



Detention Hearing

A Detention Hearing is the first time the case will go in front of a Judge. Detention hearings occurs 3 business days from the day your child was separated from your care.

While it is legally possible for children to be returned to their parents at the detention hearing, it is very rare.

What *typically* occurs is that attorneys are appointed, you will have a brief chance to talk to your attorney, and the Court reviews an initial packet of evidence, a petition and a report written by the emergency response social worker. You will also receive a copy of this report. Some findings may be made, such as around parentage and Indian Child Welfare Status. Then a Court investigation is ordered and a Jurisdiction Hearing or a Jurisdiction/Disposition Hearing is put on the calendar about three weeks away.



Detention Hearing: Petition and Detention Report

A **Juvenile Petition** includes allegations under the section of the law called Welfare and Institutions Code 300 (WIC 300). The Dependency Court does **not** make any rulings on criminal matters specified in the penal code. The petition specifies the areas of law in the WIC Code that your case falls.

The **Detention Report** is the report that the social worker writes about what happened that brought your family to the Court's attention.



Detention Hearing- What does the Judge want to see?

- The Judge wants to see you. Many parents do not say anything at this first hearing, and it is ok to show up not knowing what to say. Even if you feel embarrassed or afraid, showing up to Court is a big step in the right direction.
- Dress appropriately- as if you are going to a job interview.
- Refer to the Judge as “Your Honor”
- Speak with your attorney about your position and let them advise you



Detention Hearing- What rights do I have?

- If your child is detained at this Hearing by the Judge, this order will likely stay until new orders are made at the next Hearing.
- The right to make medical and educational decisions for your child stay with you unless the Court minutes specifically say otherwise.
- The right to have supervised visitation/parenting time
- The right to an attorney/legal counsel
- Parental rights are not severed, you have the right to come to Court and know what is happening in your case.
- Right to access support services: You have the right to access services to help you address the concerns listed in the allegations, and create a safe place for your child to reunify with you.



Jurisdiction/Disposition Hearing

These hearings are sometimes separated into two.

Jurisdiction: The Court decides if a child falls under the Jurisdiction of the juvenile court. The court listens to evidence supporting the allegations in the petition, and then decides if the petition is true. You will talk to your attorney about legal strategies regarding agreement/disagreement with the Department's recommendation regarding jurisdiction. If the Court does not find that they have Jurisdiction in the case, then that is the end of the case.

Disposition: If the Court takes Jurisdiction they will seek to make disposition findings about your child's placement, the Case Plan, and whether or not the parent is entitled to receive reunification services.



The Disposition Hearing (continued)

- Findings can be complicated and hard to understand because there are lots of possible orders a Court can make. Ask your attorney explain the findings and orders to you after the Hearing.
- The Disposition Hearing often results in orders and decisions about:
 - ICWA
 - Parentage
 - Family Maintenance Services (Child in the home
 - Family Reunification services (Child is not in the home but the parent should work their case plan to reunify with their child)
 - Permanency Planning for a child because the parent is not eligible to receive reunification services (bypass of services).
 - Medical and educational rights during the case



Timelines and what's next

Review Hearings

- After the Court makes orders for Jurisdiction and Disposition, the Court will set a review hearing approximately 6 months out, and every 6 months after that until the case ends.
- These are hearings to review whether the Case plan has been completed and to allow the Court to make judgements about whether the children are safe to come home. Review hearings are also set to review permanent plans and adoption plans. Some special review hearings can be set at 3 months.
- You have a right to attend all hearings regarding your child unless the Court terminates your parental rights, which is not something that happens in the first few months of a case.
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Timelines and what's next

- Once the Court orders Family Reunification Services, it is time to dig in to completing your case plan.
- The Court will review your progress at the first review hearing. The Court can continue reunification services if you are showing substantial progress at that hearing, and in some cases can decide that progress is insufficient and stop providing you the opportunity to reunify with your child.
- **Remember:** Parents of young children and siblings of young children (3 and under). You have a shorter timeline to reunify. The Court must decide at 6 months whether to reunify the children with you or to pursue another plan.



The Court Investigation- What to Expect



The Court Investigation- What to expect

After the detention hearing you will be assigned a new social worker that will be working closely with you and your family until the Judge makes the next ruling.

In the few weeks following a family separation, you will have many appointments and meetings



Meetings you will *typically* have

- Visits with your child
- An interview with your Court Investigator
- A TEAM/CFT meeting to make a case plan
- A meeting with your attorney



Meetings you *may* have

- Psychological assessment
- Substance abuse assessment
- Service provider meetings
- Interview with a coordinator about Native American ancestry
- Meetings with an ICWA advocate from your Tribe
- A CFT/TDM Meeting about where your child can live during this process.

The Court Investigation: Dos and Don'ts

DO:

1. Get organized: prioritize making your appointments and visits
2. Get a working phone and keep your number updated with your attorney and social worker
3. Set up an email address and use this to communicate and save contact information
4. Give your social worker as much notice as possible for special requests (Birthdays, holidays)
5. Make sure the social worker knows your child's primary care doctor, has your child's medicines, diagnosis, allergies and knows who are safe family members for your child to spend time with.
6. Start any services that are recommended, or that you think might benefit you, your family or your child
7. Get a buddy! Bring in one or two trusted people who can cheer you on, remind you of your goal and remind you of who you are. Parent mentors are here if you feel like you are starting from scratch. Moms and Dads groups are full of supporters.

The Court Investigation: Dos and Don'ts



DON'T:

1. -give up! If you miss an appointment, call and ask to reschedule. If you slip in your sobriety, call your sponsor and start hitting meetings. You are too important to lose.
2. -wait until Court before doing anything. Whether the Court finds the allegations true or not, there is no harm in starting recommended services
3. -forget that the staff managing your case are human beings. You can send them friendly reminders when you don't hear back! Being civil and respectful even in difficult situations goes a long way.



The Indian Child Welfare Act: ICWA

If you are Native American, the Indian Child Welfare Act may apply in your case.

This means you will have an ICWA advocate at your Hearings and involved in your case. Each Tribe has different involvement in each case. Your ICWA advocate will be an important person to involve at every step of the case.

Your Tribe is a party to the case, and their view will be considered by the Judge. Some Tribes have their own Courts and will take Jurisdiction of the matter.. There are additional services available for ICWA cases. Let the Department know if you are affiliated with a Tribe. ICWA is a set of laws meant to help keep Native families together.

A top-down view of a hand holding a white ceramic cup filled with dark coffee. The cup sits on a matching white saucer, and a silver spoon is placed on the saucer to the left. The entire scene is set on a white, vertically-plank wooden surface. A white rectangular text box is overlaid on the left side of the image, containing the text "Whew! Take a break." Above the text box is a small horizontal bar with a teal segment on the left and an orange segment on the right.

Whew! Take a break.