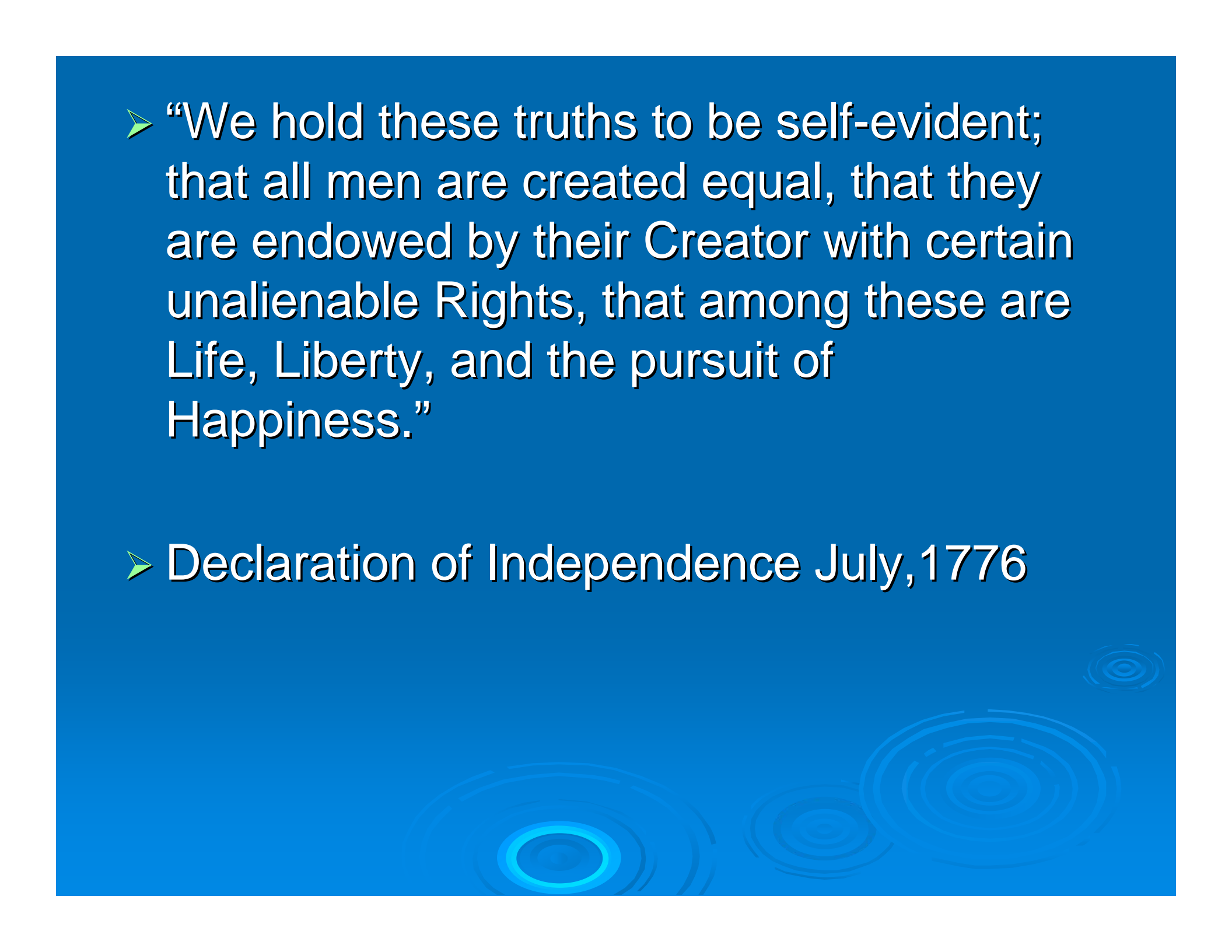


# Is Justice Blind?




Marlene E. Hertoghe  
Sacramento County Superior Court  
Juvenile Referee

- “We hold these truths to be self-evident; that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the pursuit of Happiness.”
  - Declaration of Independence July, 1776
- 

- “ All people are by nature free and independent and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and obtaining safety, happiness, and privacy.”
- Constitution of the State of California
- Article 1 section 1, Added November 5, 1974

# How Laws are made:

- Representatives of people suggest legislation.
  - “Bill” goes to committee
  - Public hearings
  - Testimony
  - Debate
  - Education of Committee
  - Vote
- 

- It is the purpose of this code, in establishing programs and services which are designed to provide protection, support, or care of children, to provide protective services to the fullest extent deemed necessary by the juvenile court, probation department or other public agencies designated by the Board of supervisors to perform the duties prescribed by this code to insure that the rights or physical , mental or moral welfare of children are not violated or threatened by their present circumstances or environment.
- Welfare and Institutions Code, section 19

- Notwithstanding any other provision of the law, the purpose of the provisions of this chapter relating to dependent children is to provide maximum safety and protection for children who are currently being physically, sexually, or emotionally abused, being neglected or being exploited, and to ensure the safety, protection, and physical and emotional well-being of children who are at risk of that harm.
- WIC section 300.2


# Referrals

- Where do they come from?
- Hotline calls
- Law Enforcement
- Mandated Reporters
  
- How Substantiated?

# Temporary Custody


- Officer has reasonable cause for believing that the minor is a person described in section 300, AND
- Minor needs immediate medical care, OR
- Minor is in immediate danger of physical or sexual abuse, OR
- Physical environment or child left unattended poses an immediate threat to child's health or safety.
- WIC section 305/306

# Alternatives to Court

- WIC section 307 – alternative for law enforcement
  - WIC section 309 – social worker shall immediately investigate the circumstances of the child and the facts surrounding the child's being taken into custody.
  - Release, UNLESS
- 

- 1. No parent or responsible relative willing to provide care.
- 2. Continued detention is a matter of immediate and urgent necessity for the protection of the child and there are no reasonable means by which the child can be protected in their home.
- 3. Substantial evidence the parent is likely to flee jurisdiction of the court.

# Is there discretion?

- California Rules of Court, Rule 1405
  - Nine factors for Probation Officer to consider in determining whether to “settle” at intake.
  - Appropriate criteria for social worker?
  - Family Maintenance
  - Informal Supervision
- 

# Going to Court

- Petition gets filed (section 300)
- Safeguards?

# DUE PROCESS

- Informed of allegations
- Counsel - Court appointed counsel have special requirements in dependency arena. CRC, rule 1438(d)
- Confront and cross examine
- Use process of the court
- Present evidence

“Participants in the juvenile justice system shall hold themselves accountable for its results..”

WIC section 202 (d)



- Justice, and specifically, juvenile justice, is a NEVER ENDING process of education –
  - Ourselves
  - Colleagues
  - Judicial officers
  - Families
  - Service providers
- 