IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

IN RE GREG F., A Minor Coming Under the Juvenile Court Law.	)	
PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff and Respondent, v. GREG F., Defendant and Appellant.	)	Supreme Court No. S191868 First District Court of Appeal No. A127161 Sonoma County Superior Court No. 35283J

APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF PACIFIC JUVENILE DEFENDER CENTER AND YOUTH LAW CENTER ON BEHALF OF DEFENDANT AND APPELLANT, GREG F.

AND

AMICUS CURIAE BRIEF OF PACIFIC JUVENILE DEFENDER CENTER AND YOUTH LAW CENTER ON BEHALF OF DEFENDANT AND APPELLANT, GREG F.

ON APPEAL FROM THE JUDGMENT OF THE SUPERIOR COURT OF SONOMA COUNTY,
HONORABLE RAIMA BALLINGER, JUDGE PRESIDING

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TO THE HONORABLE TANI CANTIL-SAKAUYE, CHIEF JUSTICE OF THE CALIFORNIA SUPREME COURT:

Susan L. Burrell, acting on behalf of the Pacific Juvenile Defender Center and the Youth Law Center, respectfully requests this Court to grant leave, pursuant to California Rules of Court, rule 14(b), to file a brief as amici curiae on behalf of Defendant and Appellant, Greg F. The proposed brief is included with this request.

The Pacific Juvenile Defender Center (PJDC) is the regional affiliate for California and Hawaii of the National Juvenile Defender Center. The Center provides support to hundreds of juvenile trial attorneys, appellate

counsel, law school clinical programs and non-profit law centers to ensure quality legal representation for children in juvenile delinquency cases. The Center provides training for juvenile system professionals, legislative advocacy, and public education on juvenile law issues. It works collaboratively with the Center for Families, Children and the Courts and presented a workshop at the Beyond the Bench Conference in 2010. For the past three years, the Center has served as the locus of activity for California in the John D. and Catherine T. MacArthur Foundations Juvenile Indigent Defense Action Network, a national initiative aimed at improving legal representation in delinquency cases. As part of its work, the Center provides amicus curiae support in cases involving important juvenile law questions, and has appeared several times in this Court. It is interested in this case because its members represent thousands of young people whose cases may be impacted by the application of Senate Bill 81 and the dismissal in the interest of justice provisions at issue in this case.

The Youth Law Center, based in San Francisco, is a national public interest law firm specializing in issues relating to at-risk children, especially those in the juvenile justice or child welfare systems. Since 1978, Youth Law Center attorneys have represented children in civil rights and juvenile justice cases in California courts, federal courts and in more than 20 states. Over the years, Youth Law Center attorneys have

participated as amicus curiae in cases around the country involving important juvenile justice issues, and have appeared as amicus curiae several times in this Court in cases involving important questions of juvenile court law. Apart from its litigation work, Youth Law Center staff have provided juvenile law research, training, technical assistance, articles and law reviews, and legislative support to public officials in almost every State. The Center is interested in this case for two reasons. First, it involves questions of fundamental fairness in juvenile court proceedings, and the outcome of the case is important to the young people whose interests the Center serves. Second, the Youth Law Center is uniquely qualified to serve as amicus curiae in this case. Its attorneys have been actively involved in California juvenile policy and legislative discussions since the 1980s, and are well-acquainted with the legislative history underlying Senate Bill 81 ("S.B. 81,") and the Legislature's deliberate shrinking of the State facility system.

The brief included with this Application provides additional information to the Court on the legislative history and practical application of Welfare and Institutions Code section 782 (dismissal in the interest of justice). It presents further background information to assist the Court in evaluating the Legislature's intentions in enacting Senate Bill 81. Finally, the brief provides context for this Court's determination as to whether a

commitment to the Division of Juvenile facilities could possibly be "in the interests of justice" or "for the welfare of the minor" as required for a Welfare and Institutions Code section 782 dismissal.

Amici are familiar with the questions involved in this case and the scope of their presentation. Counsel for Greg F. is aware of our interest and welcomes our participation.

For all of these reasons, we respectfully request that this Application for Leave to File Amicus Curiae Brief of the Pacific Juvenile Defender and Youth Law Center on Behalf of Defendant and Appellant, Greg F., be granted, and that the Amicus Curiae Brief be filed.

Dated this 17th day of November, 2011, at San Francisco, California.

Respectfully submitted,

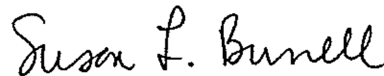

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TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES iii

INTRODUCTION 1

ARGUMENT 2

I. THROUGH SENTATE BILL 81, THE LEGISLATURE INTENDED TO REDUCE THE SIZE OF THE DIVISION OF JUVENILE JUSTICE AND SERVE YOUTH LOCALLY, AND THERE IS NO EVIDENCE OF AN INTENTION TO ALLOW DISMISSALS AIMED AT EVADING THESE RESTRICTIONS 2

A. The Legislature Acted with Knowledge of Abusive Conditions in the Division of Juvenile Justice, Astronomical Costs, and Poor Outcomes for Youth 4

B. Antecedents to Senate Bill 81 Focused on Local Control And the Importance of County-Based Rehabilitative Services 10

1. Senate Bill 1793 Engaged the Legislature in Matters of Local Control 10

2. Senate Bill 459 Addressed Local Control and Accountability 11

C. Senate Bill 81 Deliberately Realigned Resources to Improve the Continuum of Rehabilitative Services Closer to Home and Community 13

II. THE HISTORY OF SECTION 782 DOES NOT SUPPORT DISMISSAL TO OBTAIN OTHERWISE IMPERMISSIBLE LEVELS OF CONFINEMENT; AND DISMISSAL WAS IMPROPER IN THIS CASE 18

A. The Legislative History of Section 782 Does Not Support Dismissal to Facilitate Longer Confinement........... 19

B. The Legislature Has Determined That Incarceration in the Division of Juvenile Justice is Not in the Interests of Justice 24

C. Dismissal for the Purpose of Obtaining A Commitment to the Division of Juvenile Justice is Not for the Welfare of the Minor 28

CONCLUSION 33

CERTICATE OF WORD COUNT........ 34

CERTIFICATE OF INTERESTED ENTITIES OR PARTIES 35

PROOF OF SERVICE

TABLE OF AUTHORITIES

Page(s)

Cases

Beal Bank, SSB v. Arter & Hadden, LLP (2007) 42 Cal.4th 503 3

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Holmes' Appeal (1954) 379 Pa 599, 109 A.2d 253 29

In re Aline D. (1975) 14 Cal.3d 557 30

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(1993) 18 Cal.App.4th 1753 4

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Ramona R. v. Superior Court (1985) 37 Cal.3d 802 29

V.C. v. Superior Court (2009) 173 Cal.App.4th 1455 .... passim

Watts v. Crawford (1995) 10 Cal.4th 743 4

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Farrell v. Harper, No. RG 03079344, Superior Court for the State of California, County of Alameda, filed January 16, 2003, and variously entitled *Farrell v. Allen*, *Farrell v. Hickman*, *Farrell v. Warner*, and *Farrell v. Cate*, as the Directors have changed .... passim

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Statutes

Cal. Pen. Code § 290.008, subd. (c) 2, 3

Cal. Welf. & Inst. Code § 202.. 24

Cal. Welf. & Inst. Code §202, subd. (b) 24

Cal. Welf. & Inst. Code § 208.5 14

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Cal. Welf. & Inst. Code § 731 10

Cal. Welf. & Inst. Code 731.1 14

Cal. Welf. & Inst. Code § 733 .... 1, 2, 13, 18

Cal. Welf. & Inst. Code § 733, subd. (c) .... passim

Cal. Welf. & Inst. Code § 777 18

Cal. Welf. & Inst. Code § 779 11

Cal. Welf. & Inst. Code § 782 .... passim

Cal. Welf. & Inst. Code § 912 17

Cal. Welf. & Inst. Code § 1710 1

Cal. Welf. & Inst. Code § 1720 11

Cal. Welf. & Inst. Code § 1767.35 14

Cal. Welf. & Inst. Code § 1798.5 16

Cal. Welf. & Inst. Code §§ 1950-1952 31

Cal. Welf. & Inst. Code §1950 16

Cal. Welf. & Inst. Code §1951, subd. (b) 16

Cal. Welf. & Inst. Code §1952, subd. (a)(1) 15

Cal. Welf. & Inst. Code § 1960 13

Cal. Welf. & Inst. Code § 1973, subd. (a) 16

Bills and Legislative History

Senate Bill 81 (2007-2008 Reg. Session) .... passim

Senate Bill 92 § 76 16

Senate Bill 459 (2003-2004 Reg. Sess.)
as introduced February 20, 2003. .... 11, 12

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(April 8, 2003), § 1 12

Senate Bill 461 .... 20, 21, 22

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Senate Bill 1793 (2001-2002 Reg. Sess.) as introduced Feb. 22, 2002 10

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Enrolled - Bill Text (September 9, 2002) 11

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Session Laws

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Stats. 2007, c. 175 13

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Stats. 2007, c. 175, § 22 .... 2, 13

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INTRODUCTION[1]

The question here is whether a juvenile court may dismiss a wardship petition in the interests of justice and commit a juvenile ward to the Division of Juvenile Justice[2] on the basis of a prior sustained petition, even though Welfare and Institutions Code section 733 prohibits commitment unless "the most recent offense alleged in any petition and admitted or found to be true by the court" is a offense specified in subdivision (c) of that section and the offense alleged in the dismissed petition was not one of those specified offenses?

This brief is written to provide additional information in response to arguments made by the Respondent that may assist the Court in deciding this case. First, Respondent's assertion that, despite the 2007 enactment of Senate Bill 81 restricting commitments to the Division of Juvenile Justice

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[1] We hereby adopt and incorporate by reference the Statement of the Case and Statement of Facts contained in the Answer Brief on the Merits ("Answer Brief") submitted by Defendant and Appellant, Greg F. Further, we agree with the arguments and authorities set forth in Appellant's Answer Brief on the Merits, and have made an effort to include here only such additional authorities and information as may be helpful to the court in deciding this case.

[2] California's state operated juvenile facility system is technically the Department of Corrections and Rehabilitation, Division of Juvenile Facilities (Welf. & Inst. Code § 1710), but almost no one calls it that. It is most commonly known as the "Division of Juvenile Justice" ("DJJ"), or by its name until 2005, the "California Youth Authority" ("CYA"). This brief will refer to the system as the "Division of Juvenile Justice" except where specific documents or references use another name.

to specified serious offenses, a prosecutor may simply dismiss a less serious case to reach back to earlier offenses that would allow commitment, represents a troubling disregard of clear legislative intent.

Second, Respondent's desire to transform the dismissal in the interests of justice provisions of Welfare and Institutions Code section 782 into a prosecutor's all-purpose tool belies the legislative intent and consistent case law application of that section.

Finally, a dismissal made for the purpose of assuring commitment to the Division of Juvenile Justice is not in the interests of justice of the community. Neither is it in the interest of justice or for the welfare of Greg F. himself.

ARGUMENT

I. THROUGH SENATE BILL 81, THE LEGISLATURE INTENDED TO REDUCE THE SIZE OF THE DIVISION OF JUVENILE JUSTICE AND SERVE YOUTH LOCALLY, AND THERE IS NO EVIDENCE OF AN INTENTION TO ALLOW DISMISSALS AIMED AT EVADING THESE RESTRICTIONS

Senate Bill 81, enacted in 2007, permits commitment to the Division of Juvenile Justice only in cases in which "the most recent offense alleged in any petition and admitted or found to be true by the court is not described in subdivision (b) of Section 707, unless the offense is a sex offense set forth in subdivision (c) of Section 290.008 of the Penal Code." (Welf. & Inst. Code §733, added by Stats. 2007, c. 175, § 22.) This was a

clear legislative pronouncement that only youth whose most recent offense was for a serious crime or a specified sex offense may be committed to state facilities.

When the statutory language is clear, there is no need to look any further to effectuate the Legislature's intent. (*Beal Bank, SSB v. Arter & Hadden, LLP* (2007) 42 Cal.4th 503, 507-508.) The careful language used in this enactment leaves no doubt about that intent. The Legislature wanted this provision to be applied to petitions that were "admitted" or "found to be true" at trial. It wanted the provision to apply to a very specific group of offenses, including the serious offenses set forth in Welfare and Institutions Code section 707, subdivision (b). The only less serious offenses for which it wanted to allow commitment were specified sex offenses, coming within Penal Code section 290.008, subdivision (c). The language of the statute could not be more clear on these points. If the Legislature had wanted to include probation violation proceedings that would allow it to reach back to earlier offenses, it surely could have included them in the exception for lesser sex offenses. The Legislature did not do this.

While the statutory language is clear, the same result is reached through analysis of the legislative history of Senate Bill 81. Appellant's Answer Brief on the Merits ("Answer Brief") lays out much of the legislative history underlying these restrictions on commitment. (Answer

Brief 12-15.) However, it is important to understand that the restrictions on commitment to the Division of Juvenile Facilities were not just imposed to save money. The restrictions were also designed to give young people in the juvenile system access to a more effective system of rehabilitation. Nothing in the legislative history supports the argument that the Legislature intended to allow dismissals to circumvent that goal. "Statutes are to be interpreted in accordance with their apparent purpose...and various extrinsic aids, including the history of the statute, committee reports, and staff bill reports" (*Kaiser Foundation Health Plan, Inc. v. Lifeguard, Inc.* (1993) 18 Cal.App.4th 1753, 1762), as well as "the wider historical circumstances of its enactment" (*Watts v. Crawford* (1995) 10 Cal.4th 743, at p. 753.) We turn now, to an examination of the legislative history and the historical circumstances surrounding Senate Bill 81.

A. The Legislature Acted with Knowledge of Abusive Conditions in the Division of Juvenile Justice, Astronomical Costs, and Poor Outcomes for Youth

Although California's state facility system (California Youth Authority) was touted as a national model from its birth in the 1940's up to the 1970's, things had changed considerably for the worse by the 1980's. (Hartney, *et al.*, A New Era in California Juvenile Justice, National Council on Crime and Delinquency and Berkeley Center for Criminal Justice (2010), pp. 4-7.) Reports of overcrowding and abusive conditions began to

surface, and investigative reports found a system beset by violence, inadequate programming, and high recidivism rates. (DeMuro, *et al.*, The California Youth Authority Report: Part Three - Reforming the CYA (1988) Commonweal Research Institute, pp. 18-21.)

By the turn of the new century, California newspapers were filled with front page news of brutal conditions and practices in the Youth Authority.[3] In May 2000, the Legislature held a full day hearing on problems in the system including abusive conditions, rampant extended lockdowns, and failure to provide even basic education and rehabilitative services. (Joint Sen. and Assem. Com.on Pub. Safety, "Joint Informational Hearing on the California Youth Authority," May 16, 2000, http://spsf.senate.ca.gov/jointinformationalhearingonthecaliforniayouthauthoritymay162000.) The Executive Summary for the Joint Hearing concluded that "The testimony described an atmosphere in which wards live in constant fear for their personal safety. The Committees heard chilling testimony regarding the hazing process that wards experience when they first arrive at CYA institutions." (*Id.*) Witnesses described how new

[3] Written materials prepared for the May 16, 2000, Joint Senate and Assembly Public Safety Committee, "Informational Hearing on the California Youth Authority," contained more than two dozen newspaper articles from late 1999 to early 2000, detailing Youth Authority abuses and problems, (*Id.*, section captioned "Newspaper Articles"); *and see* Hartney, *et al., supra*, at pp. 14-15 on the impact of media in spurring reform of the state system.

wards are subjected to theft of their property, and how those who are unable or unwilling to fight back continue to be victimized and may be physically attacked or raped. There was testimony of rampant unreported violence, as well as staff advice to youth that they must learn to be aggressive and fight back. Inspector General Steve White (now Judge White) testified that some staff even placed youth perceived to be enemies in the same room with the expectation that fights would occur. Multiple witnesses said that youth quickly learn that staff "will not or cannot protect them," and "often affiliate with gangs for a sense of protection." (*Id.*) There were numerous reports of unethical staff behavior, exacerbated by a pervasive "code of silence." Inspector General White opined that staff witness outrageous things but fail to speak up because they are inured to them. (*Id.*)

As a result of the Joint Public Safety Committee hearing, the Youth and Adult Correctional Agency was requested to implement series of follow up actions to address systemic problems at the Youth Authority. That process resulted in a number of recommendations that were then included in the Legislative Analyst's Office Analysis of the 2001-02 Budget Bill. A primary focus was the need to address inadequacies in rehabilitative, mental health and educational services. (Legis. Analyst, Analysis of the 2001-02 Budget Bill, Department of the Youth Authority

(5460),

http://www.lao.ca.gov/analysis_2001/crim_justice/cj_09_5460_anl01.htm.)

By 2002, the system was mired in system-wide litigation, initially filed in federal court. (*Stevens v. Harper* (E.D. Cal.) No. CIV-S-01-0675, filed January 24, 2002.) Subsequently, the original action was terminated and the litigation proceeded by way of a taxpayer action in state court. (*Farrell v. Harper*, No. RG 03079344, Super. Ct. Alameda County, filed January 16, 2003.)[4] The litigation challenged inadequacies in every area of operations, including safety and welfare of confined youth, education, medical and mental health, gang services, treatment of youth with disabilities and sex offender treatment. The Legislature was repeatedly asked to consider California requests for millions of dollars to fight the case. (*See, e.g.*, request for $4.3 million for litigation, Legis. Analyst, Analysis of the 2003-04 Budget Bill: Department of Justice (0820), http://www.lao.ca.gov/analysis_2003/crim_justice/cj_03_0820_anl03.htm [as of Oct. 28, 2011.) The case was settled in November 2004. (*Farrell v. Allen*, Consent Decree, filed Nov. 19, 2004, Super. Ct. Alameda County, No. RG 03079344, http://www.prisonlaw.com/pdfs/farrellcd.pdf).

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[4] In the course of the litigation, there have been successive Directors of the agency, so the case began as *Farrell v. Harper*, but pleadings over the years have been variously entitled *Farrell v. Allen, Farrell v. Hickman, Farrell v. Warner*, and now, *Farrell v. Cate.*

In 2006, a team of national experts selected jointly by the parties presented a comprehensive plan for reform. (California Department of Corrections and Rehabilitation, Division of Juvenile Justice, Safety and Welfare Plan: Implementing Reform in California (2006), by Murray, *et. al*, http://www.prisonlaw.com/pdfs/DJJSafetyPlan.pdf [as of Oct. 28, 2011].) The report concluded that "this is not a system that needs tinkering around the edges, this is a system that is broken almost everywhere you look." (*Id.*, p. 1.) The report found:

- High levels of violence and fear in its institutions
- Unsafe conditions for both residents and staff
- Antiquated facilities unsuited for any mission
- An adult corrections mentality with an adult/juvenile mix
- Management by crisis with little time to make changes
- Frequent lockdowns to manage violence with subsequent program reductions
- Time adds for infractions adding over eight months to average lengths of stay
- Lengths of stay almost triple the average for the nation
- Hours on end when many youths have nothing to do
- Vocational classrooms that are idle or running half speed
- Capitulation to gang culture with youths housed by gang affiliation
- Low levels of staffing and huge living units
- Abysmal achievement despite enormous outlays for education
- Information systems incapable of supporting management
- Little partnership with counties and a fragmented system
- Poor re-entry planning and too few services on parole
- Enormous costs with little to show for it

(*Id.*)

It should come as no surprise that in the face of such horrendous institutional problems, the outcomes for youth were not good. In 2005, the

Division itself reported that approximately 70% of youth released from its institutions in 2000 were arrested for a non-traffic offense within 36 months of release. (California Department of Corrections & Rehabilitation, Division of Juvenile Justice, *Reforming California's Juvenile Corrections System, Farrell v. Hickman Safety & Welfare Remedial Plan* (2005), p. 13, http://www.cdcr.ca.gov/Juvenile_Justice/docs/4_safety_welfare.pdf [as of Oct. 28, 2011.].) These poor results came at great cost to the taxpayers. By 2007, when Senate Bill 81 was enacted, the State was paying $218,000 per year per ward, and by 2008 was paying $232,000. (Little Hoover Commission, Juvenile Justice Reform: Realigning Responsibilities (2008), p. 6, http://www.lhc.ca.gov/studies/192/report192.pdf [as of Oct. 28, 2011].)

The well-documented conditions problems, outrageous costs, and failure to provide adequate or effective rehabilitative services has formed a backdrop for legislative activity over the past decade.[5] The next section describes the antecedents to Senate Bill 81 and the legislative intent in Senate Bill 81 itself.

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[5] This section has discussed the historical context for Senate Bill 81. Information on current conditions in the Division of Juvenile Justice is presented in the section on whether dismissal would be in the best interest and for the welfare of the minor, *infra*.)

B. Antecedents to Senate Bill 81 Focused on Local Control and the Importance of County-Based Rehabilitative Services

The fiscal reasons for downsizing the Division of Juvenile Justice are obvious, and Appellant has covered this ground. (Answer Brief 13-15.) But successive legislation was also grounded in an evolving recognition that state level facilities are difficult to reform and represent an obsolete way of delivering rehabilitative services. Even before Senate Bill 81, the Legislature acted to reform the characteristics of the state system that interfered with rehabilitation.

1. Senate Bill 1793 Engaged the Legislature in Matters of Local Control

At first, the Legislature focused on fixing the state system, but making it more accountable to counties. In February 2002, Senator John Burton introduced Senate Bill 1793, the "Youth Authority Accountability Reform Act of 2002." (Sen. Bill No. 1793 (2001-2002 Reg. Sess.), as introduced February 22, 2002, http://www.leginfo.ca.gov/pub/01-02/bill/sen/sb_1751-1800/sb_1793_bill_20020222_introduced.html [as of Nov. 7, 2011].) While probation and the judges liked the idea of more control over state level commitments, the discussions took place amidst a deepening fiscal crisis for the counties, and some were not ready to accept a total shift in responsibility. The final version of the bill gave more power to juvenile courts over length of stay and treatment, and imposed increased

reporting requirements on the Youth Authority. (Sen. Bill No. 1793 (2001-2002 Reg. Sess.), enrolled Sept. 9, 2002, http://www.leginfo.ca.gov /pub/01-02/bill/sen/sb_751- 1800/sb_1793_bill_20020830_enrolled.html [as of Nov. 7, 2011].) The legislation was passed, but vetoed by Governor Davis. (Sen. Bill No. 1793, Complete Bill History (2001-2002 Reg. Sess.), http://www.leginfo.ca.gov/pub/01-02/bill/sen/sb_1751-1800/sb_1793_bill_20021130_history.html [as of Nov. 7, 2011].)

2. Senate Bill 459 Addressed Local Control and Accountability

The following year, 2003, Senator Burton introduced Senate Bill 459, carrying forward the idea of local control, but without placing full responsibility in the superior court. (Sen. Bill No. 459 (2003-2004 Reg. Sess.) as introduced February 20, 2003, http://www.leginfo.ca.gov/pub/03-04/bill/sen/sb_0451-0500/sb_459_bill_20030220_introduced.html [as of Nov. 7, 2011].) The Bill amended Welfare and Institutions Code section 731, allowing the court to set the maximum confinement time based on the facts and circumstances of the case, thus giving local courts increased power to control length of stay. (*Id.*) It amended Welfare and Institutions Code section 1720, to require Youth Authority to provide counties with treatment plans; estimated timeframes for completion of treatment; and annual case progress reviews, thus increasing Youth Authority accountability for treatment, and giving counties a mechanism for receiving

ongoing feedback about what is actually happening to their youth. (*Id.*) It also amended Welfare and Institutions Code section 779 to clarify the ability of courts to set aside or modify commitments, this giving courts increased power over cases where the youth does not received the benefits that initially justified commitment. (*Id.*)

Each of the hearings on the Bill exposed legislators to extensive analyses on problems at the Youth Authority and the wisdom of increasing local control to ensure that youth in the system receive required treatment and services. The Senate Public Safety Committee analysis stated that, "State policies have increasingly recognized the need to strengthen the local juvenile justice system and its array of alternatives and graduated sanctions for juvenile offenders [listing several initiatives]... Responding to these state initiatives, local leaders have established innovative strategies emphasizing collaborative and interdisciplinary responses to juvenile crime." (Senate Committee on Public Safety, Analysis of Sen. Bill No. 459 (2003-2004 Reg. Sess.) as amended March 12, 2003, pp. K-L, bracketed text inserted.) The Bill was enacted into law and signed by the Governor. (Senate Bill 459 (2003-2004 Reg. Sess.) Chaptered – Bill Text (April 8, 2003), § 1.)

C. Senate Bill 81 Deliberately Realigned Resources to Improve the Continuum of Rehabilitative Services Closer to Home and Community

The Legislature's most significant step in juvenile justice reform was the passage of Senate Bill 81 in 2007. (Stats. 2007, c. 175.) That legislation implemented a conscious and comprehensive shift of juvenile justice resources to the county level. It is indisputable that the changes were intended to improve the quality of rehabilitative services in California by redirecting youth and the resources to serve them to the counties. The statutory language provides:

> The Legislature finds and declares that local youthful offender justice programs, including both custodial and noncustodial corrective services, are better suited to provide rehabilitative services for certain youthful offenders than state-operated facilities. Local communities are better able than the state to provide these offenders with the programs they require, in closer proximity to their families and communities...

(Welf. & Inst. Code § 1960, added by Stats. 2007, c. 175, § 30.) Perhaps the most significant change was the one presented in this case, the prohibition on commitment of lower level offenders to the state system. (Welf. & Inst. Code § 733, added by Stats. 2007, c. 175, § 22.)

Respondent's argument that this shift leaves open the possibility of manipulating otherwise ineligible cases into commitment eligibility is belied by the legislation itself. Apart from the limitations on commitment, there are several other indications that the Legislature did not want youth coming back for low level misbehavior. For example, under Senate Bill 81,

wards already on parole from the Division of Juvenile Justice for offenses that would no longer allow commitment, would become the county responsibility if their parole were revoked by the Division. (Welf. & Inst. Code § 1767.35, added by Stats. 2007, c. 175, § 27.) This confirms Appellant's position that the Legislature did not want state level commitments unless there is a *new* 707(b) offense or a specified sex offense. In addition, the Legislature included provisions in the Bill allowing older youth to be held in county facilities (Welf. & Inst. Code § 208.5, added by Stats. 2007, c. 175, § 18), and permitting counties to actually recall youth committed for lower level offenses who were already committed to the Division of Juvenile Justice. (Welf. & Inst. Code § 731.1, added by Stats. 2007, c. 175, § 20.) These companion legislative changes provide additional evidence that the Legislature did not intend youth to be committed for subsequent behavior that does not itself constitute a committable offense.

Also, Senate Bill 81 intended to substantially reduce the size of the Division of Juvenile Justice population. The Senate Floor analysis specifically stated that:

> This bill will stop the intake of youthful offenders adjudicated for non-violent, non-serious offenses (non-707b offenses) to the state Division of Juvenile Facilities within the CDCR on September 1, 2007. These youth will remain in county care and custody. This change is projected to reduce the Average Daily Population in state juvenile institutions by 199 offenders in the budget year. This

number is expected to grow to approximately 700 offenders by 2009-10. This change is also projected to reduce the Average Daily Population on parole by about 190 parolees in the budget year. This number is expected to grow to approximately 570 in 2009-10.

(Sen. Rules, Comm., Off. of Sen. Floor Analyses, Sen. Bill No. 81 (2007-2008 Reg. Sess.), as amended July 19, 2007, p. 2, http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_0051-0100/sb_81_cfa_20070720_104136_sen_floor.html [as of October 31, 2011].) The Assembly Floor Analysis was quite similar. (Assembly Floor Analysis, Sen. Bill No. 81 (2007-2008 Reg. Sess.), as amended July 19, 2007, p. 1, http://www.leginfo.ca.gov/pub/07-08/bill/sen/sb_0051-0100/sb_81_cfa_20070720_042920_asm_floor.html [as of Oct. 31, 2011].)

Senate Bill 81 provided substantial funding to the counties to accomplish these goals. It called for the Department of Finance to award money to the counties based on a $117,000 per youth amount adjusted by a formula designed to account for the custody and treatment costs of youth not committed to or recalled from the Division of Juvenile Justice. (Welf. & Inst. Code § 1952, subd. (a)(1), added by Stats. 2007, c. 175, § 30.) The money was to be used to "enhance the capacity of county probation, mental health, drug and alcohol, and other county departments to provide appropriate rehabilitative and supervision services to youthful offenders."

(Welf. & Inst. Code § 1951, subd. (b), c. 175, added by Stats. 2007, c. 175, § 30.)

The legislation also authorized up to $100 million in construction funds to help counties build or renovate local facilities to serve youth. (Welf. & Inst. Code § 1973, subd. (a), added by Stats. 2007, c. 175, § 30.) Further, the legislation created a state Juvenile Justice Commission to "provide comprehensive oversight, planning, and coordination of efforts, which enhance the partnership and performance of state and local agencies in effectively preventing and responding to juvenile crime." (Welf. & Inst. Code § 1798.5, added by Stats. 2007, § 29.) The Legislature's overarching intent could not be more clear: "The purpose of this chapter is to enhance the capacity of local communities to implement an effective continuum of response to juvenile crime and delinquency." (Welf. & Inst. Code § 1950, added by Stats. 2007, c. 175, § 30.)

Although this Court's consideration of the meaning of the Senate Bill 81 changes to Section 733 will necessarily rest on the circumstances surrounding the enactment, the Court should be aware that the fate of the Division of Juvenile Justice remains undetermined. Governor Brown's initial budget for 2010-2011, proposed the complete elimination of the agency. The statement of reasons again spoke of the desirability of serving youth at the community level:

> Elimination of the Division of Juvenile Justice-A decrease of $86.7 million, of which $8.7 million is for Proposition 98, for the elimination of the Division of Juvenile Justice. The state currently houses about 1,300 wards, compared to about 10,000 in the mid-1990s. The population continues to decline because of efforts by local jurisdictions to keep offenders locally, as well as statutory changes that prohibit counties from committing non-serious, nonviolent, and non-sex offenders to the Division.

(Governor's Budget 2010-11, Proposed Budget Detail, Corrections and Rehabilitation 5225, Major Program Changes, http://www.ebudget.ca.gov/StateAgencyBudgets/5210/5225/major_program_changes.html.) Complete closure was ultimately rejected, but the Legislature approved a budget in Senate Bill 92 that includes a fiscal "trigger" requiring counties to pay $125,000 per ward/per year to send youth to the Division of Juvenile Justice if the Department of Finance determines that state revenues have reached a specified low point in December 2011. (Welf. & Inst. Code § 912, added by Stats. 2011, c. 36, § 76, eff. June 30, 2011.). This steep price tag on commitments signals the Legislature's ongoing commitment to reduce the size of the state system so that more youth may be served at the local level.

Appellant has correctly pointed out that Senate Bill 81 is the most specific and most recent expression of the Legislature's intent (Answer Brief 21-24.) Appellant's analysis closely tracks the legislative history presented in *V.C. v. Superior Court,* 173 Cal.App.4th at pp. 1467-1469.) In the face of the repeated expressions of legislative preference for a smaller

state system and rehabilitation at the county level, Respondent's argument with respect to the Legislature's intent in Senate Bill 81 is without merit. There is not a shred of evidence to support the circumvention of the clear, intentionally enacted prohibitions on state commitment embodied in Welfare and Institutions Code section 733. In these circumstances, the Legislature is presumed to have meant what it said. (*In re Sean W.* (2005) 127 Cal.App.4th 1177, 1182; *People v. Coronado* (1995) 12 Cal.4th 145, 151.)

II. THE HISTORY OF SECTION 782 DOES NOT SUPPORT DISMISSAL TO OBTAIN OTHERWISE IMPERMISSIBLE LEVELS OF CONFINEMENT; AND DISMISSAL WAS IMPROPER IN THIS CASE

It is troubling enough that Respondent seeks to evade the legislative intention to limit the youth who may be committed to the Division of Juvenile Justice. More alarming is that Respondent wants to harness dismissal in the interests of justice to accomplish that end. [6]

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[6] Although this brief focuses on the question certified for review, we note that the dismissal of the petition at issue in this case occurred *after* the minor had admitted it pursuant to a plea bargain agreement. In admitting the petition, he had given up his right to a trial on the juvenile hall fist fight on the belief that he would be subject only to a certain range of dispositions. When the juvenile court set aside that admission, Greg F. was in a much worse position, in that the prosecutor could now file a supplemental notice that would subject him to a substantially greater penalty, on a much lower standard of proof. (Welf. & Inst. Code § 777.) The assertions that this should be allowed because the prosecutor was under time pressure at the time of the initial filing are unconvincing. This prosecutor was subject to the same time constraints faced by prosecutors

A. The Legislative History of Section 782 Does Not Support Dismissal to Facilitate Longer Confinement

Welfare and Institutions Code section 782 allows courts to exercise the power of dismissal when "the interests of justice and the welfare of the minor require such dismissal, or if it finds that the minor is not in need of rehabilitation." The discussion in this case centers on "the interests of justice and the welfare of the minor." Appellant has traced the legislative history of section 782 and has correctly concluded that nothing in that history supports dismissal in the circumstances involved in this case. (Answer Brief 24-29.) This is consistent with Chief Justice Cantil-Sakauye's opinion in *V.C. v. Superior Court, supra*, 173 Cal.App.4th at pp. 1463-1464, and the opinion in the Court of Appeal below.

Welfare and Institutions Code 782 derives from a much earlier statute enacted in 1915, shortly after California created its first juvenile court. (Stats.1915, c. 631, p. 1237, § 15e.) That provision governed juvenile court dismissals until 1961. (*In re W.R.W.* (1971) 17 Cal.App.3d 1029, 1036.) It was repealed in 1961 when California adopted the Arnold Kennick Juvenile Court Law. (Stats.1961, c. 1616, § 1.)

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every day. This minor was already in custody pending replacement, so it is difficult to see how the prosecutor could have been unaware of his previous offense. Aside from the consideration of whether the dismissal was in the interests of justice, allowing the admission to be set aside on this record was improper. We fail to see any meaningful distinction between this case and *V.C. v. Superior Court, supra*, 173 Cal.App.3d at p. 1467, on this point.

In 1970, Senator Kennick, co-author of the 1961 revisions to juvenile court law, carried a package of juvenile court law bills. The dismissal statute was carried as Senate Bill 1221 in the 1970 session, and an identical version was enacted as Senate Bill 461 in the 1971 session. (Stats.1971, c. 607, p. 1211, § 1.) The bills originated with juvenile court judges and were brought forth to fill in the gaps that had been discovered in the intervening years since 1961. (*See* Donald R. Perez, President, Conference of California Judges, letter to Honorable Ronald Reagan, Governor of the State of California, Aug. 12, 1971, and California Youth Authority, Enrolled Bill Report on Sen. Bill No. 461 (1971 Reg. Sess.) Aug. 19, 1970, included in Respondent's augmentation of the record.)

Although there had been no juvenile dismissal statute during the intervening period, juvenile courts had continued to exercise the power to modify or vacate dispositional orders or to terminate jurisdiction where "court supervision would be unnecessary and perhaps harmful." (*In re W.R.W., supra,* 17 Cal.App.3d at p. 1463.) The enactment of Section 782 by way of Senate Bill 461 restored the clear power of the court to dismiss juvenile petitions in the interests of justice. (*Derek L. v. Superior Court* (1982) 137 Cal.App.3d 228, 232; *V.C. v. Superior Court, supra,* 173 Cal.App.4th at p. 1464.) Nothing in the legislative record of Senate Bill

1221 or Senate Bill 461 suggests that the statute was intended for Respondent's averred use.

At a the November 20, 1970 committee hearing on the package of juvenile bills, Senator Kennick explained that Senate Bill 1221 "authorizes the court to terminate jurisdiction of a case if the court finds that the interests of justice and the welfare of the minor requires dismissal of the case..." (Sen. Com. on General Research, Subcom. on Judiciary, Interim Hearing (Nov. 20, 1970), p. 44.)[7] Remarkably, the only prosecutor who spoke at that hearing stated that the purpose of the legislation was this: "This bill wants to say to a young man who has completed his term of probation satisfactorily, 'We will set aside the previous finding against you and now you can consider that you have completely paid your debt." I would be in favor of this bill. It doesn't make anything secret. It's all up and above board, yet it is a great tool of rehabilitation and it parallels the adult system where we have the same type of thing." (*Id.*, p. 70.) This is a very different prosecutor's view of the purpose of the law than the one expressed by Respondent.

At another committee hearing, testimony from the San Francisco Barristers Club supported Senate Bill 1221 as "declaratory of existing

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[7] A transcript of the hearing is included as Exhibit "C" in Appellant's Motion for Judicial Notice, Memorandum of Points and Authorities, Declaration in Support, and [Proposed] Order.

practice in many counties. " The witness urged that "Particularly in the case of minor offenses, the court may find upon presentation of all the evidence, that the minor is not in need of care and treatment available through the facilities of the juvenile court. No useful purpose can be served by placing such a minor on probation. The power of the court to dismiss should be made explicit." (Statement of Ralph E. Boches, Esq., on Behalf of the Barristers Club of San Francisco, Senate Committee on Judiciary (May 12, 1970), pp. 13-14.)[8] Nothing in the testimony suggested an intention to support dismissal as a means of circumventing statutory limitations on confinement.

When the legislation was reintroduced as Senate Bill 461, the focus remained on dismissal to relieve youth of the burden of wardship. The Assembly Committee on Criminal Justice description of Senate Bill 461 explained in the following way: "The court can dismiss the petition or set aside the finding even though jurisdiction over the minor has terminated and he is no longer a ward of the court..." (Assem. Com. on Crim. Justice., S.B. 461, Bill Digest, Dismissal of a Juvenile Proceeding (July 20, 1971).) The analysis included a question as to why this relief would be limited only

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[8] The testimony is included as Exhibit "D" in Appellant's Motion for Judicial Notice, Memorandum of Points and Authorities, Declaration in Support, and [Proposed] Order.

to persons under the age of 21? (*Id.*) There were no questions about broadening the scope of dismissal in other ways.

The Enrolled Bill Report for Senate Bill 461 is consistent. It described the purpose of the bill as to "provide the court with the alternative to terminate jurisdiction at an earlier date if the court felt that this was in the best interest of the minor." The Report also noted that Section 782 permits the court to set aside wardship irrespective of whether the child is presently a ward of the court. (California Youth Authority, Enrolled Bill Report on Sen. Bill No. 461 (1971 Reg. Sess.) Aug. 19, 1970. P. 1.)

Courts construing the purpose of Section 782 have not allowed it to be used as a prosecutorial tool to obtain more confinement time. The court in *Derek L. v. Superior Court* said that Section 782 should be construed in accordance with the decisions interpreting the adult statute, Penal Code section 1385. (*Derek L. v. Superior Court, supra*, 137 Cal.App. 3d at p. 233.) In *V.C. v. Superior Court,* the court took the analysis a step further noting those decisions "'run only in the immediate favor of a defendant, i.e., by cutting off an action or a part of an action against the defendant.'" (*V.C. v. Superior Court, supra*, 173 Cal.App.4th at p. 1464, quoting from *People v. Hernandez* (2000) 22 Cal.4th 512, 524.) Respondent's attempts to justify the manipulations aimed at using Section 782 to subject Greg to

imprisonment in the Division of Juvenile Justice are not supported by the legislative record or the court decisions construing legislative intent.

B. The Legislature Has Determined That Incarceration in the Division of Juvenile Justice is Not in the Interests of Justice

Respondent goes to great lengths to make the point that the first clause of Section 782, "in the interests of justice," requires the court to consider both the interests of the individual minor and the "protection of the public." (Respondent's Brief 3, 22-23.) We do not disagree. Welfare and Institutions Code section 202, the juvenile court purpose clause, similarly requires individual treatment needs to be considered in light of the interests of the greater community. (Welf. & Inst. Code § 202, subd. (b).) However, Respondent's assertion that this points Greg's case inevitably toward the Division of Juvenile Justice (Respondent's Brief 7-9) is erroneous. In fact, as has been discussed in Section I of this brief, the Legislature has determined that services for youth in Greg's position are better provided at the county level. That determination makes good sense, given the well-established persistent problems and sluggish pace of reform in the Division of Juvenile Justice.[9]

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[9] In July 1996, the system had an average daily population of 10, 115. (State of California, Department of the Youth Authority, Research Division, Information Systems Unit, *Monthly Population Report as of July 31, 1996,* http://www.cdcr.ca.gov/Reports_Research/docs/research/Highest%20Facility%20Population%201995%20-%201996.pdf [as of Oct. 28, 2011].) In September 2011, the facilities housed only 1,166 youth.

Respondent's view of the Division of Juvenile Justice is about thirty years out of date. While reform efforts slowly[10] endeavor to pull the system up to an even a minimally adequate place, it is fair to say that commitment to the *present* Division of Juvenile Justice is neither "in the interests of justice" nor in "the welfare of the minor."[11] The Legislature has wisely decided to limit commitment of youth to the Division of Juvenile Justice to those whose most recent offense has been admitted or been found to be be one of the offenses enumerated in Section 733.

The Legislature's decision is well-founded. Seven years after the *Farrell* case was settled, significant deficiencies remain with respect to rehabilitative services at the Division of Juvenile Justice. The July 1, 2010

(California Department of Corrections and Rehabilitation, Division of Juvenile Justice Information Systems Units, OBITS, Monthly Facility Population Report as of September 30, 2011, http://www.cdcr.ca.gov/Juvenile_Justice/docs/09-2011%20Monthly.pdf [as of Nov. 1, 2011].) The remarkable decline in population has been attributed, among other things, to the well-established inadequacies of the system. (*See*, Hartney, *et al.*, A New Era in California Juvenile Justice, *supra* , p. 13.)

[10] The "glacier-like pace" of reform in the state system has been noted by at least one previous appellate court. *Morris v. Harper* (2001) 94 Cal.App.4th 52, 60.

[11] In fact, even before Senate Bill 81 and the current discussions about closure of the system, several counties abandoned the view that the state system served their need for a place to put deep end youth, and declared a moratorium on sending local youth to the Division of Juvenile Justice. (Hartney, *et al.*, A New Era in California Juvenile Justice, *supra*, pp. 5, 13.)

Special Master's Report in the *Farrell* litigation found that, "While progress is being made in implementing the remedial plan's prescribed action steps, it is unclear whether sufficient progress has been made to reduce fear and violence to levels that support rehabilitative efforts." (*Farrell v. Cate*, Eighteenth Report of the Special Master, Super. Ct., Alameda County, No. RG 03079344 (July 11, 2010), p. 21.) Among the specific findings was the fact that staff members did not intervene effectively to de-escalate conflicts among gang involved youth. (*Id.*, at p. 42.)

Significant ongoing deficiencies have been confirmed by the court in the *Farrell* litgation. On August 4, 2011, the court found the Division of Juvenile Justice in violation of its clear legal duty to provide mandated special education services, and to provide 240 minutes of school each day to eligible students. (*Farrell v. Cate*, Order Granting Motion to Enforce Court-Ordered Remedial Plans and to Show Cause Why Defendant Should Not Be held in Contempt of Court, Alameda County Super. Ct., No. RG 03079344, filed Aug. 4, 2011; *and see*, *Farrell v. Cate*, Nineteenth Report of the Special Master, Super. Ct., Alameda County, No. RG 03079344 (Sept. 9, 2011), http://prisonlaw.com/pdfs/OSM19.pdf [as of Oct. 28, 2011].) The court also found deficiencies in ending the practice of isolation and the provision of specific levels of programming. (*Id.*) In particular, the

court noted the failure to maximize out of room time and to ensure structured activity based on evidence-based principles. In core treatment units this was to occur for eight hours per day, and for specified percentages of the day in behavior treatment units. (*Id.*) The court found that despite having full knowledge of these requirements and having assured the court that it could comply, and having ample financial resources, the Division of Juvenile Justice has failed to comply. The Defendant was found in willful noncompliance and was ordered to comply with the court's orders to comply within 90 days. (*Id.*)

The Division's continuing failure to provide adequate and appropriate services is established in recidivism data indicating that 75% of youth released from the Division of Juvenile Justice for 707(b) offenses or sex offenses were re-arrested within three years; and 88% of youth committed for less serious offenses were re-arrested or returned to custody within three years of release. (*Farrell v. Cate*, Thirteenth Report of the Special Master, Super. Ct., Alameda County, No. RG 03079344 (February 9, 2010), p. 35 and Appendix G, "1-,2-, and 3-Year Rates of Recidivism: Youth Released FY 2004-2005" (Nov. 17, 2009), http://prisonlaw.com/pdfs/OSM13Full.pdf, and

http://prisonlaw.com/pdfs/OSM13,AppG.pdf [as of Oct. 28, 2011].) [12] These recidivism rates are slightly worse than the ones for youth released five years earlier. (Section I, *supra.*) On this record, Respondent's arguments that commitment to the Division of Juvenile Justice would be "in the interests of justice" are without merit.

C. Dismissal for the Purpose of Obtaining A Commitment to the Division of Juvenile Justice is Not for the Welfare of the Minor

Section 782 requires not only that dismissal be in the interests of justice; it must also be "for the welfare of the minor." (Welf & Inst. Code § 782.) Respondent's argument that this clause allows a Division of Juvenile Justice commitment for the long term welfare of the minor is misguided at best. (Respondent's Brief 25-26.) We have already discussed at length the

[12] These findings are consistent with national data showing that youth subjected to long term incarceration have substantially worse outcomes in education and employment. They are also consistent with findings that youth committed to long term incarceration for less serious offenses have worse outcomes than youth committed for serious offenses. (Mendel, No Place for Kids: The Case for Reducing Juvenile Incarceration, Annie E. Casey Foundation (2011), p. 12; *and see*, U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, *Highlights From Pathways to Desistence: A Longitundinal Study of Serious Adolescent Offenders*, by Edward P. Mulvey OJJDP Juvenile Justice Fact Sheet (2011), p 1.) Additional research has focused on the negative impact of confining youth with other seriously delinquent and gang involved youth. (*See* Rosch, *Deviant Peer Contagion: Findings from the Duke Executive Sessions on Deviant Peer Contagion* (Fall 2006), Child Welfare League of America, 5 The Link, pp. 3-5.)

persistent serious problems in the state system, and the objectively poor chances for success in the Division of Juvenile Justice.

Beyond this, imprisonment, even for benevolent reasons, is still imprisonment. It is difficult to imagine any circumstance in which commitment to a state institution for a period of years would be considered "for the welfare of the minor." Against past assertions that confinement in the juvenile justice system was somehow more acceptable because it is for the care and treatment of the minor, Justice Mosk once observed that the sanctions of the juvenile justice system are severe. (*Ramona R. v. Superior Court* (1985) 37 Cal.3d 802, 811.) Borrowing the words of Justice Musmanno, he said, "...'To take a child from the comfort of his home, the joy of his companions and the freedom of field, river and wood, and confine him to a building with whitewashed walls, regimented routine and institutional hours is punishment in the strictest sense of the word. To say, as the Commonwealth says, that this institutionalized incarceration is 'for the care and treatment' of the juvenile does not make it any less abhorrent to the boy [or, presumably, to the girl] of spirit, health and energy.'" (*Id.*, quoting from *Holmes' Appeal* (1954) 379 Pa. 599, 615–616, 109 A.2d 523, dis. opn. of Musmanno, J.)

Respondent's assertion that precluding the dismissal in this case would "remove the only remaining option available to the court to address

the welfare of the minor" is also uninformed. (Respondent's Brief 28.) Thirty-five years ago, long before the current difficulties at the Division of Juvenile Justice, this Court questioned the wisdom of housing a mildly delinquent youth with the serious juvenile delinquents held in the state system. (*In re Aline D.* (1975) 14 Cal.3d 557, 559-562.) Like the young man involved in this case, the girl in *Aline D.* was gang-involved, had mental health issues, and was considered difficult to place. In an eerily contemporary analysis of her situation, this Court discussed the difficulties in treating a youth with those issues in the state system, and then proceeded to outline a series of potentially appropriate local placements that had not been considered, despite protestations to the contrary. (*Id.*, pp. 565-566.)

In 2011, even more options are available for youth with these presenting issues. Many more programs are available; and through Senate Bill 81, counties have been given ample funding to assure that the services are provided. Sonoma County, where Greg F. lives, utilizes a broad range of residential treatment programs and group homes, in California and in out-of-state facilities. (County of Sonoma, Probation Department, Juvenile Services,

http://www.sonoma-county.org/probation/juvenile_facilities/index.htm [as of Nov. 1, 2011]. There are 38 licensed group homes in Sonoma County, and more than a thousand around the state. (California Department of

Social Services, County List (Oct. 3, 2011), http://ccld.ca.gov/res/pdf/countylist.pdf [as of Nov. 1, 2011].)

In addition, thanks to Senate Bill 81, counties now have substantial resources to work with youth who would otherwise have been incarcerated in the Division of Juvenile Justice. The legislation calls for a full continuum of services, both custodial and non-custodial that to be provided youths' home community, and again, provides the funding to support the services. (Welf. & Inst. Code §§ 1950-1952.) [13] A recent study by the Corrections Standards Authority encourages the use of realignment funds for multidisciplinary teams to ensure that youth receive cross agency and community services that may support successful rehabilitation and re-entry into the community. (State of California, Corrections Standards Authority, Mentally Ill Juveniles in Local Custody: Issues and Analysis, prepared at the request of the Department of Corrections and Rehabilitation and Council on Mentally Ill Offenders (2011), p. 34.) It also urges counties to use evidence-based practices including Cognitive Behavioral Therapy, Aggression Replacement Therapy, Functional Family Therapy,

[13] The initial report of Senate Bill 81 Youthful Offender Block Grant expenditures found that the money was used for 43 custodial programs and 140 non-custodial programs statewide. (Corrections Standards Authority, Youthful Offender Block Grant Expenditure and Outcomes, First Annual Report to the Legislature (Mar. 2011), Appendix D, http://www.cdcr.ca.gov/CSA/CPP/Grants/YOBG/Docs/YOBG_2009-10_Report.pdf [as of Nov. 1, 2011].)

Multisystemic Therapy, Multidimensional Treatment Foster Care, Therapeutic Behavioral Services, Wraparound Services, and specialized units in their juvenile halls to serve realigned youth with mental health care needs. (*Id.*, at pp. 37-44.) The report gives special mention of the specialized mental health unit in the Sonoma County Juvenile Hall. (*Id.,* p, 44.)

In reality, the services so far provided to Greg have barely scratched the surface of what he needs. (Appellant's Answer Brief 6-11.) The argument that nothing more can be done at the local level is not supported by the facts, and the purported urgent necessity to misuse Section 782 for the public interests is unconvincing. What Greg needs is readily available in his home community. Greg is exactly the kind of young person intended to be benefited by the realignment of services to the counties.[14] The intervening petition, after all, was for a fist fight in juvenile hall. This was not a good thing, but not an incident that separates him from the thousands of other delinquent youth15 who will be served in their home counties under Senate Bill 81.

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[14] A majority of youth entering county juvenile justice systems have mental health problems, and like Greg, many have co-occurring mental health issues. (Corrections Standards Authority, Mentally Ill Youth in Local Custody, *supra*, p. 8.) Further, many of the youth with co-occurring disorders have problems with violence and acting out. (*Id.*, pp. 48-51.)

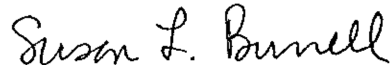
15 In 2010, there were 12,871 juvenile court petitions sustained in California for violent offenses (including homicide, rape, robbery, assault,

CONCLUSION

The use of Section 782 to circumvent the Legislature's limitation on Division of Juvenile Justice commitments was improper. Greg should receive the benefit of the original court order that he be placed in a county-level program with substance abuse as well as mental health treatment. This Court should adopt the reasoning set forth in *V.C. v. Superior Court*, disapprove the holding of *In re J.L.* (2008)168 CalApp.4th 43, and affirm the judgment of the Court of Appeal below.

Dated this 17th day of November, 2011, at San Francisco, California.

Respectfully submitted,



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and kidnapping). (California Dept. of Justice, *Juvenile Justice in California 2010*, Table 20, available at http://ag.ca.gov/cjsc/publications/misc/jj10/preface.pdf[as of Nov. 16, 2011].) Only 356 were committed to the Division of Juvenile Justice in 2010. *Id.*, Table 25. The vast majority of youth, many with significantly more seriously delinquent histories than Greg are handled at the county level.

CERTIFICATE OF WORD COUNT

I, Susan L. Burrell, attorney for Amici Curiae, certify under penalty of perjury that according to the Microsoft Word computer program on which this brief was produced, it contains 7,761 words, including footnotes, which is within the limit of 14,000 words under California Rule of Court Rule 8.204(c).

Executed on November 17, 2011.

Respectfully submitted,

Susan L. Burrell

SUSAN L. BURRELL, State Bar No. 74204

Attorney for Amici Curiae Pacific Juvenile Defender Center and Youth Law Center On Behalf of Defendant and Appellant, Greg F.

CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

There are no interested entities or persons to list in this Certificate per California Rules of Court, Rule 8.200(c)(3).

Executed on November 17, 2011.

Respectfully submitted,

SUSAN L. BURRELL, State Bar No. 74204

Attorney for Amici Curiae Pacific Juvenile Defender Center and Youth Law Center On Behalf of Defendant and Appellant, Greg F.

PROOF OF SERVICE

Case Name: In re Greg F.
Case No.: Supreme Court No. 191868
Court of Appeal First District No. A127161
Superior Court No. 35283J

I, Robin Bishop, declare:

I am a citizen of the United States, over the age of eighteen years, and am not a party to this action. I am employed at the Youth Law Center, 200 Pine St., Ste. 300, San Francisco, CA 94104.

On November 17, 2011, I served the following:

APPLICATION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF OF PACIFIC JUVENILE DEFENDER CENTER AND YOUTH LAW CENTER ON BEHALF OF DEFENDANT AND APPELLANT, GREG F. AND *AMICUS CURIAE* BRIEF OF PACIFIC JUVENILE DEFENDER CENTER AND YOUTH LAW CENTER ON BEHALF OF DEFENDANT AND APPELLANT, GREG F.

by U.S. mail. I placed a true copy of the above-named document in sealed envelopes, with postage fully prepaid, on the date of execution of this declaration in the City and County of San Francisco, addressed as follows:

Lisa M. Romo
Attorney at Law
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Attn: Hon. Raima Ballinger

G.F. (Appellant)
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455 Golden Gate, Suite 11000
San Francisco, CA 94102-7004

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

Executed on November 17th, 2011 at San Francisco, California.

Robin Bishop