

Rehabilitation Prioritized via Juvenile Court for California Youth under Age 16

Hayley Getzen, MD, MPH

Resident in Psychiatry
Wayne State University School of Medicine

Gary Graca

Medical Student
University of Michigan Medical School

Debra A. Pinals, MD

Clinical Professor of Psychiatry
Director, Program in Psychiatry, Law, and Ethics

Department of Psychiatry

University of Michigan
Ann Arbor, Michigan

California Bill Barring Transfers of Youth under Age 16 to Adult Court Allowed as Consistent with Aim of Promoting Rehabilitation and Reducing Prison Population

DOI:10.29158/JAAPL.210126-21

Key words: juvenile court; transfer; youthful offender; rehabilitation; youth; serious offenses

In *O.G. v. Superior Court of Ventura County*, 481 P.3d 648 (Cal. 2021), the California Supreme Court considered whether Senate Bill 1391 (2018), an act prohibiting the transfer of youth under age 16 to adult criminal court, aligned with the purpose of a voter initiative enacted in 2016 (Proposition 57) to promote, among other things, rehabilitation of youthful offenders and reduce California's unnecessary spending on prisons while protecting public safety. The court found that barring these transfers furthered the overarching rehabilitative aim of Proposition 57 and, therefore, was lawfully enacted. Although the court used a standard of review deferential to the legislature's ability to enact this change, the ruling relied heavily on evidence that transferring youth under age 16 to adult court can be detrimental to public safety, rehabilitation potential, and fiscal responsibility.

Facts of the Case

In California, the minimum age for a minor to be tried in adult court has changed several times

in the past 60 years. Between 1961 and 1995, California law did not permit transfers to adult court for youth under 16 years of age. This began to change in 1995 as the California legislature expanded prosecutors' ability to transfer youth aged 14 and 15 to adult court for certain crimes. This expanded considerably in 2000 when voters enacted an initiative requiring transfer of 14- and 15-year-olds to adult court if being tried for murder or certain sex offenses.

Following California's voter initiative in 2000, though, a transformation occurred in ideas about the rehabilitation potential of juveniles based on scientific research developments regarding adolescent brains that influenced multiple legal decisions pertaining to sentencing (e.g., *Roper v. Simmons*, 543 U.S. 551 (2005)). In the November 2016 general election, in the context of this evolving scientific knowledge and case law relying upon it, California voters reversed course. In that election, voters enacted Proposition 57, an initiative amending both the state constitution and statute with intent to advance five goals: "[p]rotect and enhance public safety," "[s]ave money by reducing wasteful spending on prisons," "[p]revent federal courts from indiscriminately releasing prisoners," "[s]top the revolving door of crime by emphasizing rehabilitation, especially for juveniles," and "[r]equire a judge, not a prosecutor, to decide whether juveniles should be tried in adult court" (*O.G.*, p 653, citing Text of Prop. 57, § 2, p 141, 2016). Among many changes, the initiative removed the provisions in state statute requiring that prosecutions of murder and certain sex offenses be adjudicated in adult court for youth older than age 14. It also amended state statute to require prosecutors to begin all cases involving a minor in juvenile court. As originally enacted, though, the initiative expressly permitted prosecutors to petition to transfer youth ages 14 or 15 to adult court for certain offenses (Prop. 57 § 4, p 141–142).

In 2018, the California legislature amended Proposition 57 in Senate Bill 1391 to eliminate prosecutors' ability to petition for transfers of youth under the age of 16 to adult court. This raised the youngest age a youth could be tried in adult court in California back to 16 years of age, the historical standard between 1961 and 1995. In making a change that conflicted with the text of the voter

initiative, the California legislature relied on the fact that Proposition 57 permitted legislative amendments that “are consistent with and further the intent of this act” (*O.G.*, p 650).

Two days after Senate Bill 1391 passed, the Ventura County District Attorney’s Office petitioned a juvenile court to transfer the case of O.G. to adult criminal court. A 15-year-old at the time of the alleged crime, O.G. was being tried for two counts of murder and one count of second-degree robbery with enhancements for gang and firearm involvement. In its motion for transfer, the District Attorney’s Office argued that Senate Bill 1391 impermissibly revised Proposition 57 and was, therefore, unconstitutional.

The juvenile court agreed with the District Attorney’s interpretation and permitted the transfer. The Court of Appeal then denied a writ petition challenging the juvenile court ruling, a holding that conflicted with five other state appellate court decisions at the time. The California Supreme Court reviewed the matter.

Ruling and Reasoning

The question under review was whether Senate Bill 1391 was a permissible amendment to Proposition 57 as the Court of Appeal held it was inconsistent with the text of the proposition and not otherwise consistent with the intent and purpose of the proposition. The District Attorney maintained that Senate Bill 1391 was unconstitutional because it contradicted the express text of Proposition 57, which permitted transfers of 14- and 15-year-old juveniles accused of certain crimes. The California Supreme Court ultimately ruled that the amendment is in accordance with and advances Proposition 57’s fundamental goals of promoting youth rehabilitation and reducing the prison population. It upheld that Proposition 57 is a reform of criminal law that “the legislative body intended to extend as broadly as possible” (*O.G.*, p 650). In rendering its ruling, the California Supreme Court assessed the legal standard of review for the constitutionality of legislative changes to voter initiatives, and examined the purpose and intent of the underlying Proposition 57.

With regard to the legal standard, the court found that the legislature may amend or repeal an existing statute, which takes effect with

electoral approval, unless otherwise stated. Proposition 57 allows for amendments to provisions regarding trial of juveniles in criminal court, as long as they prove to be “consistent with and further the intent of this act” (*O.G.*, p 652). Therefore the constitutionality of Senate Bill 1391 must be upheld, despite other reasonable interpretations of Proposition 57’s purpose or intent.

When examining the express purpose and intent of Proposition 57, the court acknowledged it was enacted to further promote public safety, reduce unnecessary spending on prisons, protect the public from indiscriminate release of prisoners by the federal courts, invest in and emphasize rehabilitation over strictly punitive measures, and limit prosecutorial power in transferring juvenile offenders to adult criminal court.

The court determined that Senate Bill 1391 is consistent with and advances Proposition 57’s intent and purpose in several key areas, the first of which is ensuring public safety. Adjudicating minors in juvenile court allows for focus on rehabilitation, which the legislature considered would reduce recidivism. Juveniles are more likely to benefit from rehabilitative services (such as education, skills training, and psychological treatment) and less likely to recidivate under juvenile court supervision than they would be in the adult correctional system.

In an analysis of its actions, the court notes that dating back to the 1990’s, there had been more of a “get tough on crime,” but not smart on crime” approach. At that time juveniles were believed to be “fully developed” around age 14, which led to more incarcerations of youth (*O.G.*, p 653). The court further acknowledged the consideration that research on cognitive science supported the fact that youth who commit crimes can still change. Additionally, the court commented that the Governor signed Senate Bill 1391 into law knowing that youth adjudicated in juvenile court may serve time beyond their original sentence under California law should they continue to be a danger to society. Senate Bill 1391 also promotes cutting prison expenditures by transferring fewer minors to adult criminal court, and ultimately sending fewer to adult prison, thereby reducing prison populations. The court recognized that Proposition 57 facilitates

compliance with a separate federal court order to reduce the state's prison population (see e.g., *Brown v. Plata*, 563 U.S. 493 (2011)). Senate Bill 1391 furthers the goals of this order and prevents the indiscriminate release of many prisoners as fewer juveniles will be sent to adult prison in the first place. Finally, Senate Bill 1391 narrowed the subset of minors who may be subject to review by the juvenile courts for potential transfer to criminal court, a decision made by the judge and not a prosecutor.

Discussion

California statutes regarding the trial of minors in adult criminal courts have oscillated over several decades. As more scientific research became available, a shift in the California Legislature reflected our ever-evolving understanding of adolescent neurocognitive development, ultimately leading to implementation of age-appropriate sentences and a rethinking of punitive measures suitable for minors. The ruling in this case addresses several key areas of interest for forensic psychiatrists working with juvenile offenders. We know that psychiatric illness, substance use disorders, and evolving personality traits are commonly present in this juvenile population. Psychosocial factors, including family conflict, early exposure to violence, incarcerated parents or caregivers, and other trauma and neglect may contribute to delinquent activity. As noted in this case, minors adjudicated through juvenile court are more likely to engage in the rehabilitative programs, as compared with the adult justice system. Engaging in skills training and education, and addressing underlying psychopathology and individual environments aids youth in building the skills necessary for success upon reentry into the community.

We now know that adolescent brains are not equivalent to adult brains, an important consideration for psychiatrists conducting juvenile forensic evaluations, which in turn, guides age-appropriate treatment. As we note changes in our understanding of the developing adolescent brain, which has been variably reflected in California state statute over the years, mental health professionals must continue to consider juvenile psychiatric illness, psychosocial environments, neurocognitive maturity, and potential

for rehabilitation and reentry into the community when addressing this population.

Due Process Protections in Involuntary Civil Commitment

Gina B. Capalbo, DO
Resident in Psychiatry
Department of Psychiatry
St. Mary Mercy Hospital, Livonia, Michigan

Genevieve Mulligan, BS, M2
Medical Student
University of Michigan Medical School

Lisa Anacker, MD
Adjunct Clinical Assistant Professor

Department of Psychiatry
University of Michigan
Ann Arbor, Michigan

Due Process Protections Shall Be Afforded to Individuals Facing Involuntary Civil Commitment and the Burden of Proof for Civil Commitments is Clear and Convincing Evidence

DOI:10.29158/JAAPL.210126LI-21

Key words: civil commitment; due process; burden of proof; clear and convincing; involuntary hospitalization; ED boarding

In *A.S. v. LincolnHealth*, 246 A.3d 157 (Me. 2021), the Supreme Judicial Court of Maine ruled that the superior court erred in finding that hospital LincolnHealth did not violate Maine statutory procedure for emergency involuntary hospitalization. A.S. presented evidence that at no time during his involuntary thirty-day emergency department (ED) detention was a judicial authorization obtained by the hospital, as Maine's statute required. The court also ruled that the superior court violated A.S.'s due process rights by applying the standard of preponderance of the evidence, rather than clear and convincing evidence, to determine dangerousness at the time of A.S.'s habeas hearing.

Facts of the Case

A.S. (otherwise unnamed in the opinion) was brought by law enforcement officers to LincolnHealth Miles Hospital Campus in Damariscotta, Maine, on February 24, 2020. A.S. was subsequently detained involuntarily in the ED for the next 30 days while