

# Promoting Positive Development

## The Critical Need to Reform Youth Probation Orders

### THE ISSUE

Probation is the most common disposition in juvenile court when youth are adjudicated delinquent.<sup>1</sup> In 2013, formal probation was ordered in 64% of adjudicated delinquency cases.<sup>2</sup> Though intended to lead youth toward success, unwieldy conditions of probation can lead to technical violations and cause lasting harm in the lives of children, including removal from their communities and incarceration.<sup>3</sup> Probation orders often make it difficult for youth to succeed while on probation, despite the fact that probation agencies are focused on achieving positive youth development and accountability.<sup>4</sup> In some places, youth are required to manage over thirty conditions of probation—a near impossible number of rules for children to understand, follow, and even recall. Overly broad and unclear orders that are not tailored to the strengths, interests, and challenges of an individual youth can result in significant numbers failing on probation, ultimately leading to costly and unnecessary out-of-home placement. In 2013, 17% of youth in residential placement facilities were being held for technical violations of probation.<sup>5</sup>

### The Number of Conditions on Juvenile Probation Orders

Juvenile probation orders should have a limited number of conditions, and they should be individually tailored to achieve community safety and accountability by helping the youth develop skills necessary to contribute as a positive member of the community. In a brief survey conducted by the National Juvenile Defender Center, juvenile defenders reported that their juvenile court probation orders include anywhere from five to over thirty conditions of probation. Further, a study from Washington State, the Washington Judicial Colloquies Project, found that youth recall and understand very little of what is said during the court hearing when the conditions of probation are ordered.<sup>6</sup> Project staff reported, “Youth were interviewed minutes after the hearings, and most of them were confused and mistaken about what the judge had stated and ordered just

moments before. Overall, the youth surveyed recalled only 1/3 of the conditions that were ordered.”<sup>7</sup> By reducing the number of probation conditions and ensuring that each condition correlates to the youth’s interests and goals of probation, youth will be more likely to understand the expectations and be more able to comply with the conditions of probation. Further, this will enable probation officers to address the unique and individualized characteristics of youth outside the realm of compliance and punishment. Goals identified for the youth should be youth-centered, strengths-based, and developed as the probation officer builds a relationship with the youth. Engaging the youth to identify and prioritize these goals will help achieve the youth’s buy-in and thus increase the likelihood of success and compliance.<sup>8</sup>

# The Types of Conditions on Juvenile Probation Orders

Juvenile probation plays an important role in achieving community safety, accountability, and positive development for youth. To attain these goals, juvenile probation officers are tasked with helping youth achieve positive development by providing opportunities for skill building and growth, as well as proper supervision.<sup>9</sup> Accordingly, juvenile probation officers' authority and duty should closely align with the individual goals of influencing positive behaviors for each unique child in the system.<sup>10</sup> Unfortunately, far too many probation orders contain a list of standardized conditions that make it easier for the court and probation staff to monitor youth, but which have no positive value in youth development and are simply another opportunity to perpetuate a child's involvement in the juvenile court system.

Instead, probation orders in which each condition of probation is thoughtfully tailored to a particular child's strengths or challenges are a mechanism to ensure that each condition of probation is geared toward positive youth development, thereby fulfilling the objectives of youth accountability and community safety. Further, probation conditions that are developmentally appropriate and individually tailored for each youth will help legitimize a youth's experience on probation, increase compliance, reduce unnecessary incarceration, and lead to better outcomes. Several types of conditions reported by juvenile defenders raise significant concerns for effective juvenile probation practice.

## Search and Seizure Conditions

Juvenile probation orders should not include a condition compelling youth to submit to a search or seizure by a probation officer at any time and place, without cause. These search and seizure conditions, which are ordered in numerous states across the country, not only go against the goals of juvenile probation by hindering a youth's development, but also may violate a child's Fourth Amendment right to be free from unlawful search and seizure.

The Fourth Amendment protects all individuals, including children, from unreasonable search and seizure, generally meaning that a warrant based on probable cause is required beforehand.<sup>11</sup>

While a person may choose to give up this right by consenting to a search or seizure, the consent must be voluntary.<sup>12</sup> The U.S. Supreme Court has defined voluntary consent in this context as a subjective inquiry based on a totality of the circumstances, meaning that the court should consider the individual characteristics of the person providing consent, the surrounding circumstances, and the manner in which the consent was sought to determine whether the waiver of rights was truly voluntary.<sup>13</sup> The crux of this inquiry is to gauge whether there was a choice at all. Absent a voluntary waiver, any search or seizure conducted without cause may be grounds for a constitutional violation, implicating any and all evidence derived from the unlawful search as inadmissible in court.

For purposes of juvenile probation, to determine the voluntary nature of a child signing a probation order that allows for a search or seizure of the child without limitation, the court should consider, among other factors, the child's age, developmental stage, context in which the waiver was sought, and the nature of juvenile probation as part of a final disposition order. The child must have had an understandable and meaningful choice to keep or waive his or her Fourth Amendment protection at the moment of signing. Without such a choice, the child's signature cannot be considered voluntary consent, meaning that a probation officer's subsequent search of the child may violate the child's constitutional rights if it was made without cause, and thus any evidence found from that search would be inadmissible in court.

However, regardless of whether the probation order grants the probation officer the specific authority to search or seize the child, all juvenile probation officers may still conduct a lawful search or seizure of the child so long as the officers obtain a warrant beforehand or have probable cause (and in some circumstances, reasonable suspicion) in an emergency or other special situation.<sup>14</sup> Therefore search and seizure conditions in juvenile probation orders are unnecessary and place probation officers at risk of violating a child's constitutional rights by seemingly allowing probation officers to search or seize a child without cause. Further, search and seizure conditions are likely to affect the youth's trust in the legal system, because it conflates the

role of probation officers with law enforcement. By tasking a probation officer to focus on catching the child in a wrong through arbitrary searches, as opposed to providing a program of proper supervision and youth development, the child's perception of the legitimacy of the system will diminish, often leading to worse outcomes, such as increased recidivism.<sup>15</sup> A former judge stated, "[w]hen a probation officer crosses the line into behaving as a police officer, the probationer may lose the confidence needed to pay attention to the officer's advice and choice of services and programs."<sup>16</sup> As such, search and seizure conditions should not be included in juvenile probation orders because they conflict with the goals of juvenile probation by hindering positive youth development, affect a youth's perception of the legitimacy of the system, and may violate the youth's constitutional right to be free from unreasonable search and seizure.

### Electronic Monitoring Conditions

The use of electronic monitoring in juvenile probation should be severely limited because it hinders the goals of achieving positive youth development and teaching accountability, thereby deterring efforts to achieve community safety.<sup>17</sup> A probation officer's relationship with the youth is the most significant factor in influencing behavior change. However, electronic monitoring impedes this relationship by shifting the focus away from intensive case management and more towards technical compliance. Electronic monitoring conditions often are accompanied with an additional set of technical rules, such as calling the electronic monitoring office every time the youth leaves her home and asking permission ahead of time to go to certain locations.<sup>18</sup> By reducing meaningful interactions between the probation officer and the youth and instead focusing on technical compliance, normative behavior consistent with adolescent development is often punished and opportunities for positive youth development are hindered.

As recognized by the U.S. Supreme Court, youth are less susceptible to deterrence and more vulnerable to negative influences, due to their developmental status.<sup>19</sup> Accordingly, youth subject to electronic monitoring may fail to self-regulate, plan ahead, and calculate the future consequences of non-compliance. Thus, youth who forget to follow technical rules such as calling the electronic monitoring office every time the

youth leaves her home or asking for permission ahead of time to go to certain locations, face probation violations.<sup>20</sup> These restrictive rules, which do not have a direct relationship in helping youth achieve positive development, often contribute to the deterioration of the youth's trust and respect in the system, leading to worse outcomes for the youth and the community.

### Association Conditions

A general prohibition against associating with an entire class of individuals is overbroad because it includes individuals with backgrounds unknown to the youth.<sup>21</sup> Under this condition, though a youth may have had no means of knowing that her friend, acquaintance, or family member is also on probation, has a criminal record, or is part of a gang, the youth would be subject to a probation violation. Not only does such a condition violate the youth's freedom to associate under the First Amendment, it also affects the youth's trust in the fairness of the system. When youth are faced with impractical conditions that are essentially impossible to follow, they are more likely to oppose the program as a whole, leading to worse outcomes. Further, association conditions exacerbate the racial disparities in the juvenile court system. Youth of color are disproportionately involved in the juvenile court system, removed from their homes, and committed to a residential facility.<sup>22</sup> Thus, by enforcing a blanket prohibition on associating with others involved in the criminal or juvenile court system through punitive measures, the system widens the disparities by increasing the likelihood that a youth of color will be further involved in the system for violating a probation condition. In fact, among youth committed to a residential facility for violating a probation order, 67% are youth of color, even though they make up 46% of the general population.<sup>23</sup>

Furthermore, even if the condition specifies that the youth may not associate with known individuals subject to one or more of the prohibited categories, the condition still lacks a sufficiently narrow link with the overall purpose of the juvenile justice system.<sup>24</sup> Often times, family members or positive community members may fall into these broad categories of prohibited association. In fact, there are a number of successful community-based programs designed to connect system-involved youth with formerly system-involved peers and mentors to help youth achieve positive

development, effectively navigate through the juvenile court system, and reduce crime.<sup>25</sup> Yet, despite the positive influence that an individual may carry, broad association conditions may lead to technical violations that do not aid, but rather hinder the growth and

development of youth. As such, it is important that each condition is thoughtful, appropriate, and closely related to the goals of influencing behavior to ensure positive youth development and community safety.

## The Language Used in Juvenile Probation Orders

Probation orders should be written and explained in the youth's primary language, using simplified words and phrases, taking into account adolescent development and the prevalence of language and literacy-related disabilities among youth in the juvenile justice system. The spoken and written language of legal proceedings is more complex than the typical language of adolescent daily life, and such legal language is even less accessible for youth with language, literacy, or educational disabilities or delays. Research in the juvenile justice system has demonstrated conclusively that language- and/or literacy-related disabilities, often undiagnosed, are prevalent among youth in the juvenile justice system.<sup>26</sup> One study found that 52% of young offenders in the juvenile justice system had a language impairment.<sup>27</sup> As a comparison, 7.4% of the general population has a language impairment.<sup>28</sup>

### Language Development

Language deficits pose a significant disadvantage for children in the legal system because it affects their ability to process information and explain plans, perceived consequences, and resolution in a given situation.<sup>29</sup> This is further exacerbated when youth are faced with complex probation orders and the expectation to fully understand and adhere to its demands. The language on most probation orders is often beyond the expected comprehension level of an average youth. All children, regardless of whether they have a language and/or literacy disability, have incomplete language development, as many subtleties of grammatical complexity and word meaning are not fully acquired until the end of adolescence.

Accordingly, expecting youth, many of whom face language and/or disability impairments, to understand and remember a long list of complexly worded conditions is incompatible with what is known about adolescent language development.

### Reading Level of Juvenile Probation Orders

As part of a national survey, the National Juvenile Defender Center obtained several juvenile probation orders from jurisdictions across the country which were evaluated by a speech-language pathologist to determine their reading level.<sup>30</sup> The juvenile probation orders collected ranged from a ninth grade to collegiate reading level, the majority of which were written at a tenth or eleventh grade level, based on measures that take both grammatical complexity and vocabulary into account. As a comparison, approximately half of the adult population in the United States reads at or below an eighth-grade level.<sup>31</sup> Accordingly, various regulations commonly require materials to be written at a sixth- to eighth-grade reading level to ensure adequate comprehension and informed decision making.<sup>32</sup> Yet, children in the juvenile justice system are too often handed complex orders written in tenth to eleventh grade levels, containing language that they may not understand or fully appreciate. This language and reading barrier may lead to non-compliance of probation conditions as a result of the child's poor or incomplete understanding of the full meaning of the required conditions, as opposed to willful disrespect. As such, it is essential for probation orders to be examined, reduced, and revised with simplified grammar and vocabulary.

# Working Innovations

Juvenile justice advocates have worked together to reform juvenile probation orders in several jurisdictions to ensure that they are aligned with the original intent to help youth achieve positive development and that the conditions are fair and appropriate. Reform efforts have taken shape in a variety of ways, including litigation and direct revisions to juvenile probation orders. Examples of these reforms include:

## Umatilla County, Oregon

The juvenile probation department in Umatilla County significantly limited the number of programmatic and behavioral requirements listed in its court order. In general, youth in Umatilla County are expected to obey the law, pay any assigned fees, keep in contact with probation, complete assessments, programs, or directives determined appropriate through the individualized case planning process, and complete community service, if applicable.<sup>33</sup> The order does not grant probation officers with any authority to search or seize youth, but rather is narrowly tailored to the unique attributes of each youth and the goal of helping youth achieve positive development.

## Pennsylvania

In 2002, Pennsylvania state legislators passed an amendment to the Judicial Code, which outlined the powers and duties of juvenile probation officers. Under 42 Pa. Cons. Stat. Ann. § 6304, a probation officer generally may not search a youth or her property unless “there is reasonable suspicion to believe that the child possesses contraband or other evidence of violations of the conditions of supervision.”<sup>34</sup> The statute further states that the standard for reasonable suspicion is based on constitutional search and seizure principles.<sup>35</sup> This provision was intended to ensure that the powers and duties of probation officers were consistent with the aims of the juvenile court. Commenting on the amendment, the Joint State Government Commission stated, “[t]he primary role of the probation officer is the care and protection of the child, and in delinquency cases, his treatment and rehabilitation as well. Incompatible roles . . . have been excluded [from the statute].”<sup>36</sup>

## Washington

The Washington State Judicial Colloquies Project developed a guide to achieve developmentally appropriate dialogues in juvenile court. In recognizing that the majority of youth in juvenile court do not comprehend the lengthy list of rules for probation, often leading to noncompliance, the Project developed and piloted model colloquies and accompanying forms outlining conditions of release and probation in a developmentally and age-appropriate manner. The pilot sites that implemented the colloquies and accompanying forms found that communication between the court and the youth significantly improved.<sup>37</sup> In one court, youth interviewed understood 90% of the conditions ordered by the judge, compared to 33% of the conditions that were understood prior to the Project.<sup>38</sup> By ensuring that probation conditions are written and explained in a developmentally and age-appropriate way, youth will more likely understand what is expected from them, leading to a greater likelihood of success.

# Recommendations for Reform

Lengthy and difficult-to-understand probation orders requiring youth to follow unfair conditions are inconsistent with the goals of juvenile probation and impede positive youth development, as it erodes the youth's trust in the probation officer and the system, often leading to worse outcomes for the youth and hindering efforts to achieve community safety. Juvenile probation orders should be structured to foster growth and development and should clearly outline the expectations of youth in developmentally appropriate language. In order to better align juvenile probation orders with the overall aim to achieve successful youth development, NJDC recommends:

- ➔ Juvenile court jurisdictions should revise probation orders to ensure they are developmentally and age-appropriate and consistent with the aims of juvenile probation by limiting the number of conditions, revising the language used, and removing unfair search and seizure, electronic monitoring, and association conditions;
- ➔ Legislators should eliminate the use of electronic monitoring, unrestricted search and seizure conditions, and broad association conditions as part of standard juvenile probation orders;
- ➔ Juvenile probation departments should clarify the duties of probation officers in accordance with their role in influencing positive behavior and promoting youth development;
- ➔ Bar associations and other professional organizations should issue official statements against unfair juvenile probation conditions; and
- ➔ Juvenile defenders should actively litigate and fight against unfair juvenile probation practices, such as the ineffectiveness of electronic monitoring, unintended consequences of association conditions, and constitutionality of search conditions.<sup>39</sup>

## CONCLUSION

The number, type, and language of juvenile probation conditions should be rooted in a developmental framework based on the foundation of the juvenile justice system to achieve success for youth and promote community safety. As juvenile probation officers carry out their duty to ensure community safety by promoting positive youth development, it is vital for probation officers to build trust and legitimacy with youth, as this affects compliance and future outcomes. Ensuring a reasonable number of conditions that are developmentally appropriate and thoughtfully related, explained, and implemented will provide youth with the proper supervision and guidance that will enable them to make healthy choices and become successful and productive members of the community.

# End Notes

1. Sarah Livsey, *Juvenile Delinquency Probation Caseload, 2009*, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE (2012).
2. *Statistical Briefing Book: Juveniles in Court*, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE, <http://www.ojjdp.gov/OJSTATBB/COURT/QA06501.ASP?QADATE=2013> (last visited July 1, 2016).
3. See Letter from Thomas E. Perez, Assistant Attorney General, to Phil Bryant, Governor of Mississippi et al. 4 (Aug. 10, 2012), <http://www.justice.gov/iso/opa/resources/2642012810121733674791.pdf>.
4. See Richard J. Bonnie et al., *Reforming Juvenile Justice: A Developmental Approach*, NAT'L RESEARCH COUNCIL OF THE NAT'L ACADEMIES 4 (2013).
5. *The Number of Juveniles in Residential Placement Continued to Decline in 2013*, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, U.S. DEP'T OF JUSTICE, [http://www.ojjdp.gov/OJSTATBB/SHOTS/DATASNAPSHOT\\_CJRP2013.PDF](http://www.ojjdp.gov/OJSTATBB/SHOTS/DATASNAPSHOT_CJRP2013.PDF).
6. TEAMCHILD, WASHINGTON JUDICIAL COLLOQUIES PROJECT: A GUIDE FOR IMPROVING COMMUNICATION AND UNDERSTANDING IN JUVENILE COURT 9 (2012).
7. *Id.*
8. See generally Bonnie et al., *supra* note 4.
9. See *Position Statement: Juvenile Justice*, AM. PROB. AND PAROLE ASS'N, [https://www.appa-net.org/eweb/Dynamicpage.aspx?site=APPA\\_2&webcode=IB\\_PositionStatement&wps\\_key=85432f61-443f-451a-bc59-29a37574f94e](https://www.appa-net.org/eweb/Dynamicpage.aspx?site=APPA_2&webcode=IB_PositionStatement&wps_key=85432f61-443f-451a-bc59-29a37574f94e).
10. See *id.*
11. *Katz v. United States*, 389 U.S. 347, 357 (1967). Probation officers are subject to the limitations of the Fourth Amendment, because probation is a state operated and regulated industry. See *Griffin v. Wisconsin*, 483 U.S. 868, 876 (1987).
12. *Schneckloth v. Bustamonte*, 412 U.S. 218, 249-50 (1973).
13. *Id.*
14. Depending on the context of the search or seizure, the U.S. Supreme Court has identified a number of exceptions to the warrant requirement, such as exigent circumstances, which require probable cause but not a warrant, and school-based searches, which require reasonable suspicion that the student was violating the law or school rules. See *Warden v. Hayden*, 387 U.S. 298 (1967); *New Jersey v. T.L.O.*, 469 U.S. 325 (1985).
15. George Timberlake, OP-ED: The Makings of a Good Juvenile Probation Officer, JUVENILE JUSTICE INFORMATION EXCHANGE, June 4, 2014, <http://jjie.org/op-ed-the-makings-of-a-good-juvenile-probation-officer/>.
16. *Id.*
17. See Bonnie, *supra* note 4, at 102 (identifying activities that guide autonomous decision making and critical thinking, over sheer compliance, as necessary for promoting healthy psychological development).
18. See Kate Weisburd, *Monitoring Youth: The Collision of Rights and Rehabilitation*, 101 IOWA L. REV. 297, 324-5 (2015).
19. See *Roper v. Simmons*, 543 U.S. 551, 569-571 (2005).
20. Weisburd, *supra* note 18.
21. See *In re Justin S.*, 93 Cal. App. 4th 811 (2001) (holding that a probation condition prohibiting association with gang members violates the Constitution).
22. See NAT'L CTR. FOR JUVENILE JUSTICE, JUVENILE OFFENDERS AND VICTIMS: 2014 NATIONAL REPORT (2014) [hereinafter NCJJ 2014 National Report]; *Fact Sheet*, BURNS INST., <http://www.burnsinstitute.org/what-is-red/fact-sheet/>; THE SENTENCING PROJECT, DISPROPORTIONATE MINORITY CONTACT, [http://www.sentencingproject.org/doc/publications/publications/jj\\_DMCfactsheet.pdf](http://www.sentencingproject.org/doc/publications/publications/jj_DMCfactsheet.pdf); DEV. SERVS. GRP., INC., U.S. DEP'T OF JUSTICE, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, DISPROPORTIONATE MINORITY CONTACT (2014), [http://www.ojjdp.gov/mpg/litreviews/Disproportionate\\_Minority\\_Contact.pdf](http://www.ojjdp.gov/mpg/litreviews/Disproportionate_Minority_Contact.pdf); ELEANOR HINTON HOYTT ET AL., THE ANNIE E. CASEY FOUND., REDUCING RACIAL DISPARITIES IN JUVENILE DETENTION (2001).
23. NCJJ 2014 National Report, *supra* note 22, at 196; Charles Puzzanchera, Anthony Sladky & Wei Knag, *Easy Access to Juvenile Populations: 1990-2014*, NAT'L CTR. FOR JUVENILE JUSTICE (2016) (narrowed by race, ethnicity, and under age 18 in 2014).
24. *Cf. T.J.J. v. State*, 121 So.3d 635 (Fla. Dist. Ct. App. 2013) (holding that a probation condition prohibiting knowing contact with a class of people is invalid because it has no relationship with the offense committed and it is overbroad and vague).
25. See, e.g., Community Connections for Youth, <https://cc-fy.org/about-us/> (last visited Sept. 16, 2016); Preparing Leaders of Tomorrow (PLOT), <http://www.plotforyouth.org/about/> (last visited Sept. 16, 2016); Silicon Valley De-Bug, <http://www.siliconvalleydebug.org/about/> (last visited Sept. 16, 2016).
26. See Amy E. Lansing et al., *Cognitive and Academic Functioning of Juvenile Detainees: Implications for Correctional Populations and Public Health*, 20 J. CORRECTIONAL HEALTH CARE 18 (2014).
27. Pamela C. Snow & Martine B. Powell, *Oral Language Competence, Social Skills and High-Risk Boys: What are Juvenile Offenders Trying to Tell Us?*, 22 CHILDREN & SOCIETY 16 (2008).
28. J. Bruce Tomblin et al., *Prevalence of Specific Language Impairment in Kindergarten Children*, 40 J. SPEECH, LANGUAGE, AND HEARING RESEARCH 1245 (1997).
29. See Snow & Powell, *supra* note 26, at 17.
30. The National Juvenile Defender Center consulted with Dr. Gwyneth Rost, Ph.D., who is a speech-language pathologist and professor of Communications Disorders at the University of Massachusetts, Amherst. Dr. Rost holds the Certificate of Clinical Competence (CCC-SLP) from the American Speech-Language-Hearing Association and board license to practice Speech-Language Pathology in Massachusetts.
31. CREDIT CARDS: INCREASED COMPLEXITY IN RATES AND FEES HEIGHTENS NEED FOR MORE EFFECTIVE DISCLOSURES TO CONSUMERS, U.S. GOV'T ACCOUNTABILITY OFFICE (2006).
32. Securities and Exchange Commission requires disclosure materials to be written at a sixth- to eighth-grade level. *Id.* at 38; see also John Aloysius Cogan Jr., *Readability, Contracts of Recurring Use, and the Problem of Ex Post Judicial Governance of Health Insurance Policies*, 15 ROGER WILLIAMS U. L. REV. 93 (2010).
33. Youth Services Division, Juvenile Probation Order, Umatilla, Oregon (on file with the National Juvenile Defender Center).
34. 42 PA. CONS. STAT. ANN. § 6304 (a.1)(4).
35. *Id.* at (a.1)(4)(vi).
36. *Id.* Joint State Gov't Comm'n. cmt.
37. TEAMCHILD, WASHINGTON JUDICIAL COLLOQUIES PROJECT: A GUIDE FOR IMPROVING COMMUNICATION AND UNDERSTANDING IN JUVENILE COURT 10-11 (2012).
38. *Id.*
39. The constitutionality of search conditions on juvenile probation orders may be argued on Fourth Amendment grounds. The Fourth Amendment protects all individuals, including children, against unreasonable searches and seizures by government officials, unless certain exceptions apply. *Katz v. United States*, 389 U.S. 347, 357 (1967). Consent by the individual searched is a recognized exception; however, the state must prove that consent was voluntarily given, absent implied or express duress or coercion. *Schneckloth v. Bustamonte*, 412 U.S. 218, 249-50 (1973). The voluntariness of consent is a subjective inquiry that is determined based on the totality of circumstances, which include the individual characteristics of the person providing consent, the circumstances arising from the consent, and the manner in which the consent was sought. *Id.* Accordingly, it may be argued that a child's waiver of her Fourth Amendment rights as part of her probation agreement does not amount to voluntary consent, in light of the child's lack of experience and judgment, paired with her immaturity and susceptibility to pressure, as well as the nature of juvenile probation, specifically that a child is not free to reject probation as part of her disposition, because juvenile probation is not offered in exchange of harsher punishment, but rather as a component of the child's rehabilitation, as identified necessary by the juvenile court judge. See *In re Ronnie P.*, 10 Cal. App. 4th 1079, 1089 (Cal. Ct. App. 1992).



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The National Juvenile Defender Center (NJDC) is a non-profit, non-partisan organization dedicated to promoting justice for all children by ensuring excellence in juvenile defense. NJDC provides support to public defenders, appointed counsel, law school clinical programs, and non-profit law centers to ensure quality representation in urban, suburban, rural, and tribal areas. NJDC also offers a wide range of integrated services to juvenile defenders, including training, technical assistance, advocacy, networking, collaboration, capacity building, and coordination. To learn more about NJDC, please visit [www.njdc.info](http://www.njdc.info).

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