
***JUVENILE JUSTICE REFORM:
REALIGNING RESPONSIBILITIES***



LITTLE HOOVER COMMISSION

July 2008



State of California

LITTLE HOOVER COMMISSION

July 14, 2008

The Honorable Arnold Schwarzenegger
Governor of California

The Honorable Don Perata
President pro Tempore of the Senate
and members of the Senate

The Honorable Dave Cogdill
Senate Minority Leader

The Honorable Karen Bass
Speaker of the Assembly
and members of the Assembly

The Honorable Michael Villines
Assembly Minority Leader

Dear Governor and Members of the Legislature:

In shifting responsibility to the counties for hundreds of California's youth offenders, the state recognized that its juvenile justice system cannot be reformed without radical change.

Though prompted by cost concerns, the realignment of responsibilities to the counties was the right policy move, one previously recommended by this Commission and others. Many counties have demonstrated that they can provide programs and treatment to youth offenders who need to turn their lives around in settings that allow them to reintegrate more successfully into their communities.

Once realignment is complete, the number of youth offenders in state hands will shrink to fewer than 1,500. The annual cost of providing services to each ward, however, next year will rise to \$252,000. This startling figure reflects the overhead expenses of a system built to serve a far larger population, the cost of reforms required under a court-supervised consent decree and the complex needs of these seriously troubled youth. Californians may fairly ask what they are getting for this outlay and whether other strategies can better deliver public safety and youth rehabilitation.

The state has made slow, yet undeniable, progress. Still, advocates for youth offenders, frustrated by the pace of reform, have asked a court to place the juvenile justice system in receivership.

Whatever the court's decision, the state's costs per ward likely will increase as juvenile programming and treatment services are expanded and its crumbling facilities continue to age. The state's master plan for renovating or replacing its juvenile facilities, promised to legislators, is long overdue. The delay may mean that the cost of bringing California's facilities in line with current programming requirements or replacing them is unaffordable, particularly in light of the current budget deficit.

The prospect of ever-higher outlays for an ever-smaller juvenile population in state custody should prompt policy-makers to extend realignment to completion. The Commission recommends that the state begin planning now to ultimately eliminate its juvenile justice operations and create regional rehabilitative facilities for high-risk, high-need offenders to be leased to and run by the counties.

Juvenile justice operations and policy should be moved from the Department of Corrections and Rehabilitation and placed in a separate Office of Juvenile Justice that reports to the governor's office. This office should combine and consolidate the juvenile justice divisions currently under the chief deputy secretary of juvenile justice as well as the juvenile offender grant administration and oversight currently under the Corrections Standards Authority. Consolidating these activities into

one office will fill gaps that exist despite the multiple agencies and committees charged with pieces of juvenile justice policy and oversight.

Establishing an Office of Juvenile Justice does more than streamline and consolidate overlapping functions; it establishes an office to lead statewide juvenile justice efforts, to ensure that a continuum of proven responses to juvenile crime are available throughout California. The state has long lacked a strong leadership structure for juvenile justice, and the realignment legislation failed to assign a single entity to be accountable for state operations and for how counties use state funds. The realignment legislation did temporarily reconstitute the State Commission on Juvenile Justice, though the jury is still out on what role it can play in providing leadership or oversight. The Legislature should extend the commission's life another year.

Through the new office, the state can provide real value through consistent leadership, technical advice and guidance to help counties implement and expand evidence-based programs for juvenile offenders. This office should conduct research and analysis on best practices and share them with counties. It should coordinate with other state agencies that provide youth services and provide counties with guidance on how to best leverage funding sources.

In addition to consolidating juvenile justice functions into an Office of Juvenile Justice, the Legislature should consolidate the major grant programs that provide funding for juvenile offenders, including the new funding that the state agreed to provide counties through the realignment, into a dedicated, annual allocation. Additionally, policy-makers should fix flaws in the realignment plan to prevent counties from using their realignment funds to supplant existing funding and to require counties to report annually outcomes for how they spent state money. Using staff and resources shifted from the Corrections Standards Authority, the office should oversee and analyze county outcomes for programs and services funded by the state and provide an annual report to the governor and the Legislature. Unaddressed, these flaws could undermine counties' ability to make the most of this opportunity.

Without question, realignment will be a major challenge for many counties, especially those which previously had not invested in juvenile offenders programs and treatment services. Early indications suggest that counties are embracing the change, one made easier by the state's commitment to help fund the higher level of services required by this more complex group of offenders.

It is essential that this realignment succeeds. It can, with the help and leadership of a separate, streamlined Office of Juvenile Justice.

The governor and the Legislature now must weigh their options for the juvenile justice operations that will remain in state hands. Reforming the state system to meet the terms of the consent decree may prove unaffordable. Failing to speed reforms may increase the likelihood of a court receivership, incurring political costs that are unacceptable. The realignment is a start in the right direction on a path that ultimately leads to the state closing or transferring its juvenile facilities. Faced with options that may be unaffordable or unacceptable, it is the path the state must take.

Sincerely,



Daniel W. Hancock
Chairman

Commissioner Eloise Anderson voted in favor of the report but disagrees with the recommendation to establish an Office of Juvenile Justice reporting to the Office of the Governor, favoring instead that a Department of Juvenile Justice be established within the Health & Human Services Agency.

JUVENILE JUSTICE REFORM: REALIGNING RESPONSIBILITIES

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Executive Summary

Each year California spends nearly a billion dollars on its juvenile justice system. More than half of that amount is spent confining less than 2,000 youth offenders in state facilities. The remainder helps fund programs and services for nearly 100,000 youth supervised at the local level.¹

Spending half a billion dollars annually on such a small number of youth in state facilities is a choice the state has made. It is a sizeable investment, next year more than \$250,000 for each youth offender in confinement.² As Californians see policy-makers choose to cut budgets for higher education, health care and services for the rest of the population, they deserve an accounting for their return on this investment. They are not getting improved public safety – three out of four youth who leave state facilities commit a new crime within three years of their release.³

To a large degree, this state and its taxpayers are paying now for choices made earlier – to forego investment in adequate facilities and programs and to allow a juvenile correctional culture to develop that elevated punishment over rehabilitation.

Unsafe conditions and illegal practices in state juvenile facilities led advocates for youth offenders to file the Farrell lawsuit in 2003. In response to the litigation, the state hired experts to assess state juvenile justice operations in 2003. The experts found a system plagued by unprecedented violence and pervasive lockdowns that prevented education and counseling programs, with some youth offenders locked up 23 hours per day.⁴ In November 2004, the state entered into a consent decree in which it agreed to embark on significant reforms.⁵ The state's attempt to comply with the consent decree is a substantial driver of the rising costs. Yet nearly four years and hundreds of millions of dollars later, the state still is struggling to implement the required reforms. Though conditions have improved, the plaintiffs in the Farrell case have asked a state superior court to appoint a receiver to oversee the implementation of the agreed-upon reforms.

Realizing the state could not afford to comply with the Farrell consent decree, in 2007, policy-makers acted to reduce the number of youth offenders housed in state facilities by enacting realignment legislation

which shifted responsibility to the counties for all but the most serious youth offenders. This major step had long been recommended by youth advocates and experts, and by this Commission in 1994 and 2005, as many counties had demonstrated they were more effective and efficient in managing and rehabilitating youth offenders. As part of the realignment, the state made the historic commitment to provide counties with the money to pay for the programs and services for the shifted population.

The Commission took the opportunity to evaluate the realignment as it unfolded with the goal of making recommendations on areas in which the state could improve. This study focused on two key areas of California's juvenile justice system:

- ✓ Implementation of the realignment and what it will take to be successful and efficient.
- ✓ Effective management of the small number of youth offenders who, under the realignment legislation, will remain at the state level.

Most involved with the realignment agree that so far the process appears successful and marks an important first step in improving California's juvenile justice system, though many point to areas that require attention. In particular, while the state is giving an increasing portion of its juvenile justice budget to counties, it is not providing leadership or oversight to ensure this money is spent well or that outcomes are monitored and measured.

Juvenile justice represents a very small part – less than 10 percent by budget – of the Department of Corrections and Rehabilitation, an agency whose focus is dominated by its adult correctional operations.⁶ The agency currently is grappling with the substantial challenges of prison overcrowding and related federal litigation as well as a costly federal court receivership of its medical system. It is unrealistic to believe the agency's juvenile division will be able to get the attention it requires. The state must do what is necessary to avoid a costly court receivership of its juvenile operations. At the same time, it is untenable to continue to invest money into a system that has failed for many years and, despite recent signs of progress, will take many more years to fully turn around.

Looking forward, the state must plan to take the process to its logical conclusion – turning supervision of all youth offenders over to counties and providing the resources for counties and county consortiums to supervise the most serious youth offenders. This report provides a long-term vision for an effective, efficient and sustainable statewide juvenile justice system. In it, counties take the biggest role. The counties have

proven more adept at juvenile justice, and given time to develop or contract for programs and rehabilitation facilities and with dedicated funding, the counties could rescue the state from the grip of a fiscal and legal vice.

Realignment Leadership and Oversight

Through the 2007 realignment legislation, the state has transferred the responsibility to the counties for all but the most serious youth offenders, saving millions of dollars. The counties have long supervised the vast majority of youth involved in the juvenile justice system, but up until the realignment, they had flexibility in choosing which offenders they sent to state facilities. Under the realignment, the state has codified which offenders can be sent to the state. The realignment also dedicated new funding from the savings to counties to establish and expand programs and services for the shifted youth offender population.

Through this historic policy change, policy-makers could have, but chose not to create or designate an existing government department or committee to lead and oversee the realignment to ensure that a continuum of effective juvenile justice responses is available statewide. Policy-makers opted instead for a “hands off” approach. They tasked the Corrections Standards Authority (CSA) with administering two new grant programs:

- ✓ The Youthful Offender Block Grant, which provides annual funding to counties to expand programs and services for youth offenders.
- ✓ The Youthful Offender Rehabilitative Facilities Construction grant program, which provides up to \$100 million for counties to expand facilities for youth offenders.

Lawmakers gave the CSA a very limited oversight role.

As part of the realignment, lawmakers also revived the State Commission on Juvenile Justice and gave it responsibility for developing a Juvenile Justice Operational Master Plan by January 2009. This new commission has a short life – it will sunset when the plan is due – and although it appears to be on track with the plan development, it has not yet demonstrated whether it could live up to a broader mission of leadership or oversight. Language within a budget trailer bill to extend the life of the commission an additional year currently is under consideration by the Legislature.

Youth advocates told the Little Hoover Commission that the most serious threat to successful realignment was the lack of a leadership structure at

the state level to guide and oversee the juvenile justice system. Witnesses did not criticize state officials and staff with various state-level roles in juvenile justice, and in fact frequently praised the professionalism and dedication of those involved with the realignment and juvenile justice reforms. Witnesses also were quick to point out that the weak leadership structure was not new. Youth advocates, this Commission and others have identified this unusual structural void numerous times over the past two decades.

Now, the state has reached a critical juncture where it efficiently could establish an office to provide the leadership that has been lacking for so long. And it must do so, given the state's diminishing role in supervising youth offenders and its commitment to provide an increasing amount of taxpayer money to counties to expand their role in juvenile justice. As the state realizes savings from the reduced juvenile offender population under state supervision, it should shrink the state bureaucracy within the various juvenile justice-related entities within the California Department of Corrections and Rehabilitation (CDCR), streamline state-level juvenile justice functions and consolidate resources into a unified Office of Juvenile Justice within the governor's office. A small but focused office should be given the resources and authority to provide leadership and oversight of the state's juvenile justice system. One of its goals should be to ensure that a continuum of effective responses is consistently available statewide.

Witnesses also identified several specific shortcomings in the realignment that present opportunities for the state to bolster its efforts, including:

- ✓ The statutory code created by the realignment does not contain language to prevent counties from supplanting rather than expanding existing spending on programs and services for youth offenders with the new block grant money.
- ✓ Although counties were required to provide a plan to the state identifying how they would use the partial-year grant money provided in 2007-08, no plans are required in the future.
- ✓ Counties are not required to report how the grant money was spent, what outcomes were expected or what success they had in meeting those outcomes. A budget trailer bill that would require counties to provide an annual plan and report outcomes for the new block grant currently is pending in the Legislature.
- ✓ Grant accountability is diluted. The Corrections Standards Authority has limited oversight of the new block grants; the Department of Finance determines the grant amount; and, the State Controller's Office has fiduciary responsibility for the grants.

- ✓ The new block grant adds another funding stream to a mix of state and federal funding sources with overlapping objectives and different reporting requirements.
- ✓ The new block grant initially increased overall state funding for local juvenile offenders, until two existing state-funded grant programs – the Juvenile Justice Crime Prevention Act and the Juvenile Probation and Camps Funding – got caught in the crossfire of broader state budget maneuvering. Another funding piece is a November ballot measure that, if passed, would cement in juvenile offender funding permanently but would leave the state with little control over whether the money is used efficiently or effectively.
- ✓ Recent research has identified gaps in local juvenile offender programs, but the state lacks a way to ensure that the new money will be used to fill those gaps. In the past, significant state and federal grant money was available for juvenile hall construction. In the absence of guidance from the state, some counties overbuilt, resulting in under-utilized facilities, while other counties lack space.
- ✓ Many counties were caught off guard by the swift policy shift and are struggling to implement programs and services quickly for dangerous, severely mentally ill offenders these counties now must serve.

To ensure the success of the realignment, policy-makers should establish a state-level entity to provide leadership and oversight of the realignment effort. Additionally, policy-makers should take steps to address specific identified weaknesses in the realignment. Finally, lawmakers should lengthen the life of the State Commission on Juvenile Justice to give it the opportunity to implement its recommendations that are due in January 2009.

Recommendation 1: To improve public safety and provide statewide leadership on juvenile justice policy, the governor and the Legislature must consolidate programs and services into a streamlined Governor’s Office of Juvenile Justice outside of the California Department of Corrections and Rehabilitation, to develop a strategy for a comprehensive, statewide juvenile justice system that includes a complete and consistent continuum of evidence-based services for youth and to oversee county programs funded by state General Fund allocations. Specifically, the Office of Juvenile Justice should:

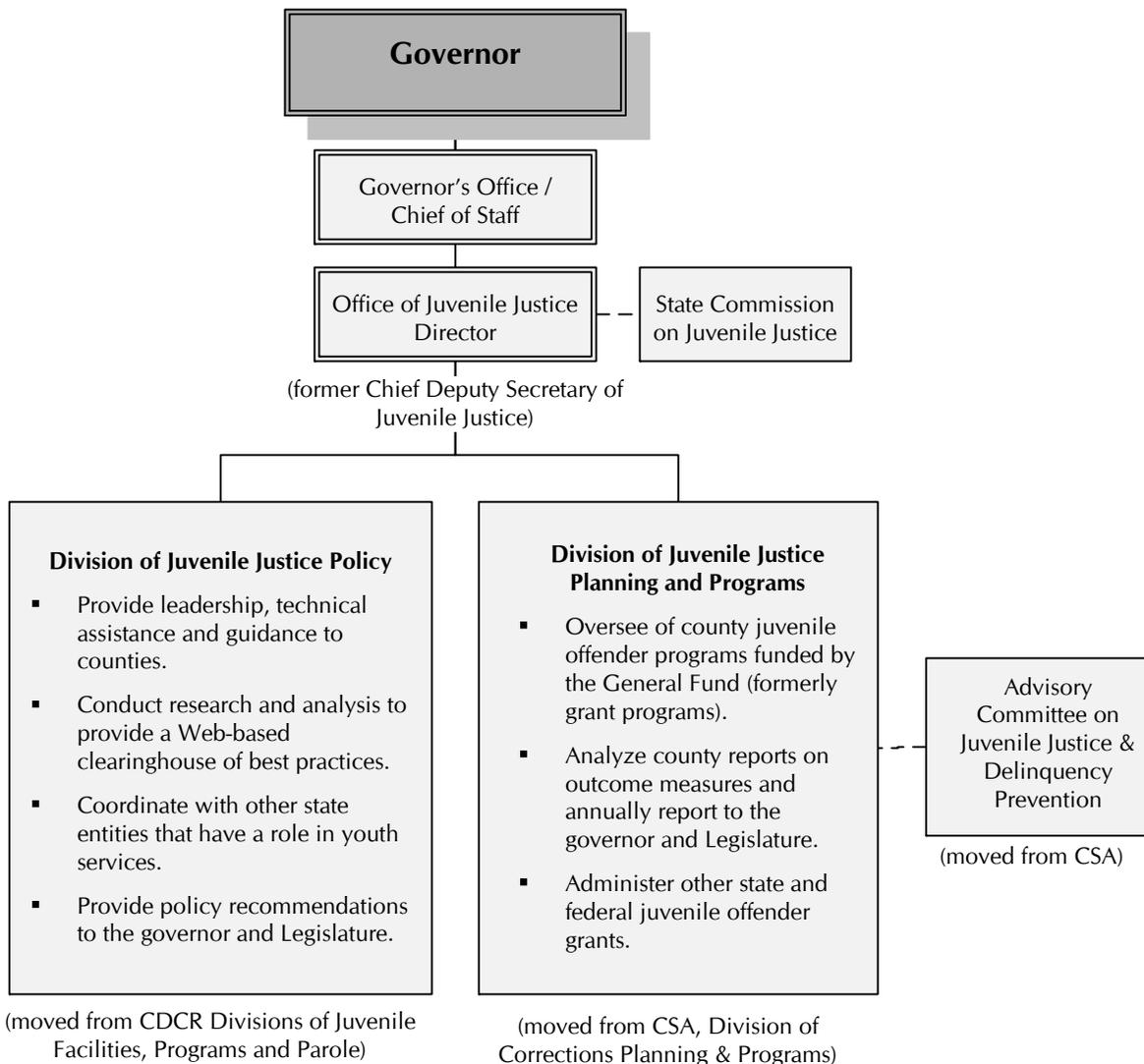
- ❑ Be led by a director, formerly the chief deputy secretary of juvenile justice, who is appointed by the governor and reports directly to the governor’s office.

- ❑ Have two divisions that coordinate and collaborate: the Division of Juvenile Justice Policy and the Division of Juvenile Justice Planning and Programs.
- ❑ Require the Division of Juvenile Justice Policy, consisting of positions shifted from the California Department of Corrections and Rehabilitation, including officials from the Divisions of Juvenile Facilities, Programs and Parole, to:
 - ✓ Provide leadership, technical assistance and guidance to help counties implement and expand evidence-based programs for juvenile offenders to improve outcomes, to set priorities for filling identified gaps and to lead and guide counties in developing regional consortiums and regional juvenile offender facilities.
 - ✓ Conduct research and analysis on best practices and provide a Web-based information clearinghouse.
 - ✓ Coordinate with other state entities that have a role in providing youth services, including the departments of mental health, alcohol and drug programs, social services and education, and provide guidance to counties on opportunities to leverage funding sources.
 - ✓ Provide juvenile justice policy recommendations to the governor and the Legislature.
- ❑ Require the Division of Juvenile Justice Planning and Programs, with positions shifted from the Corrections Standards Authority Planning and Programs Division, to:
 - ✓ Oversee county juvenile offender programs funded through annual state General Fund allocations to ensure that evidence-based programs are implemented.
 - ✓ Oversee and analyze county outcome reports and provide an annual report on juvenile justice performance measures to the governor and the Legislature.
 - ✓ Administer state and federal juvenile offender grants.
 - ✓ Be advised by the Advisory Committee on Juvenile Justice & Delinquency Prevention as federally required for the federal juvenile offender grants, shifted from the Corrections Standards Authority to the Governor's Office of Juvenile Justice.
- ❑ The new office should develop, in connection with the Corrections Standards Authority, standards and enforcement mechanisms to guide the transfer of the juvenile offender population to county and regional facilities.

Recommendation 2: To ensure the success of juvenile justice realignment, the governor and the Legislature must bolster the accountability and oversight of the Youthful Offender Block Grant by consolidating it with the Juvenile Justice Crime Prevention Act funding and the Juvenile Probation and Camps Funding program into one dedicated funding stream for local juvenile justice programs and services. Specifically, they must:

- ❑ Consolidate the state’s three major juvenile offender grant programs, using existing formulas, into one stable annually dedicated General Fund allocation tied to performance-based outcomes overseen by the Governor’s Office of Juvenile Justice.
- ❑ Require counties to provide an annual outcome report and streamline reporting requirements to match the outcomes currently required by the Juvenile Justice Crime Prevention Act.
- ❑ Strengthen the statutory code to prevent counties from supplanting juvenile offender funding.

Commission’s Proposed Organizational Structure for an Office of Juvenile Justice



Recommendation 3: The governor and the Legislature should extend the sunset of the State Commission on Juvenile Justice until January 2010 and charge it with assisting counties in implementing the recommendations in its master plan and providing oversight of the realignment process. The commission should:

- ❑ Serve as an advisory body to the Governor's Office of Juvenile Justice.
- ❑ Develop training and technical assistance for counties to assist in the implementation of the recommendations in the Juvenile Justice Operational Master Plan and report on progress implementing the recommendations in January 2010.
- ❑ Develop recommendations to improve and expand data elements reported to the California Department of Justice Juvenile Court and Probation Statistical System.

Juvenile Offenders Remaining at the State Level

State policy shifts and the overall reduction in youth crime in California have led to a significant reduction in the number of youth supervised in state facilities and on state parole. Despite the significant reduction in the state-supervised youth population, costs have continued to climb. The state spent \$344 million on youth offenders in state facilities in 1996, when the population peaked at 10,000 wards. In 2008, California will spend an estimated \$554 million on a population a fifth the size of the 1996 population.⁷ That amount includes an allocation for nearly 4,000 positions in 2008-09 to manage operations and supervise the nearly 2,000 youth offenders in state facilities and approximately 2,300 youth on state parole.⁸

Costs of implementing reforms the state agreed to in the Farrell consent decree are one reason the spending for juvenile offenders has risen. The state agreed to a major overhaul in six areas: education, medical treatment, access for wards with disabilities, sex offender treatment, mental health treatment and overall safety and welfare.

The reduction in the number of youth in state facilities coupled with a significant boost in spending to meet the requirements of the consent decree equates to more than a quarter million dollars spent each year for each youth in state custody. Plaintiffs in the Farrell lawsuit say that despite the increased spending and the commitment to reform by top officials in the state's juvenile justice divisions, there has been little progress. Some of the youth facilities have experienced a reduction in violence as well as other improvements, including an increasing number of youth attending and graduating from high school and other measurable outcomes, though overarching reforms to the entire system

have not occurred consistently. The plaintiffs have asked the court to appoint a receiver to take over implementation of the required reforms.

When the Commission reviewed the governor's plan to reorganize the Youth and Adult Corrections Agency into the California Department of Corrections and Rehabilitation in 2005, youth offender advocates warned that placing what was then the fairly autonomous California Youth Authority under the larger corrections organization would be detrimental to implementing the necessary reforms. In a combined system, the attention would be focused mainly on the department's 170,000 adult offenders. In testimony for this study, these advocates told the Commission that the reorganization has in fact impeded progress as they predicted.

Witnesses have said that Bernard Warner, the chief deputy secretary of juvenile justice, who was appointed shortly after the reorganization, and his staff are committed to implementing the agreed upon reforms. But the 2005 reorganization blunted their early efforts and since then, they have only made as much progress as the system would allow. The realignment further complicated the situation, despite its positive overall impact, by significantly reducing the previously projected juvenile offender population, requiring new plans for consolidation and speeding the closure of some of the state's out-dated juvenile facilities.

Seven of the state's eight juvenile facilities were built 40 or more years ago. The state's newest facility, built in 1991, was designed more like a mini-prison than the modern rehabilitative model structures that other states have designed and built successfully. The Legislative Analyst and the CDCR have written that the existing facilities are physically obsolete and are not designed to meet the rehabilitative needs of the current population of youth offenders.⁹ Building new facilities or adapting existing structures is likely to be prohibitively expensive.

Given the shrinking youth offender population, the state's dismal track record in providing effective rehabilitative programs, the costs of responding to the Farrell lawsuit and California's crumbling juvenile facilities, the state should continue the process started with the 2007 realignment and embark on a path to turn all youth offender supervision over to the counties.

This recommendation is by no means a reflection of the efforts of the dedicated and professional staff working hard to comply with the courts and bring about long-overdue reform. Under difficult circumstances, signs of progress are beginning to emerge. Unfortunately, compliance and reform come at a price that the state cannot afford to pay.

Other states have decentralized youth corrections, improving public safety and programs and services for youth offenders, and did so at a much lower cost. Missouri – often cited as a successful example of decentralization – shifted from a punitive system with two central facilities to a regionally-based rehabilitative approach with 42 facilities spread across the state. The annual cost per bed is about \$47,000, or one-fifth what California spends.¹⁰

Missouri and other states can provide models for how decentralized youth corrections should look and function, though any attempt to do so should recognize that California is one of just two states where local government is the primary source of probation funding.¹¹ Additionally, two small groups of youth offenders in state facilities – those beyond age 21 and those who will transfer to adult prison with long or life sentences – would require policy-makers to review and possibly revise state jurisdictional policies for youth offenders.

County probation departments are in no position to immediately take on the remaining serious, violent and older youth offender population, as they are still adjusting to the abrupt implementation of the 2007 realignment legislation as well as the uncertainty of state funding given California's estimated \$15 billion deficit for 2008-09.¹² Counties could, however, take on this responsibility, given time and resources to plan, develop and contract for programs; adequate time to establish regionally-based facilities; and, given a dedicated source of money to pay for these programs and facilities.

The Commission has recommended that the state establish a Governor's Office of Juvenile Justice to provide leadership and oversight of the state's juvenile justice system to improve public safety and to ensure the success of the realignment. The current leadership of the state's divisions of juvenile facilities, programs and parole should be consolidated and transferred into this new office. The new office should be outside the organizational structure of the CDCR and should guide and oversee the development of joint state-local juvenile justice strategies. These strategies should include multi-county consortiums and build-lease arrangements for regional facilities. Simultaneously, the state should develop and implement a plan to close all existing state-run juvenile facilities and eliminate all state supervision of youth offenders.

Recommendation 4: The state should eliminate its juvenile justice operations by 2011. As previously described, the governor and the Legislature must consolidate all programs and services for juvenile offenders into a Governor’s Office of Juvenile Justice. In addition to the responsibilities described previously, the office should:

- ❑ Guide, facilitate and oversee the development of new regional rehabilitative facilities or the conversion of existing state juvenile facilities into regional rehabilitative facilities for high-risk, high-need offenders to be leased to and run by the counties.
- ❑ Provide counties with sustained, dedicated funding to establish programs and services for regional facilities.
- ❑ As regional facilities become fully operational, the state should:
 - ✓ Eliminate state juvenile justice operations, including facilities, programs and parole and the Youthful Offender Parole Board. All juvenile offender release decisions should be made by presiding juvenile court judges.
 - ✓ Provide guidance and oversight of the regional juvenile facilities and administer dedicated funding to counties to manage the regional juvenile offender programs and services tied to performance-based outcomes.

Juvenile Justice in California

On any given day, more than 100,000 youth are under some form of supervision in the juvenile justice system in California.¹³ Responses to juvenile crime in California are divided between state and local governments, with county probation carrying the heaviest workload, supervising more than 95 percent of all youth that enter the juvenile justice system. The state supervises a smaller, but much more serious, violent and older juvenile offender population.¹⁴

Youth follow varied paths into the juvenile justice system. Most are under 18 years old, have committed a misdemeanor or felony crime and have been arrested by local law enforcement. The continuum of responses to juvenile crime includes everything from releasing a youth to family to informal or formal probation; placement in a group home or residential treatment facility; confinement in a juvenile camp or ranch; or, in more serious and violent cases, commitment to a state juvenile facility. Additionally, for the most serious cases, charges can be filed in an adult court, which could lead to a prison sentence.

Generally, law enforcement and probation have more flexibility in determining responses for lower level felony and misdemeanor offenses as well as status offenses. “Status offenses,” or activities that are considered an offense because the offender is a minor, include truancy, running away from home, curfew violations and incorrigibility.¹⁵ Youth committing status offenses most likely receive intervention services that do not lead to an out-of-home placement immediately.

At the other end of the spectrum, responses to the most serious and violent offenses are dictated more specifically by laws. Proposition 21: The Juvenile Crime Initiative, passed with the support of 62 percent of voters in 2000, requires an adult trial for juveniles 14 or older who are charged with murder or specific sex offenses. Additionally, the law gives prosecutors the option to move a juvenile case to adult court for certain other serious crimes, an action often referred to as a “direct file.” For lower level crimes not covered by Proposition 21, prosecutors can request a fitness hearing to determine whether a youth offender should be tried in juvenile or adult court with a judge making the decision.

Of all the youth referred to probation in recent years, less than one-third become a ward of the court. Of these, more than half are supervised on

probation but are placed in their own home or with a relative. Most of the rest are committed by the court to a county facility, with a small fraction committed to a state facility.¹⁶

Continuum of Responses to Youth Crime

A continuum of graduated responses to juvenile crime is not uniformly available statewide. The most common county-level intervention is community supervision. This typically is prescribed for lower-level offenses when the home environment is fairly stable. It may include participation in short-term programs or counseling, community service or restitution or regular probation supervision. More serious youth offenders may be placed on intensive supervision, which may include day reporting or day treatment, participation in drug or mental health courts, house arrest or short-term detention.

Rise and Fall of California Juvenile Justice

California once was the national model for juvenile justice. The Legislature adopted the Youth Corrections Authority Act in 1941, essentially creating what was until recently known as the California Youth Authority (CYA). Lawmakers at the time recognized that youth offenders were different from adult offenders and should be housed separately. Youth corrections put the emphasis on education and rehabilitation. From the 1940s to the 1970s, the authority rose to national prominence for its programs, research and effectiveness in helping youth offenders turn their lives around. During this period, the CYA was led by three directors. Multiple factors together with the cumulative impact of many isolated decisions since the 1970s, led to a dramatic decline in the state's juvenile justice system, culminating in a 2003 lawsuit alleging illegal and inhumane conditions.

Where leadership once had been stable, turnover became the rule. Since 1976, there have been a dozen directors – six during the 1990s – many with backgrounds in local law enforcement or state bureaucracy, not rehabilitation of juvenile offenders. Outside factors influenced the CYA decline as well. The 1990s gave rise to the criminalization of what once was considered youthful misbehavior. Influential experts coined such terms as “super-predators” and predicted a new breed of “severely morally impoverished” youth would flood the country as the teenage population grew rapidly.

Despite the hysteria, and the new laws that came with it adding stiffer penalties for a broad range of youthful misconduct, the youth crime wave never materialized and juvenile arrests decreased dramatically. Yet, 47 states passed laws making it easier to try children as adults, resulting in harsher, more punitive outcomes. In California, voters adopted Proposition 21 in 2000, which made prosecution of youth as young as 14 in an adult court mandatory for certain offenses and gave prosecutors the flexibility to directly file charges in adult court against juvenile offenders for other specified crimes. Within the CYA, some subtle and not-so-subtle changes occurred, with correctional officers – who once wore civilian clothing – now uniformed and armed with pepper spray and tear gas. The focus moved toward custody and use of force to control wards, and away from education and rehabilitative programs. Conditions inside state facilities deteriorated and were marked by unprecedented levels of violence and lengthy facility lockdowns leading to suicides as youth were confined to their cells 23-hours a day, for months at a time. Youth considered dangerous were caged for educational programs.

As judges became aware of the deplorable conditions, they committed fewer youth to state facilities. Pressured by lawsuits and reports from its own experts, the state acknowledged the need to reform and re-emphasize rehabilitation. Reforms, stipulated in a consent decree, are now slowly being implemented.

Sources: Barry Krisberg, Ph.D., President, National Council of Crime & Delinquency. October 22-23, 2007. “Current State of California’s Youth Corrections.” Presentation at Critical Juncture – Innovative Solutions for Addressing the Impact of Youth and Adult Incarceration in Our Communities.” Also, Barry Krisberg, Ph.D., December 23, 2003. General Corrections Review of the California Youth Authority. Also, CDCR Web site: About the DJJ – History. [http://www.cdcr.ca.gov/Divisions Boards/DJJ/About DJJ/History.html](http://www.cdcr.ca.gov/Divisions%20Boards/DJJ/About%20DJJ/History.html). Also, John J. Dilulio. November 27, 1995. “The Coming of the Super-Predators.” The Weekly Standard.

For youth offenders who pose a greater risk, present a higher need for services or who have failed with less intensive supervision, a judge may order placement outside the home. Community-based placement includes foster care or group homes and unlocked facilities that provide such services as mental health or substance abuse treatment. Nearly half of all California counties have camps or ranches for more serious juvenile offenders that provide educational and vocational programs

Involvement in State & Local Juvenile Justice Interventions

Interventions	Youth Offenders Involved	Statewide Proportions (Percent of Total Count)
PROBATION SUPERVISION		
Early Intervention	14,207	13.1%
Regular	57,210	52.8%
Intensive	9,861	9.1%
Aftercare	7,298	6.7%
OUT-OF-HOME PLACEMENT		
All Placement	3,977	3.7%
<i>Foster Care</i>	(408)	
<i>Group Homes – RCL 11 or less</i>	(1,389)	
<i>Group Homes – RCL 12 or more</i>	(2,110)	
COUNTY DETENTION		
All Detention	6,375	5.9%
<i>Pre-disposition</i>	(4,051)	
<i>Ordered Confinement</i>	(853)	
<i>Post-disposition</i>	(1,267)	
Camps, Ranches, Other Residential	3,991	3.7%
STATE LEVEL		
Juvenile Facilities	2,390	2.2%
Juvenile Parole Supervision	2,708	2.5%
YOUTH IN ADULT SYSTEM		
Adult Prison / INS / Other	315	0.3%
TOTAL COUNT	108,332	100.0%

Note: The data in this table capture a point-in-time count of California’s juvenile justice population based on surveys distributed from April through October 2006. Involvement in the various levels, particularly at the state level, may have diminished due to the changes introduced in SB 81. Group home rate classification levels, or RCLs, are used to rate all group homes based on a 14-point scale that compares the level of care and services they provide. The higher the level of serves needed, the higher the RCL score.

Sources: Karen Hennigan, et. al, University of Southern California Center for Research on Crime. April 18, 2007. “Juvenile Justice Data Project: Summary Report.” Los Angeles, CA. Pages 8-9 and 36. Also, California Department of Social Services. “Overview of the Group Home Rate Classification Levels.” <http://www.childsworld.ca.gov/Res/pdf/OverviewClassificationLvls.pdf>. Accessed June 19, 2008.

often in a rural setting. Counties that do not operate camps or ranches can contract for bed space from counties that have these facilities and programs. Solano and Colusa counties, for example, operate the Fouts Springs Youth Facility under a joint powers agreement, which not only provides educational and vocational programs in a rural camp setting for youth offenders from those counties but also for youth from neighboring counties that contract for bed space.¹⁷

All but a few counties in California operate juvenile halls, which are designed for short-term stays, typically for pre-disposition youth or post-disposition youth awaiting placement in a camp, ranch or group home. Additionally, judges sometimes order short-term or weekend-only confinement in a juvenile hall as a sanction. Juvenile halls provide educational services but are not designed for long-term commitments and often lack adequate counseling, mental health or drug treatment programs.

The most extreme response to youth crime is a commitment to a state facility. Youth sent to state facilities are the most serious and violent offenders as well as those with high needs – such as severe mental health issues – that counties cannot serve. Until the 2007 realignment legislation was enacted, lower-level offenders who either had failed locally based, less restrictive programs or came from counties that did not have a broad continuum of responses also were sent to the state.

Shift in State Juvenile Offender Population

The youth offender population in state facilities has fallen 80 percent to less than 2,000 from more than 10,000 youth in 1996 as a result of policy changes, an overall decline in youth crime rates as well as a growing body of evidence that revealed that state facilities were overly violent and not adequately providing legally required educational and rehabilitative services.¹⁸

Policy changes. In an effort to discourage counties from sending the state low-level, non-violent offenders, in 1996, the Legislature changed state policy by raising the cost to counties to send offenders to state facilities. Previously, counties paid the state \$25 a month for each youth sent to a state facility. The 1996 law raised the monthly fee to \$150 for the most serious offenders and implemented an inverse sliding scale for the others, requiring counties to pay from 50 to 100 percent of the actual cost of confinement, the higher fees assigned to the least serious offenders.¹⁹ In July 2003, the Legislature raised the minimum monthly fee to \$176 and set the maximum annual cost at \$36,504 for the least serious offenders. Future increases in costs were tied to increases in the

California Consumer Price Index.²⁰ Additionally, as a means of counterbalancing the expanded punitive measures implemented through Proposition 21, state lawmakers enacted the Schiff-Cardenas Crime Prevention Act of 2000, later renamed the Juvenile Justice Crime Prevention Act, which provided a significant boost in money for county probation departments to expand and enhance juvenile crime prevention and intervention tactics to further reduce commitments to state facilities.²¹

Declining arrests. Another major factor contributing to the decline in the youth offender population has been the overall decrease in juvenile arrests. From 1997 to 2006, youth felony arrests fell 21 percent in California to 65,189 from 82,748. The decline has been steady since the late 1990s, though the past few years have seen a slight increase in juvenile arrests. However, even with the increase, arrests are still significantly lower than a decade ago even as the state's overall population of youth ages 10-17 swelled to 4.5 million from 3.8 million. The percentage of felony arrests for violent offenses has remained stable over this time period, at a rate of 26 percent of all juvenile felony arrests. Property offenses, on the other hand, have declined to 39 percent of all juvenile felony offenses from 51 percent.²²

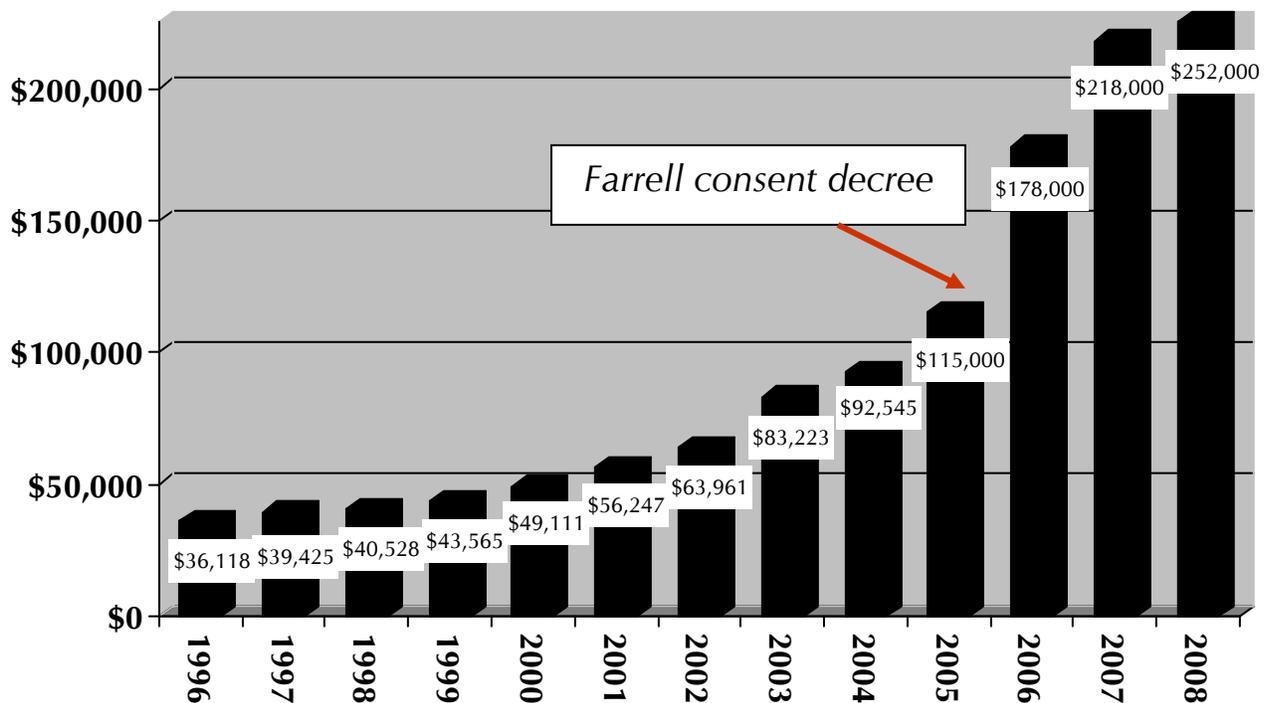
The Farrell Lawsuit and the Fiscal Effect of Compliance

In 2003, the Prison Law Office filed a lawsuit on behalf of Margaret Farrell alleging that the state's treatment of youth offenders was illegal and inhumane. The lawsuit alleged violations in six areas: education, medical treatment, access for wards with disabilities, sex offender treatment, mental health treatment and overall safety and welfare. The California attorney general responded to the allegations by hiring independent experts to investigate. The experts found unprecedented levels of violence, substantial use of force by correctional officers against wards and a lack of educational and counseling programs. In some instances, youth offenders were locked up 23 hours a day for months at a time.²³ As juvenile court judges became aware of the deplorable conditions, they sent fewer youth offenders to state facilities. In response to the lawsuit and the experts' findings, in November 2004, state officials signed a consent decree agreeing to reform what was then called the California Youth Authority to bring its practices into compliance with state and federal laws.

As part of the Farrell consent decree, the state agreed to oversight by a court-appointed special master and to develop remedial plans to address the six problem areas. The state's plans outlined hundreds of steps to reduce the culture of violence in the state facilities, to significantly expand programs and to increase staff to ward ratios. Although plaintiffs

in the Farrell lawsuit alleged the state “has demonstrated a long-standing, severe and damaging inability to comply with court orders,” the state has continued to expand programs and staff, increasing the budget for youth offender programs and services, even as the population of youth offenders continues to decline.²⁴ By the time lawmakers were negotiating the 2007-08 budget, the annual costs for each ward in a state facility had soared to \$218,000.²⁵ As the youth population continues to fall, costs per ward for 2008-09 are projected to rise to \$252,000.²⁶ The escalating costs significantly influenced policy-makers’ decision to enact the realignment as part of 2007’s summer budget negotiations. According to advocates involved with negotiating the realignment, lawmakers concluded California could not afford to comply with the Farrell consent decree and took steps to cut the population at the state level in an attempt to contain and reduce the escalating costs.

**California Division of Juvenile Facilities
Institutional Cost per Ward per Year: 1996 – 2008**



Sources: David Steinhart, Director, Commonweal Juvenile Justice Program. October 26, 2007. Conference presentation. Juvenile Justice Reform: Forty Years After Gault. Berkeley Law School Criminal Justice Center. Also, the 2008 figures are based on projections from the Governor’s Budget 2008-09, January 2008.

Realignment Legislation

The decline in the state youth population culminated with the August 2007 passage of juvenile justice realignment legislation through a budget

trailer bill, SB 81, and a subsequent clean-up bill, AB 191. This codified a historic policy reform that had been advocated for years by experts and oversight panels, including the Little Hoover Commission. SB 81 prevents counties from sending all but the most serious and violent offenders and certain classes of sex offenders to the state, and at the same time, provides grant money for counties to use for programs and services for youth that no longer can be sent to the state.

SB 81 prohibits counties from committing youth offenders to the state for any offense not listed in Welfare and Institutions Code section 707(b) – the list of serious crimes that make youth eligible for trial in the adult system or for sex offenses listed in Penal Code section 290 (d)(3).²⁷ Additionally, the bill established the Youthful Offender Block Grant Program to provide counties with money for programs and placement for youth who will no longer be committed to state corrections facilities.

Under SB 81, county probation departments became responsible for non 707(b) youth offenders released from state facilities after September 1, 2007. Another change: non 707(b) youth offenders under state parole supervision prior to September 1, 2007 who violate a condition of parole cannot be returned to a state facility and instead are turned over to county probation officials.

Counties also have the option of recalling youths on an individual basis from state facilities who were not committed under a 707(b) offense. As of May 2008, six counties had recalled a total of 14 youth offenders and 370 youth offenders were eligible for recall.²⁸

Youthful Offender Block Grant

The Youthful Offender Block Grant (YOBG) provides money to counties to “enhance the capacity of county probation, mental health, drug and alcohol, and other county departments to provide appropriate rehabilitative and supervision services” for the youthful offenders who become the responsibility of the county under SB 81.²⁹

707(b) Offenses Defined

SB 81, the realignment legislation, prevents counties from sending youth offenders to a state facility unless they have committed an offense listed in section 707(b) of the California Welfare & Institutions Code. AB 191, which further clarified SB 81, added sex offenses in Penal Code 290 (d)(3) to the list of offenses that counties could commit a youth offender to a state facility. In general, 707(b) offenses are the most serious and violent offenses, including murder, rape, kidnapping, serious assaults, robbery, armed carjacking, drive-by shootings and arson. A complete list of all the offenses that can lead to commitment to a state juvenile facility is included as Appendix B.

While a significant portion of wards sent to state facilities prior to realignment had committed 707(b) offenses, nearly 20 percent of the current ward population committed non 707(b) offenses, primarily burglary or theft, auto theft or drug crimes.

Sources: California Welfare and Institutions Code Sections 707 (b), 731 and 1731.5. Penal Code Section 290(d)(3). Penal Code Section 290(d)(3) was deleted by Senate Bill 172 (2007). Crimes listed in former Penal Code 290(d)(3) are now listed in Penal Code Section 290.008(c). Also, California Department of Corrections and Rehabilitation, Division of Juvenile Justice. September 2007. “Characteristics of Population.”

The state released approximately \$23 million to county supervisors in September 2007 for the 2007-08 fiscal year. The grants will grow to \$93 million by 2010-11 as the number of youth under county supervision grows and the population remaining in state facilities continues to decline.³⁰

The total state grant amount is calculated by the Department of Finance, which determines the average daily state ward and parole violator population who, if not for the 2007 law, would have been in a state facility. This average daily population is multiplied by \$117,000. The total state grant amount also includes the average daily population of wards released to county supervision who previously would have been supervised by state parole staff. This average daily population is multiplied by \$15,000. Out of this grant amount, counties are allocated money by formula, with 50 percent of the award based on the total county population of juveniles aged 10 to 17. The remaining 50 percent is based on the number of felony juvenile court dispositions reported to the Department of Justice in the prior year. All counties receive a minimum of \$58,500.³¹ Relief from the sliding scale fees adds additional value for counties.

The grant formula was devised so that counties such as Orange, San Luis Obispo, Santa Cruz, San Francisco and others that previously had opted to send fewer offenders to state facilities would not be penalized for their earlier efforts to expand local services.³²

Juvenile Justice Development Plans

The realignment legislation required counties to submit a Juvenile Justice Development Plan for youthful offenders to the Corrections Standards Authority (CSA) by January 1, 2008. By statute, each plan had to include three elements:

- ✓ A description of the programs, placements, services or strategies to be funded by the Youthful Offender Block Grant allocation.
- ✓ A description of any regional agreements or arrangements to be supported by the block grant allocation.
- ✓ A description of how these new programs would coordinate with Juvenile Justice Crime Prevention Act (JJCPA) block grant funding.³³

The CSA developed a grant application to standardize how counties reported their plans. Counties were asked to specify, in both a narrative and budgetary form, how they would spend the YOBG money for each of seven possible uses identified in SB 81. The application also provided an

option for counties to describe if and how they would use the grant money for programs or services outside the scope of the options listed in the legislation.

The county plans are as diverse as the counties themselves. In general, larger counties spread the money across a number of the use categories, while smaller counties focused spending on fewer categories. A significant number of counties are using the grant money to implement risk and needs assessment tools.

While witnesses who testified before the Commission indicated that there was a significant need for regional partnerships, only nine of the 58 counties indicated that they plan to use YOBG funds to establish or enhance joint ventures for programs and placements. A number of counties lack juvenile detention or commitment facilities. Instead of building a local commitment facility, these counties have opted to enhance existing regional partnerships. Many counties lack services and programs to treat older and potentially more violent returnees. Some of these counties plan to lease additional bed space from partner counties, while others said they planned to form new partnerships to fill the gaps.

Nearly half of the counties have indicated that, in addition to spending in the seven categories identified in SB 81, they intend to use some of their block grant money to purchase “other programs, placements, services or strategies.”³⁴ A spreadsheet detailing the total grant award to each county, the juvenile population, the number of youth returning from state facilities and the intended use of the grants by category is included as Appendix C.

Youthful Offender Block Grant Options

Senate Bill 81 specified that counties could allocate Youthful Offender Block Grants for the following purposes:

- A. Risk and needs assessment tools and evaluations to assist in the identification of appropriate youthful offender dispositions and re-entry plans.
- B. Placements in secure and semi-secure youthful offender rehabilitative facilities and in private residential care programs, with or without foster care waivers, supporting specialized programs for youthful offenders.
- C. Nonresidential dispositions such as day or evening treatment programs, community service, restitution, and drug-alcohol and other counseling programs based on an offender’s assessed risks and needs.
- D. House arrest, electronic monitoring, and intensive probation supervision programs.
- E. Re-entry and aftercare programs based on individual aftercare plans for each offender who is released from a public or private placement or confinement facility.
- F. Capacity building strategies to upgrade the training and qualifications of juvenile justice and probation personnel serving the juvenile justice caseload.
- G. Regional program and placement networks, including direct brokering and placement locating networks to facilitate out-of-county dispositions for counties lacking programs or facilities.
- H. Other programs, placements, services, or strategies to be funded by the block grant allocation.

Youthful Offender Rehabilitative Facility Construction

The realignment legislation included up to \$100 million in lease revenue bond proceeds to pay for the expansion of local juvenile justice rehabilitation facilities. The bond revenue proceeds are to be disbursed through the CSA. The authority formed an executive steering committee to oversee the grant process. A draft request for proposals for the local Youthful Offender Rehabilitative Facilities Construction Funding Program was released for public comment in June 2008. Once CSA releases a final request for proposals, counties will have until January 2009 to submit proposals. The executive steering committee anticipates awards will be made at the March 2009 CSA meeting.³⁵

The State's Role in Juvenile Justice

Although approximately 95 percent of juvenile offenders are under supervision at the county level, several state agencies have roles in juvenile justice through programs and services for juvenile offenders spanning multiple departments and agencies, including the California Department of Corrections and Rehabilitation (CDCR), the Health & Human Services Agency and the California Department of Education.³⁶ Additionally, the California Department of Justice is responsible for the Juvenile Court and Probation Statistical System, the state's primary information system for juvenile crime. While not the focus of this study, it is important to note that there are many other juvenile crime prevention programs and services that target youth spread across even more agencies and departments, including such key entities as the Department of Justice Crime and Violence Prevention Center and the recently established Governor's Office on Gang and Youth Violence Policy. Within the CDCR, juvenile justice policy is primarily informed by: the chief deputy secretary of juvenile justice and the divisions overseen by the secretary; the Corrections Standards Authority Planning and Programs Division; and, the Advisory Committee on Juvenile Justice and Delinquency Prevention. Additionally, the State Commission on Juvenile Justice has a role in juvenile justice policy.

What's In a Name: DJJ or DJF?

The 2005 reorganization of the Youth and Adult Correctional Agency into the California Department of Corrections and Rehabilitation created the Divisions of Juvenile Facilities, Programs and Parole reporting to a chief deputy secretary of juvenile justice. Many commonly refer to these divisions as the division of juvenile justice or DJJ and this is how it is listed on the CDCR Web site and on other official documents.

While the statutes that abolished the California Youth Authority in 2005 identified a chief deputy secretary of juvenile justice, they do not refer to any division by that name. The reorganization legislation provided that all references to the California Youth Authority in the dozens of code sections that were not amended as part of the legislation now refer to the CDCR Division of Juvenile Facilities. Because the division of juvenile justice does not exist in the California code, in this report, the Commission follows the Government Code and uses the Divisions of Juvenile Facilities, Programs and Parole, except when quoting sources that use "DJJ."

Source: Kenneth G. Peterson, Presiding Juvenile Court Judge, Superior Court of California, County of Sacramento. February 28, 2008. Written testimony to the Commission. Also, California Government Code section 12838, 12838.3 and 12838.5 and 1000.

CDCR chief deputy secretary of juvenile justice. Several divisions under the direction of the chief deputy secretary of juvenile justice within the CDCR have a role in juvenile justice. The Division of Juvenile Facilities and the Division of Juvenile Programs house and provide programs and services for approximately 2,000 youth offenders committed to state facilities. The Division of Juvenile Parole Operations provides supervision for 2,300 youth offenders who have been released from state facilities to parole.³⁷ Under the realignment, state parole will now only supervise offenders released from state facilities who have committed a 707(b) offense. The Juvenile Parole Board also is overseen by the chief deputy secretary of juvenile justice. The board conducts hearings for juveniles in state facilities and determines when a juvenile offender is ready for release.

Corrections Standards Authority. The Corrections Standards Authority (formerly the Board of Corrections) is a 19-member board chaired by the secretary of the CDCR with four additional CDCR representatives and 14 other members – primarily local law enforcement officials – appointed by the governor. The CSA develops and maintains standards for the construction and operation of local jails and juvenile detention facilities and for the selection and training of state and local corrections personnel. The CSA also inspects local adult and juvenile detention facilities and administers facility construction grant programs. In addition, the CSA administers three major state juvenile justice grant programs – the Youthful Offender Block Grant, the Juvenile Justice Crime Prevention Act and the Juvenile Probation and Camps Funding – as well as other smaller state grant programs. The authority also administers and oversees federal juvenile justice grants and is advised by the federally-required state advisory group, the Advisory Committee on Juvenile Justice and Delinquency Prevention, whose responsibilities were added when the Legislature abolished the Office of Criminal Justice Planning (OCJP) in 2003.³⁸

Corrections Standards Authority

The Corrections Standards Authority (formerly the Board of Corrections) has 19 members:

- ✓ Secretary of CDCR (serves as chair).
- ✓ 4 CDCR officials who report to the secretary, one who must be a manager or administrator of an adult prison and one who must be a manager or administrator of a state juvenile facility. The other 14 members are appointed by the governor, with advice from the CDCR secretary and with advice and consent of the Senate.
- ✓ 2 sheriffs.
- ✓ 2 chief probation officers.
- ✓ 1 county supervisor or administrative officer.
- ✓ 1 administrator of a county detention facility.
- ✓ 1 administrator of a community-based correctional program.
- ✓ 2 public members, including one representing the interests of crime victims.
- ✓ 1 representative of a community-based youth service organization.
- ✓ 4 rank and file members including a juvenile probation officer, a sheriff's deputy, a parole officer and someone working in a state correctional facility.

Source: California Department of Corrections & Rehabilitation, Corrections Standards Authority Web site. http://www.cdcr.ca.gov/Divisions_Boards/CSA/Admin/About_us/CSA_Major_Duties_And_Responsibilities.html.

Advisory Committee on Juvenile Justice and Delinquency Prevention. The federal Juvenile Justice and Delinquency Act requires every state to form an advisory body in order to qualify for federal Delinquency Prevention &

Intervention Program (Title II) grants. The Advisory Committee on Juvenile Justice and Delinquency Prevention (ACJJDP), an executive steering committee of the CSA, serves this purpose in California. Under federal guidelines, the advisory committee must have at least 15 members appointed by the governor. In California, the governor has delegated responsibility to the secretary of CDCR for making recommendations for committee appointments. Federal law requires the advisory committee to develop a three-year juvenile justice plan, focusing on core federal goals, and to review grant applications for the federal programs.³⁹

State Commission on Juvenile Justice. Prior to the 2007 realignment legislation, the state had two juvenile justice advisory commissions, beyond the ACJJDP, that had existed mostly on paper. The most recent commission was established through the 2005 legislation that enacted the CDCR reorganization, but it existed only in statutory code as commissioners had never been appointed. In 2007, SB 81 revived and reconstituted the State Commission on Juvenile Justice.

SB 81 left the statutory purpose of the commission intact: “to provide comprehensive oversight, planning, and coordination efforts, which enhance the partnership and performance of state and local agencies in effectively preventing and responding to juvenile crime.”⁴⁰

SB 81 slightly changed the membership of the commission and reduced the number of members appointed by the governor and gave appointment authority to organizations representing local government officials. SB 81 also gave the commission a key role in the realignment. The commission was charged with producing a statewide Juvenile Justice Operational Master Plan by January 1, 2009. A required interim report documenting the commission’s progress and initial strategies was due on May 1, 2008 and was released to the Legislature in June 2008.

State Commission on Juvenile Justice

The purpose of the State Commission on Juvenile Justice is “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.” The Commission includes 12 members:

- Chief Deputy Secretary of Juvenile Justice, CDCR (Tri-chair).
- County representative, designated by the statewide organization representing counties (Tri-chair).
- Chief probation officer, designated by the statewide chief probation officers organization (Tri-chair).
- County sheriff, designated by the statewide sheriffs association.
- Manager or administrator of a county local detention facility for juveniles (appointed by the Governor).
- Rank and file representative from state or local juvenile corrections (appointed by the Speaker of the Assembly).
- Representative from a community-based organization serving at-risk youth (appointed by Senate Rules Committee).
- Crime victim advocate (appointed by the Speaker of the Assembly).
- Juvenile court judge (appointed by the chair of the Judicial Council).
- Director of a county human services agency (appointed by the statewide organization representing county welfare directors).
- Attorney with expertise in juvenile justice policy (appointed by Senate Rules Committee).
- Director of a county mental health agency, appointed by the statewide organization representing county mental health directors.

Source: Welfare & Institutions Code 1798.5.

Other State Agencies with a Role in Juvenile Justice

Health & Human Services Agency. The California Health & Human Services Agency provides grants and programs that can be used for services for juvenile offenders. The Department of Mental Health Services oversees Proposition 63: Mental Health Services Act grants that can be used to provide services to juvenile offenders. The Department of Social Services oversees group homes serving youth involved in either the juvenile dependency or delinquency systems. The Department of Health Services provides health care to eligible youth, through Medi-Cal or Healthy Families, though only to those youth who are not in a state or local detention facility. The Department of Alcohol and Drug Programs oversees state and federal grants that can be used for a variety of substance abuse treatment programs for youth, including programs in juvenile detention facilities, aftercare programs for youth released from detention facilities as well as for juvenile drug courts.

California Department of Education. The Department of Education funds and sets education requirements for educational and some vocational programs provided to youth in state and local detention facilities. It also oversees various prevention programs for at-risk youth and early intervention programs for youth on informal probation or in diversion programs.

California Department of Justice. The California Department of Justice (DOJ), Criminal Justice Statistics Center is charged with collecting juvenile justice data through the Juvenile Court and Probation Statistical System. Counties report juvenile arrest and disposition data to the Department of Justice, which collects and analyzes the data and publishes an annual report. Within DOJ, the Crime and Violence Prevention Center provides a clearinghouse for information on youth crime and violence prevention and provides training, technical assistance and tools for local communities.

For the Juvenile Justice Operational Master Plan, the commission is to “develop and make available for implementation by the counties” a set of strategies for risk and needs assessment, juvenile justice data collection elements common to all counties and a continuum of evidence-based programs.⁴¹ Unless reauthorized by the Legislature, the commission sunsets on January 1, 2009. The commission was given \$600,000 to hire consultants and experts to assist in carrying out its mission. It has met monthly since January 2008.

Juvenile Justice Funding

California currently spends nearly \$1 billion annually on juvenile justice programs, services and supervision. The 2007-08 budget included approximately \$580 million for state level juvenile justice operations, programs, health care and parole supervision. Beyond custody costs, when youth become wards of the state, the state is required to provide educational programs, adequate health and mental health care and other rehabilitative services. Out of the \$580 million spent on state juvenile justice operations, more than \$23 million was included for the Youthful Offender Block Grants that were distributed to the counties as part of the realignment. The estimated budget for state juvenile justice programs, services and supervision in 2008-09 will decline to \$554 million due to

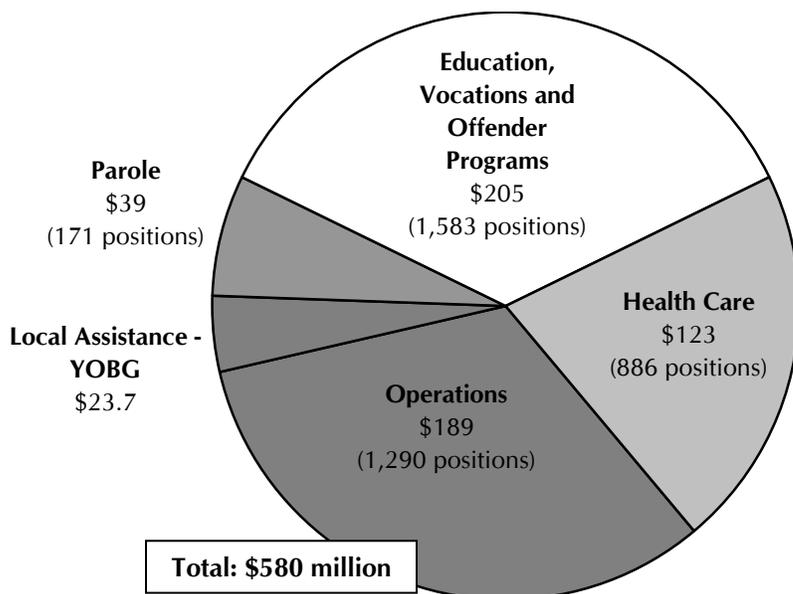
the decrease in the population. Of this amount, \$66 million will be allocated to counties as part of the new block grant program to pay for local programs and services.⁴²

In 2007-08, the state allocated more than \$340 million in additional money from the General Fund for other juvenile justice grant programs administered by the CSA to fund county juvenile probation programs:

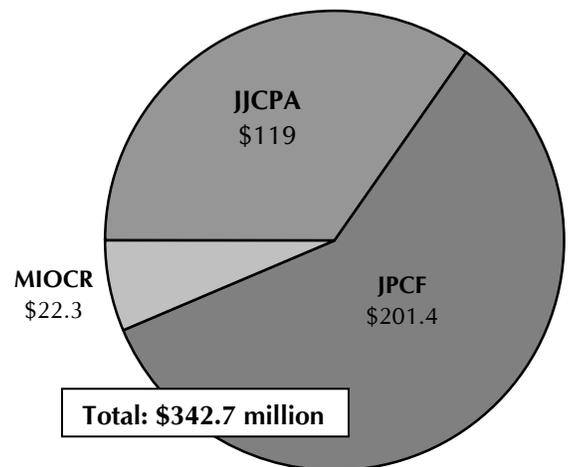
- ✓ Juvenile Justice Crime Prevention Act (JJCPA) – \$119 million.
- ✓ Juvenile Probation and Camps Funding (JPCF) – \$201.4 million.
- ✓ Mentally Ill Offender Crime Reduction Program (MIOCR) – \$22.3 million.

The CSA also administers various federal programs for juvenile offenders that total approximately \$14 million.⁴³

State Budget and Budgeted Positions for Youth Offenders in State Facilities or on Parole, FY 2007-08 (in millions)



Major Juvenile Justice Grant Programs FY 2007-08 (in millions)



Note: Operations includes juvenile security, support, facilities administration, reception and diagnosis and local assistance funds, which include the Youthful Offender Block Grant and transportation. Health Care includes medical, mental health and dental. Source: Governor’s Budget 2008-09.

It is unclear how much money the state will provide counties for juvenile offenders as lawmakers wrangle with a budget shortfall estimated at \$15 billion for 2008-09.⁴⁴ The governor’s January budget proposed across the board cuts of 10 percent for all the state juvenile justice grant

programs – except the new Youthful Offender Block Grant. In the May budget revision, the governor maintained the 10 percent cuts.⁴⁵ Meanwhile, the Senate Budget Subcommittee No. 4 in May 2008 denied all of the approximately \$340 million in state-funded juvenile offender grant programs, leaving only the new YOBG funding intact for the 2008-09 budget.⁴⁶ These cuts to juvenile offender grant programs will exceed what the new block grant adds. The Budget Conference Committee in July 2008 restored \$281 million to the state-funded juvenile offender grant programs, an amount close to that proposed in the Governor’s 2008-09 Budget.⁴⁷ As of July 14, 2008, it was not known if this would be the level of funding for these grants in 2008-09 as the final budget bill had not approved by the Legislature. The May action, however, underscores the vulnerability of local youth offender funding and the uncertainty that complicates county efforts to plan programs and services for youth offenders.

Proposition 6, a November 2008 ballot measure would permanently lock in money from the General Fund for local probation departments to pay for programs, services and supervision for juvenile offenders.⁴⁸ The measure also would change the law established by SB 81, deleting “mental health, drug and alcohol and other county departments” from the list of agencies eligible for Youthful Offender Block Grant money, leaving probation as the only authorized grant recipient.⁴⁹ This initiative also would permanently allocate additional money to local law enforcement and lengthen sentences for some offenders. The Legislative Analyst’s Office estimates the initiative, if enacted, would increase state outlays by a half billion dollars annually in dedicated funding to local law enforcement and potentially hundreds of millions of dollars more in increased state prison costs.⁵⁰

Beyond the major grant programs, counties cobble together money to pay for programs and services for youth offenders from various other state

**Proposition 6: Criminal Penalties and Laws.
Public Safety Funding.**

A November 2008 ballot initiative, if enacted by voters, could significantly affect California’s 2007 juvenile justice realignment. Cited as the Safe Neighborhoods Act, the measure re-writes a portion of the statutory code established through the realignment legislation eliminating mental health, alcohol and drug treatment and other departments from the list eligible for the new block grant funding and directing all funds toward probation, which would still have the option to contract with these other departments with the grant money for services.

The measure also permanently locks approximately \$500 million annually to fund juvenile probation and other local law enforcement efforts. The measure would eliminate the uncertainty of this funding that local governments currently face, however, it also would eliminate state control over this allocation and incentives for counties to achieve outcome measures. The 32-page initiative also includes numerous other changes including increasing penalties for various crimes that potentially would expand the need for state facilities to incarcerate additional juvenile and adult offenders at a cost the Legislative Analyst estimates will be in the hundreds of millions. The measure does not include new revenue to pay for the expanded fiscal outlay.

Sources: Full text of the ballot measure is available on the Secretary of State’s Web site:

http://ag.ca.gov/cms_attachments/initiatives/pdfs/i765_07-0094_a1s.pdf.

The Legislative Analyst’s Office fiscal analysis of the ballot measure is available on the LAO Web site:

<http://www.lao.ca.gov/ballot/2007/070919.pdf>.

and federal funding sources. A list of the major sources of funding is included as Appendix D. In addition to these and other programs, a small but significant percentage of the local juvenile probation budget comes from county general funds.

Juvenile Population Remaining at the State Level

Once realignment is fully implemented, the CDCR projects a steady population of less than 1,500 youth will remain in state facilities.⁵¹

Barring additional legislative changes, by 2012, CDCR estimates there will be 1,365 male and 62 female youth offenders in state facilities. The CDCR estimates that SB 81 will result in 230 to 240 fewer juvenile court admissions a year. The state will have 200 fewer parole violators in 2007-08 than in 2006-07, according to CDCR estimates, and this downward parole supervision and violation trend will continue as the state juvenile offender population declines. Also contributing to the decline is the projected decline in California's overall juvenile population and the trend toward fewer juvenile arrests.⁵²

Most of the 1,500 youth in state facilities will be committed by juvenile courts for 707(b) or sex offenses. Several hundred of the youth who will remain in state facilities were convicted in adult courts and ordered to serve time in a juvenile facility or housed in DJF through an interdepartmental agreement within the CDCR. The interdepartmental agreement primarily is used to ensure that youth convicted in adult courts receive legally required educational services, which are not widely available in adult prisons. Those with long or life sentences may serve their time at a youth facility until age 18, then graduate to an adult prison.

With lower-level offenders no longer entering state juvenile facilities, the characteristics of the population remaining in state facilities is changing. Parole violators and offenders convicted of burglaries, thefts and drug crimes are shrinking as an overall percentage of the population, while the proportion of offenders convicted of assaults, robberies, homicides and sex offenses is increasing. Eventually, as all lower level offenders are released, the state will house only the most serious offenders.⁵³

State Juvenile Justice Facilities

Currently, youth offenders are housed in six juvenile justice facilities and one camp operated by the CDCR's Division of Juvenile Facilities. As a result of the realignment legislation, the CDCR is in the process of closing two youth facilities – the DeWitt Nelson Youth Facility in Stockton and El Paso de Robles Youth Correctional Facility in Paso Robles. The remaining DJF facilities are out of date and would require millions of dollars to be updated.⁵⁴

In 1996, when the state juvenile offender population peaked and facilities bulged beyond capacity, the state operated three additional detention facilities and three additional camps. As the juvenile offender population declined, the state closed three facilities and three of four fire camps it operated in cooperation with the California Department of Forestry and Fire Protection.

Status of Closed Facilities

Of the various closed youth facilities, only one has a new use. The Northern Youth Correctional Center and Clinic in Sacramento, was transferred to nearby California State University, Sacramento, which demolished unusable structures and plans to use the land to develop affordable housing for faculty and students. The Department of General Services listed the 75-acre Fred C. Nelles Youth Correctional Facility in Whittier for sale and received 13 purchase offers.⁵⁵ While a sale to the city of Whittier was pending in 2006, the CDCR requested that the Department of General Services pull the property off the market in order to re-evaluate all CDCR properties in response to the governor's corrections proposals to add more prison beds.⁵⁶

Youth Offenders Remaining in DJF

As of March 2008, there were 2,077 youth in state juvenile facilities. Nearly 94 percent were committed by a juvenile court while the remaining six percent were committed by a criminal court. Approximately 84 percent (1,642) of the youth offenders were first commitments, while 16 percent were parole violators (330).

<u>Gender:</u>		
Male	1,980	95.3%
Female	97	4.7%
<u>Age:</u>		
Under 18	440	13.6%
18-21	1,329	65.7%
22 or older	308	14.8%
<u>Race/Ethnicity:</u>		
Hispanic	1,103	53.1%
African American	653	31.4%
White	243	11.7%
Asian	38	1.8%
Native American	18	.9%
Other	22	1%
<u>Commitment Offenses:</u>		
Assault	659	31.7%
Robbery	626	30.1%
Other sex offenses	244	11.7%
Burglary	180	8.7%
Homicide	109	5.2%
Other offenses	61	2.9%
Rape	55	2.6%
Auto theft	38	1.8%
Theft (except auto)	30	1.4%
Narcotics and drugs	30	1.4%
Kidnap/extortion	27	1.3%
Arson	18	.9%
<i>Total</i>	<i>2,077</i>	<i>99.7%</i>

Elsewhere in the report we cite the DJF population at 1,896 as of June 2008. As of publication, a detailed demographic breakdown is not yet available to reflect the smaller June 2008 population.

Source: California Department of Corrections & Rehabilitation, Division of Juvenile Justice. March 2008. "Characteristics of Population." Also, CDCR. Monthly Population Report. June 30, 2008.

The state has proposed converting El Paso de Robles into an adult facility, housing lower-level offenders age 50 and older and adding an adult offender fire camp. The state held local public meetings to present these ideas and gain feedback in April 2008. Such a conversion could help ease overcrowding in adult facilities and allow the state to avoid spending some of the money the Legislature and governor previously authorized in 2007 through AB 900 to expand the adult system. Constructing a re-entry facility on the property also has been discussed.

Comparison of Youth Offenders in State Facilities 1996, August 2007 and June 2008

Facility	Year Opened	Design Capacity	Population 1996	Population 8-31-07	Population 5-31-08
Preston Youth Correctional Facility (Ione)	1950	720	968	365	368
Northern California Youth Correctional Center (Stockton):					
<i>DeWitt Nelson Youth Correctional Facility*</i>	<i>1967</i>	<i>433</i>	<i>633</i>	<i>303</i>	<i>0</i>
O.H. Close Youth Correctional Facility	1966	379	545	232	195
N.A. Chaderjian Youth Correctional Facility	1991	600	967	225	211
<i>Karl Holton (Closed 2003)</i>	<i>1968</i>	<i>388</i>	<i>524</i>	<i>0</i>	<i>0</i>
<i>Paso de Robles Youth Correctional Facility (Paso Robles)*</i>	<i>1953</i>	<i>690</i>	<i>911</i>	<i>176</i>	<i>0</i>
<i>Fred C. Nelles Youth Correctional Facility (Whittier) (Closed 2004)</i>	<i>1945</i>	<i>650</i>	<i>948</i>	<i>0</i>	<i>0</i>
Ventura Youth Correctional Facility (Camarillo) (Female)	1962	295	377	129	86
Ventura Youth Correctional Facility (Camarillo) (Male)	1962	381	468	74	171
Heman G. Stark Youth Correctional Facility (Chino)	1959	1,200	2,024	689	524
Southern Youth Correctional Reception Center and Clinic (Norwalk)	1954	350		210	258
Pine Grove Youth Conservation Camp (Pine Grove)	1980	80		77	83
<i>Conservation Camps (total for all 4) (3 camps closed 2004/2005)</i>			<i>483</i>		
Total		6,166	10,112	2,480	1,896

*Scheduled for closure July 2008. The Northern Youth Correctional Center and Clinic in Sacramento is not included as the facility no longer exists and the land is now owned by the California State University system. Facilities shown in italics are either closed or scheduled to be closed.

Sources: Legislative Analyst's Office. May 2004. "A Review of the California Youth Authority's Infrastructure." Also, CDCR. 2004. "A Comparison of the Youth Authority's Institution and Parole Populations, June 30, 1995 through June 30, 2004." This annual report does not provide data on wards in the north or south reception center for 1996. These wards are included in the count of other facilities. Also, CDCR. Monthly Population Reports as of August 31, 2007 and June 30, 2008.

A facilities master plan detailing the CDCR's future plans for youth facilities is long overdue.⁵⁷ At one time, state officials told the Commission that a plan was under consideration to demolish the shuttered Karl Holton Youth Correctional Drug and Alcohol Treatment Facility at the Stockton youth complex and replace it with a new prototype facility designed for youth rehabilitation. Additionally, the court-appointed receiver for adult inmate health care reportedly is considering building a hospital for adult offenders at the Ventura Youth Correctional Facility, which potentially would result in the closure of the youth facility.⁵⁸ The receiver also has proposed razing the Karl Holton Youth Facility to build an adult inmate medical facility.⁵⁹

Realignment Leadership and Oversight

Despite nearly a billion in outlays for the various agencies, commissions and committees involved in juvenile justice programs and services and grants to local government, the state requires little accountability as to how this money is spent or what goals are expected, much less achieved. Through realignment, an increasing portion of the billion dollar budget is going directly to counties with even less state oversight. No state entity has been given the mission or authority to provide overall leadership to guide program development or to oversee how public money is spent.

The shift in population from state facilities to county supervision began in the late 1990s. Lawmakers enacted fiscal policies to deter counties from sending youth to state facilities. Courts lost faith in the state's ability to carry out its mission of rehabilitating youth offenders and kept more offenders under local supervision. Still, the present realignment is historic in two ways. First, the state specifies in law which offenders can be sent to state facilities, and more important, the state dedicates money to counties to develop programs and services for youth who are no longer sent to the state.

Youth advocates and expert panels, including the Little Hoover Commission, long had recommended that the state provide expanded resources for counties to expand their role providing programs and services for youth offenders. Over the past decades, costs for the state system had spiraled upward – particularly in attempting to comply with the Farrell consent decree – and counties were proving to be more capable of providing effective programs and services for youth. Despite initial snags resulting from the abrupt implementation requirement – the law was signed by the governor August 24, 2007 and became effective September 1, 2007 – most experts and advocates agree realignment was the right thing to do. However, many said important improvements can be made to the realignment legislation to ensure ongoing success.

Weak State Leadership Structure

The realignment legislation transferred responsibility to counties to supervise higher risk and higher need youth offenders and provided a

significant new funding source to accomplish this difficult task. At the time, however, lawmakers did not designate any entity at the state level to provide overall leadership and guidance to ensure that a continuum of proven responses to juvenile crime is consistently available statewide.

The structural leadership vacuum is not new. The Commission, in its 1994 review of juvenile crime as well as in its 2005 assessment of the governor's plan to reorganize corrections, identified the lack of a focal point at the state level to provide juvenile justice leadership as a serious problem.⁶⁰ It recommended the state establish a mechanism to ensure an integrated state and local continuum of juvenile justice programs and services. This did not happen and remains a weakness.

Legislative budget consultants who negotiated the details of SB 81 told the Commission that the law was written to prevent the state from micromanaging how counties spent their block grant allocations and to provide counties flexibility in spending decisions.⁶¹

Youth advocates have expressed concerns that the new money will not be spent on programs and services for the intended population, and as time passes, memories in Sacramento will fade, and it will become less clear to lawmakers why a separate, dedicated fund exists for offenders "who used to go" to state facilities. County officials and advocates said that the realignment only will be successful if funding is maintained, the money is spent wisely and counties are held accountable for outcomes.

While many counties outperform the state in providing effective programs and services to youth offenders, some counties – particularly those that formerly relied most heavily on state juvenile facilities – have not demonstrated the capacity to establish effective local programs for juvenile offenders. Disparities between counties are well-documented. Some counties, such as San Francisco, Orange, San Diego and Santa Cruz, historically committed very few youth to state facilities, while other counties, including Monterey, San Bernardino and Riverside, have sent a high number of juveniles to state facilities.⁶² There are reasons for this disparity. Santa Cruz and Orange County, for example, have invested time, money and resources for programs and local interventions. Both counties have made a significant effort to get various partners – including mental health, alcohol and drug programs and education as well as probation – to work together. Those counties that sent more youth to state facilities chose not to invest in local programs and services and are ill-prepared to do so now. Youth advocates fear that without state guidance and oversight, some counties simply will expand juvenile hall space, rather than invest in mental health, substance abuse, education or other interventions that have proven effective in turning young lives around.

Orange County Juvenile Justice Continuum

Orange County provides a model from which the state and other California counties can learn. As part of this review, the Commission's subcommittee met with Orange County officials that provide services for youth offenders and toured some of the facilities serving the most serious and highest need youth offenders. Orange County officials across and throughout departments expressed a clear sense of mission that the goal is "helping kids." The system emphasizes collaborative efforts between the courts, juvenile probation, education, mental health and law enforcement in addition to partnerships with community-based organizations. This partnership is reinforced by the Orange County juvenile court, which has authorized multidisciplinary departments to share information.

The continuum of programs and services includes a secure juvenile hall for pre-disposition youth offenders and those who have been committed to a facility or program and are awaiting placement, as well as a 120-bed non-secure facility, the Youth Leadership Academy, which provides a residential program for youth offenders with mental health services. Orange County also runs a Youth Guidance Center, an unlocked facility with space for 125 youth. Youth live in housing units with up to 25 other offenders, with one housing unit dedicated for young women. In addition to attending high school, youth participate in various counseling and substance abuse treatment programs. Orange County also has two camps in rural settings and a secure housing facility for the most serious offenders – those who will be charged as adults – in a module of the adult jail facility.

Beyond facilities and programs for high-risk, high-need youth offenders, Orange County also is known for its early intervention programs, particularly its "8% Early Intervention Program." Various studies of Orange County youth offenders revealed that a small number of youth offenders (8 percent) in the county are responsible for more than half of all repeat crime offenses. To target this small, but high-risk youth offender population, Orange County combined local resources from various departments with state grants to implement the "8% program" which provides various services for these youth and their families. An assessment of the program showed numerous outcome improvements in the youth participating in the program versus a control group. The knowledge gained has been used to assist other counties and also changed Orange County's overall approach to juvenile offender supervision.

Sources: Commission site visit to Orange County. November 29, 2007. Also, Orange County Probation Department. September 2002. Repeat Offender Prevention Project – 8% Early Intervention Project." Also, Superior Court of California, County of Orange. December 21, 2001. "Authorization for the Sharing of Information Through Orange County Multidisciplinary Teams."

Witnesses identified the structural leadership void as the biggest obstacle to successful realignment implementation. They elaborated that the lack of leadership is not an indictment of state juvenile justice officials or departments, but rather policy-makers' reluctance to identify and authorize an entity to provide statewide leadership over juvenile justice policy and how state dollars are spent at the state and local level.

Even among those with direct connections to juvenile justice, none have definitive leadership over the system. Some entities have partial oversight, others have overlapping areas of responsibility but none provide overall leadership. These include:

- ✓ CDCR Chief Deputy Secretary of Juvenile Justice and the Division of Juvenile Facilities, the Division of Juvenile Programs and the Division of Juvenile Parole Operations.
- ✓ State Commission on Juvenile Justice.
- ✓ CDCR Corrections Standards Authority.

- ✓ Advisory Committee on Juvenile Justice and Delinquency Prevention.

CDCR Chief Deputy Secretary of Juvenile Justice. The CDCR chief deputy secretary of juvenile justice manages the Division of Juvenile Facilities, Division of Juvenile Programs and Division of Juvenile Parole Operations. California code authorizes these divisions to operate and manage facilities housing youthful offenders, provide comprehensive programs and rehabilitative services and to supervise re-entry into the community.⁶³ But the mission of the divisions focuses on the wards under state supervision, not providing leadership or oversight to ensure a statewide continuum of responses for youth offenders, most of which are supervised at the local level. Witnesses told the Commission the chief deputy secretary is committed to moving forward on the reforms required by the Farrell consent decree. The experts hired to assist the state in developing the remedial plans for the Farrell lawsuit highlighted the competency of the staff in a March 2006 report: “the Division of Juvenile Justice has many good people working for it – hard working, dedicated, and well-meaning. The current leadership is professional, knowledgeable and committed to reform.”⁶⁴

County officials told the Commission that the state’s juvenile justice divisions are working cooperatively with county probation staff to ensure successful transition of offenders released from state facilities to county courts and probation. Beyond facilitating a smooth transition, however, the chief deputy secretary of juvenile justice and the juvenile divisions within CDCR do not have the responsibility nor the authority to lead or oversee the realignment implementation.

State Commission on Juvenile Justice. Lawmakers involved with the realignment legislation recognized and responded to the lack of leadership in California’s juvenile justice system by reviving and reconstituting the State Commission on Juvenile Justice and giving it an important, if temporary, role in the realignment effort.

Under SB 81, the 12-member commission is required to produce a statewide Juvenile Justice Operational Master Plan by January 1, 2009 to include a set of strategies for risk and needs assessment, juvenile justice data collection elements common to all counties, and a continuum of evidence-based programs.⁶⁵ An interim report documenting the commission’s progress and strategies it has identified was due May 1, 2008. The report was submitted to the governor’s office, although such review is not required in the statute; there is only one state official serving on the commission; and, only one of the 11 other members is a governor appointee. The interim report was submitted to the Legislature in June 2008.

While the commission has potential it also has shortcomings that may prevent it from filling the leadership and oversight roles envisioned for it:

- ✓ The commission sunsets on January 1, 2009.
- ✓ It has no dedicated staff.
- ✓ Not all commissioners were appointed promptly. One appointment, designated for a victim's rights advocate, had not been made as of June 2008.
- ✓ Some stakeholders, including district attorneys, public defenders and education officials, are not represented on the commission.

The commission was given \$600,000 in 2007-08 to hire consultants to assist in fulfilling its central mission of developing the operational master plan. The commission began meeting monthly in January 2008 and appears to be on track to meet its final report deadline. It is not clear, however, whether the commission will live up to the broader mission originally envisioned by the Legislature – providing oversight, planning and coordination among state and local agencies that respond to juvenile crime. In May 2008, Senate Budget Subcommittee No. 4 adopted budget language to extend the life of the commission through January 2010. As of July 2008, this was still under consideration by the Legislature.

CDCR Corrections Standards Authority. The Legislature gave the CSA some oversight authority for the Youthful Offender Block Grant and CSA staff have shown the capacity for leadership beyond what was identified in the realignment legislation in managing the first year of the block grant. The CSA also is responsible for developing the request for proposals for the Local Youthful Offender Rehabilitative Facilities Construction Program grants and will evaluate the responses and award the grants. The executive director of the CSA indicated the authority would have a limited role in oversight of the realignment implementation beyond review and approval of the county plans submitted as part of the first year of the grant process. In written testimony to the Commission, the executive director wrote that “the only potential oversight role CSA has once the plans are approved is the monitoring and/or inspection of facilities or programs. CSA assumes that any services or facilities provided or obtained through use of the block grant funds should match what was specified in each

Missed Opportunity to Lead

Many counties plan to use Youthful Offender Block Grant money to implement risk and needs assessment tools. In its April 2007 report, the Juvenile Justice Data Project found that of 55 California counties participating in a survey, 26 counties had no risk assessment tool and 9 others used a risk assessment tool that had not been validated. Researchers have found that youth placed inappropriately can lead to more crime, instead of less. The report found that “this is an area where a large part of the California juvenile justice system is currently not taking advantage of the best practices available. Supporting counties in their efforts to select and adopt a valid risk assessment tool and to train staff to use it is a necessary and critical goal if the system is to take advantage of evidence-based practices in juvenile justice intervention to improve outcomes for juveniles in the state.”

While it is a step in the right direction for counties to implement assessment tools, it also marks a missed opportunity for the state to lead by providing guidance and technical support. DJF is currently implementing a risk and needs assessment tool for juvenile offenders. Before counties independently adopt and implement assessment tools, the state could have guided counties to ensure future compatibility. The State Commission on Juvenile Justice has been tasked with providing guidance on a risk and needs assessment tool in its report due January 1, 2009. This may be too late to influence counties using their 2007-08 block grants to implement these tools.

Sources: County Juvenile Justice Development Plans. Also, Juvenile Justice Data Project. April 2007. “Phase 1: Survey of Interventions and Programs – A Continuum of Graduated Responses for Juvenile Justice in California.”

county's respective plans, however this is not actually spelled out in the legislation. Again, CSA's oversight is only authorized and NOT required and will unlikely be implemented without additional resources."⁶⁶

While the CSA has proven adept at grant management, it also has been sued for lax oversight of juvenile facilities and does not have the mission or the authority to provide statewide juvenile justice leadership.⁶⁷

Advisory Committee on Juvenile Justice and Delinquency Prevention. The state established the Advisory Committee on Juvenile Justice and Delinquency Prevention (ACJJDP), an executive steering committee of the CSA, to fulfill a requirement of the federal Juvenile Justice and Delinquency Act. As part of its federal mandate, it develops a three-year juvenile justice plan prescribed by federal requirements.

Federal rules require all ACJJDP members to be appointed by the governor. Federal rules also dictate the make-up of the 15 member committee, the focus of the three-year plan and the role of the committee in oversight and distribution of federal juvenile justice grants. In contrast, the State Commission on Juvenile Justice members are appointed by both the governor and the Legislature and state not federal

lawmakers determined the make-up and the role of the commission. Through the realignment, lawmakers could have expanded the role of the ACJJDP to develop the Juvenile Justice Operational Master Plan, but rightly chose not to.

During the past few years, the ACJJDP has struggled as only eight members had been appointed and it did not meet regularly. However, as of February 2007, all 15 members had been appointed and the committee has been meeting more frequently. The State Commission on Juvenile Justice in April 2008 voted to make an update on ACJJDP activities a standing agenda item so the two entities can potentially work in concert and avoid duplication of efforts.

Each state entity in California's juvenile justice system plays an important role but no single division or commission provides overarching statewide leadership and oversight. Other states and California counties provide models that can serve as useful examples for the state.

California Department of Justice

The California Department of Justice collects county data on juvenile arrests, dispositions and crime trends and publishes an annual report. However, counties are not required to provide outcome data, which could better measure statewide performance in improving juvenile offender outcomes. Researchers involved with the Juvenile Justice Data Project have recommended expanding key data elements included in the DOJ Juvenile Court and Probation Statistical System (JCPSS) to include checklists based on current practices and evidence-based practices. Other recommendations for improving data elements in the JCPSS include updating the out-of-date method of recording race and ethnicity to conform to the U.S. Census; adding a check-off to indicate the first entry for the juvenile offender; and, adding a data field to facilitate the linkage of records for youth in multiple county systems.

Source: Karen Hennigan, Kathy Kolnick and Siva Tian, Center for Research in Crime, Center for Urban Youth, University of Southern California. February 27, 2008. "Juvenile Justice Project Phase 2 Report: Longitudinal Outcome Indicators for Juvenile Justice Systems in California."

Models to Emulate

California has adopted a light-handed approach to directing and guiding local program implementation. Washington State provides another model of how the state can provide direction and guidance while still leaving local officials sufficient autonomy. In 1997, the Washington Legislature passed the Community Juvenile Accountability Act which made state funding available to local juvenile courts to select and implement juvenile offender programs from a state-adopted list. The Washington State Institute for Public Policy studied the outcomes of the local program implementation and found that, when competently delivered, the programs reduced crime and saved the state thousands of dollars in the long run. The institute found, for example, that for every dollar spent on Functional Family Therapy, an evidence-based program that includes intensive in-home short-term counseling for youth and their families, the state saved nearly \$32,000. The expected corresponding reduction in crime was nearly 16 percent. However, the institute also found that the programs only reduced recidivism and saved the state money when delivered competently and delivered poor results when staff were not adequately trained or did not effectively replicate the program. Washington continues to use state General Fund money to fund its local juvenile programs and has expanded its list of evidence-based programs.⁶⁸

Several California counties also provide model systems for juvenile offenders. As part of this study, the Commission visited juvenile justice facilities and met with local officials in Orange and San Mateo counties. Orange County, despite having the third largest youth population in the state, has sent relatively few youth offenders to state facilities, because the county has established a broad continuum of responses to juvenile crime. This continuum exists because the county taps into a variety of funding sources and various county departments collaborate to provide mental health, substance abuse treatment, and educational and vocational programs for youth offenders in a range of facilities overseen by probation staff.

Restructuring Juvenile Justice in Washington

In 1997, the Washington Legislature embarked on a path to restructure juvenile justice by providing funding to local juvenile courts to expand programs and services. Local courts that wanted the funding were required to implement programs identified on a list established by the Legislature. Key elements of the restructuring included:

- ✓ A state-adopted evidence-based list coupled with local government choice from the list. Washington's list includes:
 - Functional Family Therapy
 - Aggression Replacement Training
 - Multi-Systemic Therapy
 - Family Integrated Transitions
 - Coordination of Services
 - Restorative Justice – Victim Offender Mediation
- ✓ A research and development funding level set by the state for local initiatives; state outcome evaluation.
- ✓ Formal coordinated statewide assessment tools to align the programs and participants.
- ✓ Program quality assurance provided by the state.
- ✓ Funding formulas (state/local mix) based on life-cycle avoided cost calculation.

Sources: Steve Aos, Assistant Director, Washington State Institute for Public Policy. February 28, 2008. Testimony to the Commission. Also, Washington State Institute for Public Policy. June 2007. "Evidence-Based Juvenile Offender Programs: Program Description, Quality Assurance and Cost."

In San Mateo County, the presiding juvenile court judge recognized a void in placement options for young female offenders, tapped federal grant funding and implemented G.I.R.L.S. (Gaining Independence and Reclaiming Lives Successfully). G.I.R.L.S. is a gender responsive program that includes 180 days in an unlocked camp setting followed by community-based supervision relying on collaborations with community partners. San Mateo County monitors the outcomes of participants in the G.I.R.L.S. program and continues to improve the program based on data. The state could learn from what these and other counties are doing and promote the transfer of knowledge and use of proven practices among California counties.

California has a collection of divisions, commissions and committees with overlapping responsibilities, but this collection does not add up to consistent or comprehensive oversight and no single entity is in charge. To improve public safety and the outcomes for youth offenders, the state needs focused leadership and accountability, a single identifiable entity with the authority to ensure that taxpayer money is effectively and efficiently spent at both the state and local level and that a consistent continuum of responses is available statewide.

Realignment Issues and Concerns

Witnesses told the Commission that the weak leadership and accountability structure raises significant concerns about how the realignment will be implemented. SB 81 established the Youthful Offender Block Grant (YOBG) to help counties expand programs and services for juvenile offenders. Approximately \$23 million was given to counties in 2007-08. This amount will grow to \$66 million in 2008-09 and will reach nearly \$100 million every year thereafter. Despite this significant new investment, the state requires very little accountability for this money. Witnesses have identified several issues and concerns with the block grant in particular and the realignment in general.

Potential for Supplanting. The Welfare and Institutions Code section created by SB 81 lacks language to prevent counties from supplanting existing spending with the YOBG money. While the law requires the money be used to “enhance the capacity” of programs and services for youthful offenders, nothing prevents counties from reducing juvenile offender funding in other areas.⁶⁹

Limited, Short-Term Planning. SB 81 required counties to submit a plan explaining how they would use the new money in the initial year. Counties were given a very short time frame – four months – to develop their plans. Money that would have helped counties develop the plans

was eliminated through a line-item veto in the budget. SB 81 did not require counties to develop plans for future years.

No Expenditure Reports or Outcome Data. Counties are not required to report how the grant money is spent, what outcomes are expected, or the level of performance in meeting those outcomes. With no reporting requirements it will be difficult, if not impossible, to monitor whether or not the money is used on programs that improve public safety and assist youthful offenders in turning their lives around. With no outcome data, it will be impossible to know which programs are effective and should be expanded and replicated and which programs should be adjusted or eliminated. Senate Budget Subcommittee No. 4, in an April 17, 2008 hearing on the realignment, adopted budget trailer bill language that will require an annual report from the counties, including a report on outcome measures currently tracked for the Juvenile Justice Crime Prevention Act grants. The bill language also recommends combining the reporting for both grants.

Limited Oversight. The CSA was given limited oversight of the new block grant under SB 81: “the Corrections Standards Authority may monitor and inspect any programs or facilities supported by block grant funds...and may enforce violations of grant requirements with suspensions or cancellations of grant funds.”⁷⁰ As of February 2008, all counties had submitted their one-time plans. The CSA approved the majority of the plans at its March 2008 meeting and the remaining plans at its May 2008 meeting. While limited oversight responsibility was given to CSA, the funding for the grants is determined by the Department of Finance and is distributed to counties by the State Controller’s Office. CSA would need to coordinate with these two entities if it determined that grant funds should be withheld.

Multiple Grants, Multiple Reporting Requirements. In addition to the new Youthful Offender Block Grant, the CSA oversees two other major grants – the Juvenile Justice Crime Prevention Act (JJCPA) and the Juvenile Probation and Camps Funding (JPCF) program – that also target juvenile offenders and require counties to report on various outcome measures. Of the two, the JJCPA, is lauded for its requirement that counties report six outcome measures: arrest rate; incarceration rate; probation violation rate; probation completion rate; restitution completion rate; and, community service completion rate.⁷¹ Opportunities exist to consolidate and streamline the major juvenile offender grant programs. In February 2008, the Legislative Analyst’s Office recommended that the state consolidate funding for JJCPA and the JPCF programs and projected administrative savings of about \$16 million.⁷²

Major Sources of Funding for California's Juvenile Justice System⁷³

	Juvenile Justice Crime Prevention Act (JJCPA)	Juvenile Probation and Camps Funding (JPCF)	Youthful Offender Block Grant (YOBG)
Purpose of grant:	Enhance and build programs designed to reduce juvenile crime.	Support a broad range of services for at-risk youth and juvenile offenders and their parents or family members; additional funding to support county juvenile camp facilities.	Enhance the capacity of local communities to implement an effective continuum of response to juvenile crime and delinquency. Grant money intended to fund the population shifted through realignment.
Funding amount:	FY 2007-08: \$118.7 million FY 2008-09 (Governor's proposed budget): \$106.8 million	FY 2007-08: \$201.4 million FY 2008-09 (Governor's proposed budget): \$181.3 million	FY 2007-08: \$23.7 million FY 2008-09 (Governor's proposed budget): \$66 million
Distribution of grant:	Grant funds distributed to counties on a per capita basis.	Program money distributed based on allocations established in statute; camps money distributed based on county reporting of the annual number of occupied camp/ranch beds.	Half based on the total county population of juveniles age 10-17. Half based on the number of felony juvenile court dispositions reported to the DOJ in the prior year.
Grantee:	County probation departments and other government agencies through a multi-agency committee chaired by a chief probation officer.	County probation departments	County probation, mental health, drug and alcohol or other county departments.
Reporting requirements:	Funded programs must be modeled on evidence-based strategies. Counties are statutorily required to report data for program expenditures and six outcomes: arrest rate; incarceration rate; probation violation rate; probation completion rate; restitution completion rate; and community service completion rate.	Counties submit semi-annual progress reports to CSA for non-camp programs. Report includes amount of JPCF grant and, if applicable, other grants used to support program; number entered/exited program; reason for exit; number of family members served; program setting; services provided; types of other agencies involved and number of community-based organizations under contract to provide program services.	The Legislature is considering legislation that would require counties to report the same six outcomes as required for JJCPA.
Application requirements:			Counties must submit Juvenile Justice Development Plan to CSA in initial year only (FY 2007-08).
Statute / Enabling legislation:	Crime Prevention Act of 2000; Chapter 353, Statutes 2000.	AB 139; Chapter 74, Statutes 2005.	SB 81; Chapter 175, Statutes 2007.

Uncertain Funding. Witnesses told the Commission the only way that realignment will be successful is for the state to continue to provide funding for the shifted population and provide oversight to ensure the money is spent wisely. While the Youthful Offender Block Grant by 2010 will provide nearly \$100 million per year, in a May 2008 budget hearing, Senate Budget Subcommittee No. 4 denied funding for approximately \$340 million in funding in the 2008-09 budget for other grants that target juvenile offenders, including the JJCPA and JPCF. In recent years, the JJCPA program has been cut in early budget negotiations only to be restored in the final budget, creating fiscal uncertainty and planning challenges for probation departments. In July 2008, the Budget Conference Committee restored \$281 million of the funding for the JJCPA and JPCF for 2008-09. This reduction almost completely reduces the net gain – \$66 million in 2008-09 – that counties anticipated from the new Youthful Offender Block Grant. The state should consolidate all three funds – YOBG, JJCPA and JPCF and using existing formulas, make the funding one dedicated annual General Fund allocation. Counties should be required to report outcomes in the six areas currently required for the JJCPA grant. If the ballot initiative that would make youthful offender funding for county probation departments permanent is enacted by voters in the November 2008 election, the state can continue to require counties to report outcomes, but there will be little opportunity for oversight as the money will be perpetually allocated no matter how efficiently or effectively it is spent.

Priorities Need to Be Established to Fill Statewide Gaps. Recent research has identified gaps in local juvenile offender programs, but there is no mechanism to ensure the new state funding will be prioritized to fill the gaps.⁷⁴ Because the realignment occurred rather abruptly, many counties do not have programs or supervision alternatives for the more serious offenders who otherwise would have been sent to the state but are now under county supervision. The block grant will help smaller counties purchase program space from sister counties with established programming. But representatives from larger counties have indicated the need for regional collaboration for certain hard-to-place offenders, an effort that will take time to establish and will require assistance from the state.

Lack of Local Options to Respond to Serious Offenders. Some counties previously sent a disproportionate number of youth offenders to state facilities – typically small counties or counties that did not develop adequate local responses – while many counties sent only offenders who had exhausted all local options, regardless of whether or not they committed a serious offense. These might include offenders with multiple vehicle thefts or burglaries or other lower level crimes who repeatedly ran away from local placements. They also frequently

included offenders with severe mental health problems that many counties are ill-equipped to treat. Witnesses told the Commission that very few, if any, counties have sufficient case numbers in a single year to support building new facilities or programs on a local level and that regional facilities are the only feasible answer to this problem. Regional collaboration not only will take time, but also will take a great deal of political will from agencies and governments in different counties that may not have a current working relationship.⁷⁵ The state could play a role in facilitating and fostering regional collaborative efforts or providing incentives for counties to work together to respond to hard-to-place juvenile offenders, but currently there is no state entity that can fulfill this role.

Sacramento County’s Mix of Juvenile Offenders in State Facilities

Year	W&I 707(b) Serious/Violent	PC 290(d)(3) Sex Offense	Other	Total
1998	18	2	12	32
1999	16	8	37	61
2000	25	7	32	64
2001	16	4	26	46
2002	16	14	41	71
2003	10	8	25	43
2004	12	5	12	29
2005	5	2	10	17
2006	8	1	11	20
2007	11	8	3	22
Total	137	59	209	405
% of Total	33.8%	14.6%	51.6%	

Source: Kenneth G. Peterson, Presiding Juvenile Court Judge, Superior Court of California, County of Sacramento. Sacramento, CA. February 5, 2008. Testimony to the Commission.

Issues to Watch

Other issues warrant continued monitoring. As more youth offenders are kept at the county level, it is more important than ever to ensure conditions in local facilities are safe, legal and humane. Several witnesses said that realignment will fail if it only results in counties replicating the state conditions that led to the Farrell consent decree.

CSA is charged with setting standards, monitoring local juvenile facilities and enforcing standards compliance, but history suggests its efforts have not been sufficient. In the past several years, the federal Department of Justice has led two investigations, in Los Angeles and Santa Clara counties, and the Prison Law Office has filed two lawsuits on facility conditions in San Joaquin and Sacramento counties.⁷⁶

The problems that led to the investigations and lawsuits were well-known, but they have not been quickly resolved, in part because CSA historically has not used its authority to enforce compliance to improve local facilities. The CSA – whose membership is dominated by county probation officials, sheriffs and state and local detention facility officials – in the past has chosen to work more collaboratively with sister counties, allowing extended timelines to reach facility compliance. Additionally, many problems have been allowed to persist because the Attorney General has taken the position that state juvenile facilities regulations are unenforceable.⁷⁷

In 2006, the Prison Law Office sued the CSA for failing to exercise its authority to require counties to improve unsafe and inhumane conditions in some juvenile facilities. The lawsuit alleged that the CSA had not required counties to meet legally prescribed deadlines for correcting identified problems. In January 2008, the state agreed to accept a court order requiring the CSA to enforce deadlines for local juvenile halls to file and implement plans to correct problems. The agreement should bolster CSA's ability to enforce improvements, and, if it does not, the agreement will make it easier for advocates to request action from the courts.⁷⁸

Youth advocates testified to the Commission that the state should reassess the standards set for juvenile facilities and consider moving the enforcement authority from the CSA and suggested the Office of the Inspector General might be more capable of fulfilling this role.⁷⁹ County probation officials testified that they would welcome stronger state licensing requirements and stricter enforcement, indicating it would strengthen their ability to gain local support for improving programs, services, staffing and facilities for youth offenders.⁸⁰

As part of this study, the Commission did not further explore whether the state should revise its standards for juvenile facilities and whether or not the CSA should continue to monitor and enforce standards in county juvenile facilities. The state agreed to the consent order in January 2008 and the court issued the final consent order in March 2008, and as a result, it is too early to tell whether or not the CSA's acceptance of the court order will resolve the enforcement challenges. This issue warrants further monitoring and the Legislature should review CSA's ability to enforce standards and potentially consider shifting this responsibility to a more capable entity in the future.

Another issue that warrants monitoring is the potential increase in the number of youth tried as adults. Youth advocates expressed concerns that district attorneys might file more serious charges than they would have in the past or increase the use of the "direct file" option – where a

district attorney can choose to file a criminal charge against a youth directly in adult court. Additionally, district attorneys might drop new charges, if they were less serious than a prior charge, so that the most serious offense can be the basis for a resultant commitment to a state facility.

Judges and district attorneys told the Commission that they assess each case on its own merit and that they will continue to file charges and commit youths in whatever manner best protects public safety and benefits the youth. State law requires that “no ward of the juvenile court shall be committed to the Youth Authority unless the judge of the court is fully satisfied that the mental and physical conditions and qualifications of the ward are such as to render it probable that he will be benefited by the reformatory educational discipline or other treatment provided by the Youth Authority.” Additionally, case law requires that the court must believe less restrictive alternatives would be ineffective or inappropriate.⁸¹ In written testimony to the Commission, one presiding juvenile court judge wrote that “the findings of ‘benefit’ in committing the minor to the state and [the findings] that there are no ‘less restrictive’ local options are not easily or lightly made.”⁸²

Additionally, serious crimes which typically lead a district attorney to direct file a case to adult court are typically 707(b) charges, which under realignment, still allow a judge to commit a youth to a state facility, reducing the likelihood of an increase in direct files, witnesses said. If anything, there could be an increase in fitness hearings, in which a district attorney requests a judge to consider moving a lower-level offense case to adult court, but in these cases, the decision to move the case to adult court lies with the judge and not the district attorney.⁸³ However, any spike in juvenile offender commitments should be monitored and analyzed as this would affect the cost savings the state expects through the realignment.

Finally, the State Commission on Juvenile Justice has the potential to provide leadership and oversight, but its temporary existence may prevent it from fulfilling its mission. It is too early to tell how successful the commission will be as its final report is not due until January 1, 2009 – the day the commission is scheduled to sunset. Senate Budget Subcommittee No. 4 in May 2008 voted in favor of extending the life of the commission an additional year and to continue to use the \$600,000 allocated in 2007-08 to fund the consultants hired by the commission through January 1, 2010.

The fact that the commission’s interim report was given to the Legislature late because it was under review by the governor’s office calls into question its ability to independently advise lawmakers and counties.

There is no requirement in the statute that the governor's office review the report and the majority of the commission members are appointed by associations representing local government agencies.

Summary

The state has no structure in place to provide leadership and accountability for the \$1 billion it spends on programs, services and supervision of youth offenders at the state and local level. Its collection of divisions, commissions and committees, despite the important role each plays, do not add up to state leadership and oversight. The governor and lawmakers should move existing state resources in the California Department of Corrections and Rehabilitation to establish an entity that can provide the leadership to ensure that an evidence-based continuum of responses are available statewide for youth offenders and that the money the state provides to counties is tied to performance-based outcomes.

The realignment legislation was an important step in the right direction, but the legislation leaves room for improvement. Lawmakers should align the new block grant with the state's other major grant programs that target youth offenders and bolster and streamline the reporting of outcome measures. Policy-makers should ensure that the state maintains the funding for the youth offender population shifted through the realignment process and for the two other major programs targeting juvenile offenders. Policy-makers should closely monitor CSA to ensure it successfully monitors and enforces standards in county juvenile facilities.

Finally, lawmakers should support the budget language adopted by Senate Budget Subcommittee No. 4 that briefly extends the life of the commission so that it can advise and assist counties in implementing the recommendations in its final report and to give the commission an opportunity to prove whether or not it can fulfill its broader mission of leadership and oversight. If the commission proves effective in this role, policy-makers should consider further extending the sunset date of the commission.

Recommendation 1: To improve public safety and provide statewide leadership on juvenile justice policy, the governor and the Legislature must consolidate programs and services into a streamlined Governor’s Office of Juvenile Justice outside of the California Department of Corrections and Rehabilitation, to develop a strategy for a comprehensive, statewide juvenile justice system that includes a complete and consistent continuum of evidence-based services for youth and to oversee county programs funded by state General Fund allocations. Specifically, the Office of Juvenile Justice should:

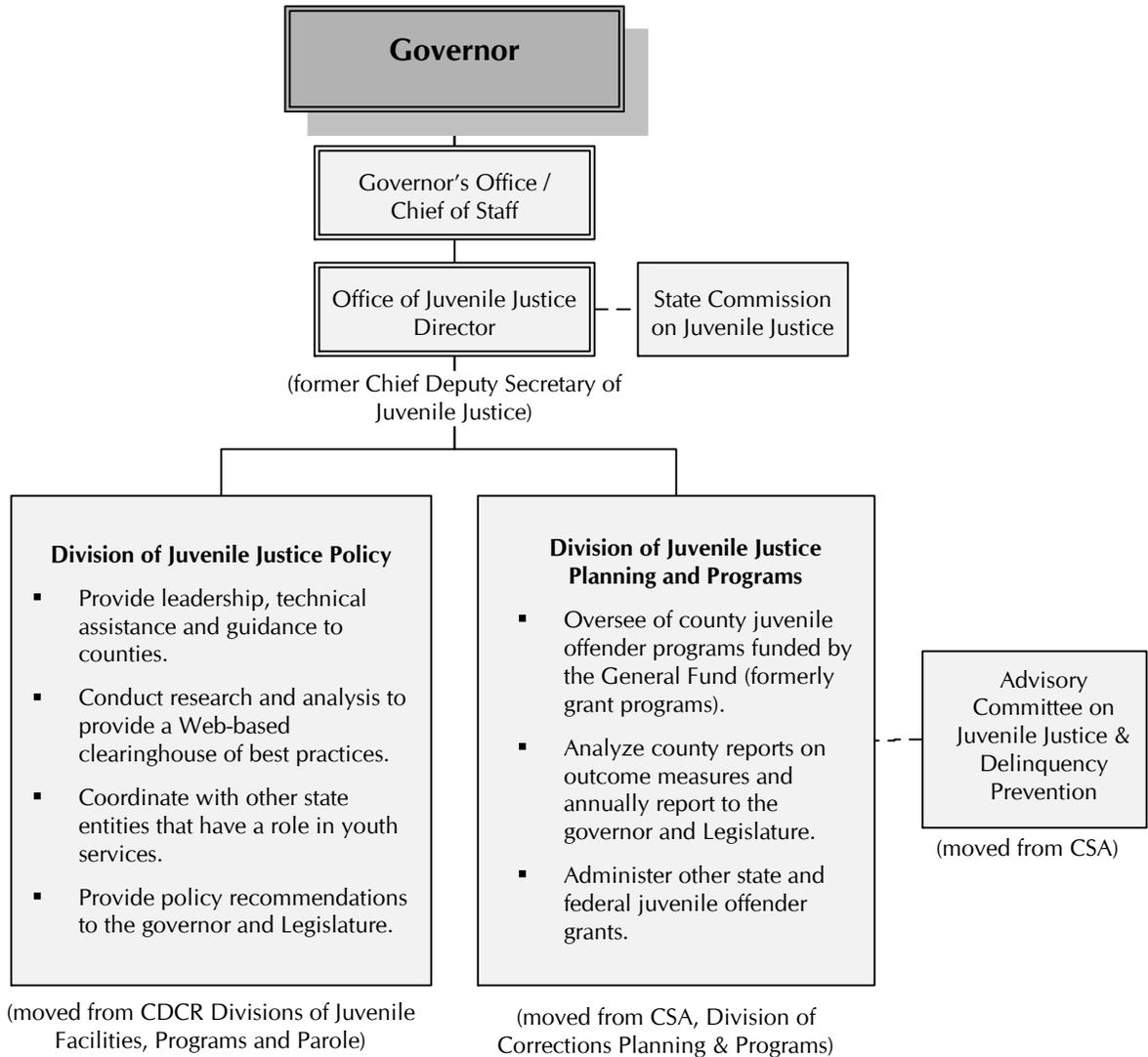
- ❑ Be led by a director, formerly the chief deputy secretary of juvenile justice, who is appointed by the governor and reports directly to the governor’s office.
- ❑ Have two divisions that coordinate and collaborate: the Division of Juvenile Justice Policy and the Division of Juvenile Justice Planning and Programs.
- ❑ Require the Division of Juvenile Justice Policy, consisting of positions shifted from the California Department of Corrections and Rehabilitation, including officials from the Divisions of Juvenile Facilities, Programs and Parole, to:
 - ✓ Provide leadership, technical assistance and guidance to help counties implement and expand evidence-based programs for juvenile offenders to improve outcomes, to set priorities for filling identified gaps and to lead and guide counties in developing regional consortiums and regional juvenile offender facilities.
 - ✓ Conduct research and analysis on best practices and provide a Web-based information clearinghouse.
 - ✓ Coordinate with other state entities that have a role in providing youth services, including the departments of mental health, alcohol and drug programs, social services and education, and provide guidance to counties on opportunities to leverage funding sources.
 - ✓ Provide juvenile justice policy recommendations to the governor and the Legislature.
- ❑ Require the Division of Juvenile Justice Planning and Programs, with positions shifted from the Corrections Standards Authority Planning and Programs Division, to:
 - ✓ Oversee county juvenile offender programs funded through annual state General Fund allocations to ensure that evidence-based programs are implemented.
 - ✓ Oversee and analyze county outcome reports and provide an annual report on juvenile justice performance measures to the governor and the Legislature.
 - ✓ Administer state and federal juvenile offender grants.

- ✓ Be advised by the Advisory Committee on Juvenile Justice & Delinquency Prevention as federally required for the federal juvenile offender grants, shifted from the Corrections Standards Authority to the Governor's Office of Juvenile Justice.
- ❑ The new office should develop, in connection with the Corrections Standards Authority, standards and enforcement mechanisms to guide the transfer of the juvenile offender population to county and regional facilities.

Recommendation 2: To ensure the success of juvenile justice realignment, the governor and the Legislature must bolster the accountability and oversight of the Youthful Offender Block Grant by consolidating it with the Juvenile Justice Crime Prevention Act funding and the Juvenile Probation and Camps Funding program into one dedicated funding stream for local juvenile justice programs and services. Specifically, they must:

- ❑ Consolidate the state's three major juvenile offender grant programs, using existing formulas, into one stable annually dedicated General Fund allocation tied to performance-based outcomes overseen by the Governor's Office of Juvenile Justice.
- ❑ Require counties to provide an annual outcome report and streamline reporting requirements to match the outcomes currently required by the Juvenile Justice Crime Prevention Act.
- ❑ Strengthen the statutory code to prevent counties from supplanting juvenile offender funding.

Commission’s Proposed Organizational Structure for an Office of Juvenile Justice



Recommendation 3: The governor and the Legislature should extend the sunset of the State Commission on Juvenile Justice until January 2010 and charge it with assisting counties in implementing the recommendations in its master plan and providing oversight of the realignment process. The commission should:

- ❑ Serve as an advisory body to the Governor’s Office of Juvenile Justice.
- ❑ Develop training and technical assistance for counties to assist in the implementation of the recommendations in the Juvenile Justice Operational Master Plan and report on progress implementing the recommendations in January 2010.
- ❑ Develop recommendations to improve and expand data elements reported to the DOJ Juvenile Court and Probation Statistical System.

Juvenile Offenders Remaining at the State Level

California spends more than \$500 million a year on approximately 2,000 youth offenders housed in state facilities. The Governor's Budget projects that the cost per youth for the 2008-09 fiscal year will total \$252,000, more than 30 times what the state spends educating law-abiding high school students and six times the cost of institutionalizing adult offenders.⁸⁴ The projected outlays per ward have increased six-fold from an average of \$36,000 in 1996, the year the Legislature enacted the sliding scale fees.⁸⁵

As more youth offenders remain at the local level, the number of youth in state facilities will decline further. Although overall expenditures for the state facilities also are projected to decline, the amount spent per youth will rise as the state serves an increasingly smaller number of youth in a system designed for thousands more.

With California spending more than a quarter million dollars a year for each ward, taxpayers and other citizens can reasonably ask what return they are getting on this significant investment and whether alternative investments would deliver better returns in the form of improved public safety and youth offender rehabilitation.

Once an international leader in juvenile justice, California's juvenile justice system fell into decay over the past three decades. Juvenile justice experts who provided the system with consistent and high-quality leadership over long tenures gave way to a carousel of appointees who lacked the experience and vision to guide and drive change as juvenile justice evolved. The culture of the system changed as well.

The law that created the former California Youth Authority states its role is to "provide comprehensive education, training, treatment, and rehabilitative services to youthful offenders under the jurisdiction of the department, that are designed to promote community restoration, family ties, and accountability to victims, and to produce youth who become law-abiding and productive members of society." The law did not change, yet the system's culture increasingly became defined by punitive measures as the state and the nation adopted a "tough on crime" mentality.⁸⁶

In the late 1990s and early 2000s, California's state facilities for juvenile offenders found themselves in the media spotlight for the violence and brutality inside their walls and the lack of programs and services for the youth offenders in their care. In 2003, plaintiffs in the Farrell case alleged that the state's treatment of its youth offenders violated state laws. In November 2004, state officials signed a consent decree in which the state agreed to reform its juvenile justice system.

Two months later, in January 2005, the governor proposed a reorganization of the Youth and Adult Correctional Agency into the California Department of Corrections and Rehabilitation. The Little Hoover Commission, charged with reviewing all governor's reorganization plans, reviewed the plan and recommended that the Legislature allow the plan to go forward, but expressed concerns about certain aspects of the plan, particularly placing the fairly autonomous California Youth Authority under a correctional organization whose primary focus is on its much larger adult offender population. In approving the plan, the Commission also recommended that the governor, the Legislature and the secretary of the new department continue to work with stakeholders to develop a statewide strategy for juvenile justice and address the need to ensure a continuum of facilities for youth offenders and stable source of funding for counties.⁸⁷

The Commission's most serious concerns centered on the placement of the California Youth Authority (CYA) within the larger CDCR organization dominated by adult corrections. Several youth advocates who testified at the Commission's 2005 hearing on the reorganization told the Commission that the plan should not be implemented because the reorganization would be extremely detrimental to the CYA, the wards in its care and the implementation of the reforms required in the Farrell consent decree.

The Commission shared these concerns, but determined that the reorganization plan overall was a step in the right direction for the state's troubled corrections system. At that time, the Commission committed to ongoing oversight of the implementation of the plan and twice held roundtable discussions on the reorganization progress and juvenile justice reforms. In August 2007, when lawmakers enacted the juvenile justice realignment, the Commission committed not only to review the realignment but also to return to its oversight of the implementation of juvenile justice reforms, with a specific focus on the effects of the population reductions on the Farrell consent decree implementation and other state-level reforms.

Reorganization Delays Reforms

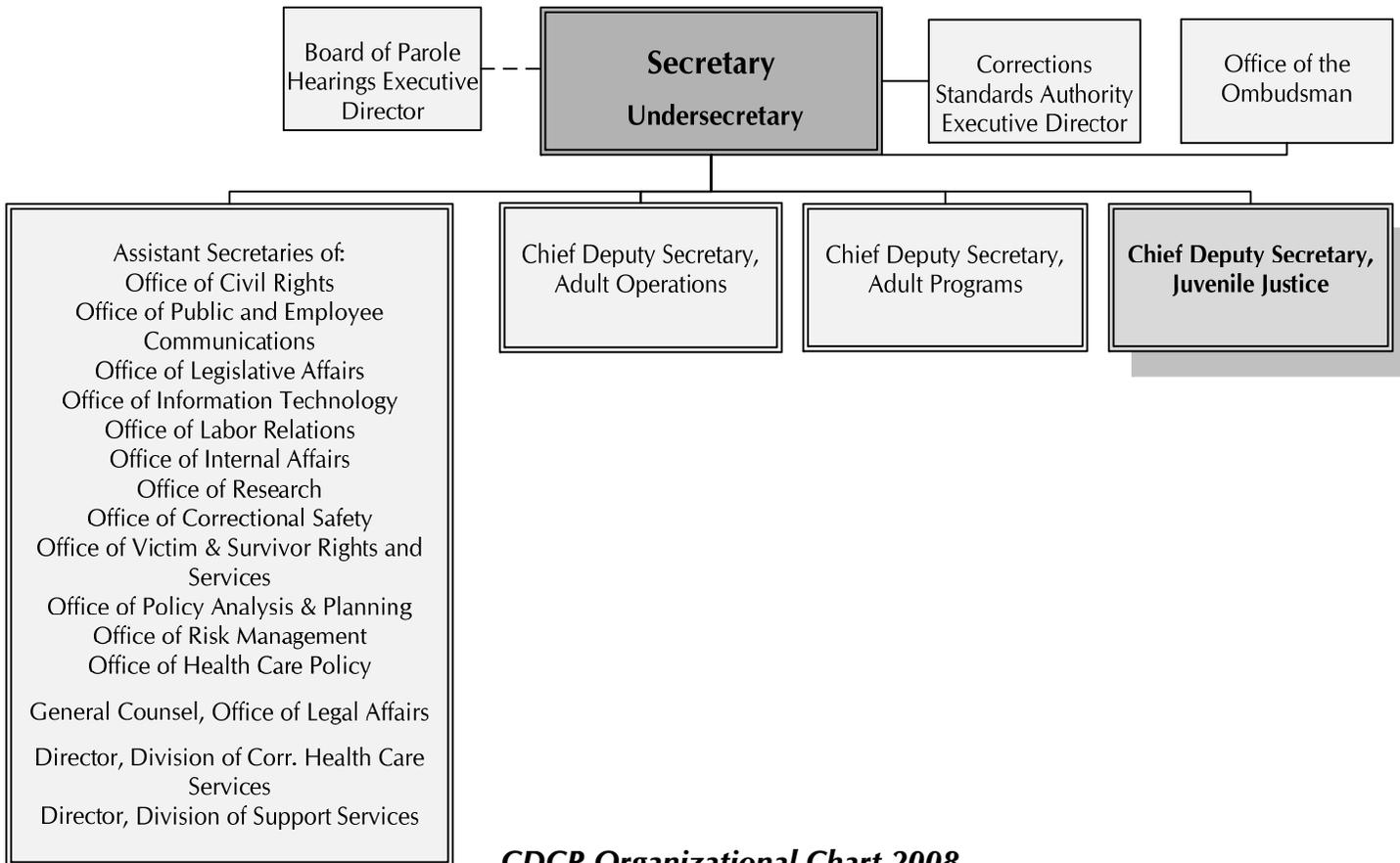
As part of this study, youth advocates told the Commission that their concerns expressed prior to the reorganization had been realized – that implementing the reforms required by the consent decree would be overshadowed by the enormity of the challenges in the adult correctional system. The 2005 reorganization buried the state’s juvenile justice divisions in a correctional bureaucracy primarily focused on its 170,000 adult offenders, a system plagued by overcrowded conditions, multiple lawsuits, including a federal receivership for inmate health care, and significant turnover at the secretary level – four secretaries in three years.⁸⁸ Since the initial reorganization, an additional layer of management has been added, further marginalizing the juvenile justice divisions in the organizational chart. In 2005, the chief deputy secretary of juvenile justice reported directly to the secretary of CDCR. Now the position reports to an undersecretary of operations – currently a 25-year veteran of the adult prison system – who oversees the massive adult operations and the much smaller juvenile justice operations.⁸⁹

The reorganization became effective in July 2005. Shortly thereafter, the governor appointed Bernard Warner as chief deputy secretary to lead the juvenile justice divisions. Mr. Warner brought experience from juvenile justice leadership positions in other states. Youth advocates have praised the efforts of Mr. Warner – now entering his third year in the position – and his commitment to the tough reform agenda. But despite the efforts of Mr. Warner and his staff, reform progress has been slow. They have only made as much progress as the bureaucracy and organizational structure would allow.

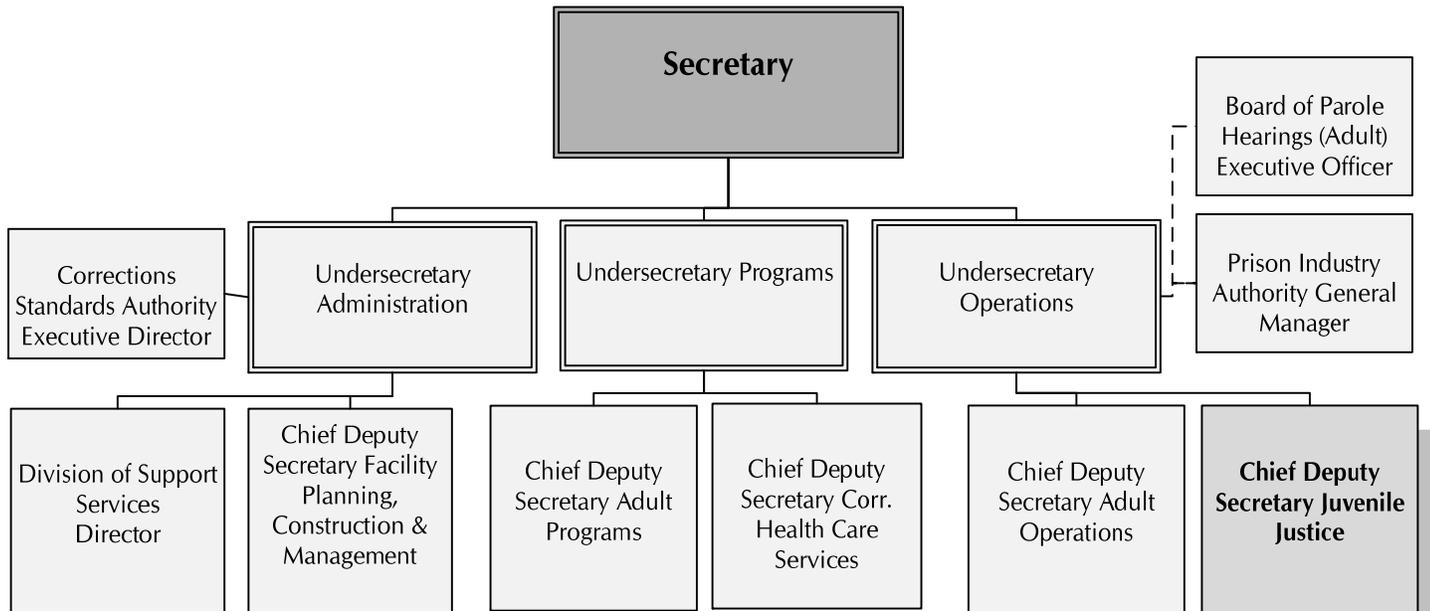
By August 2006, the state had filed six remedial plans that detailed the changes that needed to occur to comply with the Farrell consent decree. All involved agreed that fixing the severely broken juvenile justice system would require considerable time and resources. The expert panel hired to assist the state in developing the remedial plans in a 2006 report wrote that the state’s juvenile justice divisions can be fixed, “but it will take great effort, money and lots of time. We know of no other state that has undertaken such a major reform that has finished in as short a time (four years) as DJJ proposes. Failure by DJJ to meet a deadline now and then should not be interpreted as failure to reform.”⁹⁰

More than three years after entering into the consent decree, the Farrell plaintiffs contend little progress has been made. In an October 2007 report to the court, the Farrell special master indicated that true systemic reform had not taken place and that this was in part “due to DJJ’s conversion from its relative autonomy as the California Youth

CDCR Organizational Chart 2006



CDCR Organizational Chart 2008



Authority to being a unit of the much larger California Department of Corrections and Rehabilitation. Although this conversion took place several years ago, it continues to act as a barrier to implementation of the remedial plan.”⁹¹ Citing the report, the plaintiffs asked the court to appoint a receiver to oversee four areas: hiring, contracts, policy development and information technology.

In February 2008, the plaintiffs expanded their request and asked the court to appoint a receiver to provide overall leadership and oversight of the implementation of the Farrell reforms. In their request, the plaintiffs stated that “the primary reason DJJ gives for its chronic, severe failures regarding contracts is ‘growing pains’ from the nearly two-and-a-half-year-old reorganization of CDCR.”⁹² Additionally, the document states, “this is not a matter of a few missed deadlines. DJJ is not simply late – it is incapable of reform.”⁹³

Recent Signs of Progress

Despite the plaintiff’s claims, the state has begun to show progress in several areas, overcoming some of the hurdles created by the organizational structure and rapid change in the make-up of the population due to the realignment. An increasing number of youth offenders in state facilities are graduating from high school and earning GEDs and vocational certificates. A massive effort is underway to train staff on proven practices such as motivational interviewing and safe interventions and conflict resolutions. Staff vacancies have been reduced at central headquarters and in facilities.⁹⁴

A March 2008 report submitted by the court-appointed special master in the Farrell case stated that “numerous individuals are working diligently to move DJJ forward toward the goals of the remedial plans with some significant progress and successes. For example, O.H. Close (Youth Correctional Facility) has been singled out as exemplary by a consensus of the experts, where youth are benefiting from its substantial progress toward compliance with the remedial plans. Some of the experts have reported that the Southern Youth Correctional Reception Center and Clinic may be making comparable progress under the remedial plans, with comparable benefits for youth.”⁹⁵

The special master cautioned, however, that the “successes appear to be the result of the exceptional efforts and skillfulness of some individuals and do not appear to be reliably sustainable and replicable. DJJ’s largest facility with over 600 youth, Heman G. Stark, still is characterized by endemic racial violence that, among other things, greatly limits school attendance. By consensus, the experts believe that deficiencies in

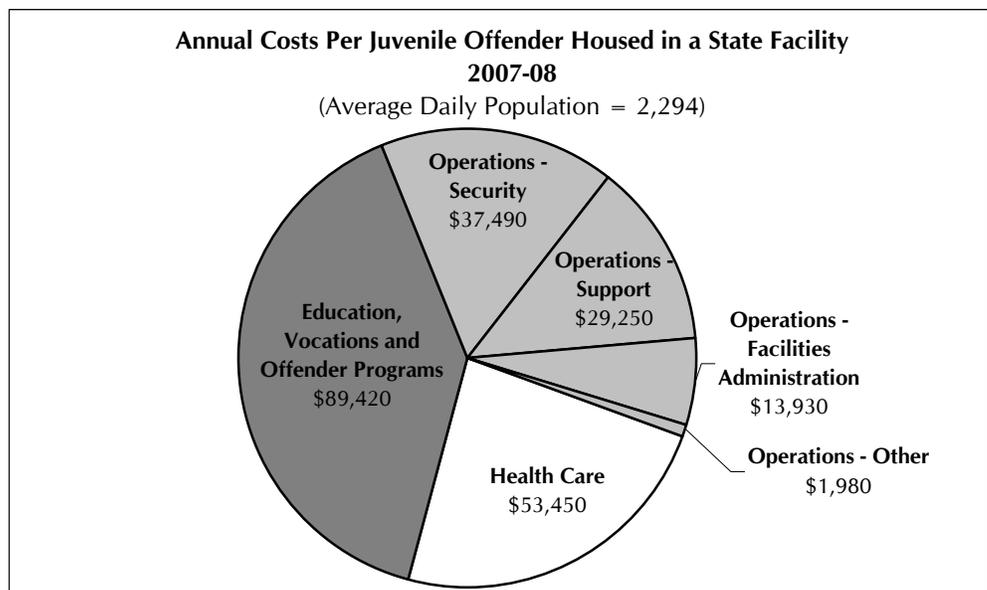
management effectiveness and/or systems capacity issues are seriously impeding DJJ’s progress in implementation of the remedial plans.”⁹⁶

In a January 2008 site visit to the Stark facility, the Commission met with various staff and were impressed with the dedication of the teachers as well as the impressive array of equipment for hands-on learning in career technical education courses, from welding to printing to warehouse management and forklift driving. However, of the 600 offenders housed at the Stark facility on the day of the visit, the Commission saw few youth participating in these programs.

Whether or not the Farrell case will lead to another costly and time-consuming receivership for CDCR is yet to be determined. Case management conferences on the request for receivership were held in April and May 2008. As of July 14, 2008, the judge had not ruled on the request for receivership.

The Price of Reform

The state’s progress in reform has not come without substantial cost. The state has injected a significant amount of money to expand juvenile programs and staff. While the state juvenile offender population declined, spending to meet the Farrell requirements increased. The 2007-08 budget for the juvenile justice divisions was \$580 million and the state currently houses 1,896 offenders – about the same number of youth at an urban high school. Approximately 2,300 are under state parole supervision.⁹⁷



Source: Governor’s Budget 2008-09.

The governor's budget projects that expenditures will decline to \$554 million in 2008-09, of which \$66 million will be sent to the counties as part of the SB 81 realignment. This translates to approximately \$252,000 per youth in state facilities for the 2008-09 fiscal year, a per ward increase from \$218,000 in 2007-08.⁹⁸ The state anticipates the population will eventually fall to under 1,500 and will stabilize, barring any changes in law or local commitment practices.⁹⁹

Crumbling Infrastructure

Most agree that the state's juvenile facilities – for the most part designed to house truants and runaway teens in the mid-twentieth century – are inappropriate for today's youth offenders and are crumbling as a result of years of deferred maintenance. New facilities will be needed to meet the reform requirements of the Farrell consent decree.¹⁰⁰

In a May 2004 assessment of state juvenile facilities, the Legislative Analyst found the state's juvenile facilities to be "functionally and physically obsolete."¹⁰¹ In a preliminary facilities master plan published in November 2005, CDCR asserted that "these facilities have exceeded their useful life and have not been properly maintained ... in general, they lack flexibility, are inappropriate in terms of size, and were not designed to address the risk and treatment needs of today's more sophisticated population of youth offenders."¹⁰²

As previously described, the state has shut down facilities and consolidated the youth offender population, however, as the population continues to shrink, the state has yet to lay out plans for continued closures and consolidations. A facilities master plan is long overdue to the Legislature.¹⁰³ In an April 2008 Senate budget subcommittee hearing, CDCR officials briefly discussed the planned closures of the DeWitt Nelson Youth Correctional Facility and El Paso de Robles Youth Correctional Facility in July 2008, and indicated a more detailed proposal detailing any further consolidation or closures would be forthcoming.¹⁰⁴

Should Juvenile Justice Operations be Moved or Eliminated?

Given the difficulty and significant expense of moving forward on reforms to comply with the Farrell lawsuit, improve public safety and help youth offenders become self-sufficient, law-abiding adults, Commissioners asked witnesses at its public hearings for this study whether the state's juvenile justice facilities and programs should be removed from the umbrella of the CDCR. Commissioners also raised the question of

whether the state should exit the business of housing juvenile offenders entirely, given its track record, the costs of responding to the Farrell lawsuit, its shrinking juvenile offender population and its crumbling infrastructure.

Witnesses told the Commission that the juvenile justice divisions are still adjusting to the 2005 reorganization; another reorganization at this point would further slow progress implementing the Farrell reforms. And while some witnesses suggested the state’s juvenile justice operations could be more closely aligned with other youth related programs and services if the divisions were placed within the Health & Human Services Agency or the Department of Social Services, others suggested that juvenile justice would be equally buried in those organizations. Other witnesses suggested that the most effective and efficient organization would be to follow the lead of 16 other states and establish a separate juvenile justice agency or department. This type of department would promote policies for juvenile justice system improvement, provide technical assistance, help counties leverage funding opportunities and manage state and federal grants. The Ohio Department of Youth Services, for example, not only oversees state facilities, it also funds and provides oversight for community correctional facilities and administers RECLAIM Ohio, a program which provides funding for juvenile courts to develop or purchase a range of community-based options for juvenile offenders.¹⁰⁵

Organization of State Delinquency Institutions in Other States

Juvenile Corrections Agency (16 states):
Alabama, Arizona, Florida, Georgia, Idaho, Illinois, Kansas, Kentucky, Maryland, North Carolina, Ohio, Oklahoma, Oregon, South Carolina, Texas, Virginia
Social or Human Services Agency (16 states):
Alaska, Arkansas, Colorado, District of Columbia, Hawaii, Iowa, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, Pennsylvania, Utah, Washington
Adult Corrections Agency (10 states):
California, Indiana, Louisiana, Maine, Minnesota, Montana, North Dakota, South Dakota, West Virginia, Wisconsin
Child Protection/Juvenile Corrections Agency (8 states):
Connecticut, Delaware, New Mexico, New York, Rhode Island, Tennessee, Vermont, Wyoming
Other (1 state):
New Jersey (Department of Law and Public Safety)

Source: Patrick Griffin and Melanie King. 2006. “National Overviews.” State Juvenile Justice Profiles. Pittsburg, PA: National Center for Juvenile Justice.

Several witnesses, particularly local officials, asserted that California will continue to need state facilities and programs for the small number of serious youth offenders who either pose a high risk for violence or have needs beyond what counties can provide. Counties have indicated that these offenders are such a small percentage of the youth offender population from each county, that counties, individually, can not provide them with efficient or effective custody, treatment, rehabilitation and education.

Counties, already under pressure to absorb more youth offenders through the realignment, and destabilized by the uncertainty of state funding for juvenile offender programs in the 2008-09 budget, currently are not in a position to absorb the most serious and violent offenders and sex offenders, particularly those who will serve longer term sentences. Most county programs are designed for youth under 18 years of age and the program duration in county facilities is typically 90 days or a year, for even the most serious offenders.

Counties, however, could plan and develop or contract with community partners for appropriate programs, and hire and train staff, if given adequate time and ongoing dedicated funding.¹⁰⁶ As counties implement new programs and services through the new block grant money and establish expanded rehabilitative facilities, particularly regional facilities, the state should embark on a path to eliminate its juvenile justice operations. State policy should be directed toward joint state-local strategies such as encouraging multi-county consortiums and establishing build-lease arrangements for facilities. Existing law already authorizes the state to “establish, maintain, or facilitate the development of regional centers, which may be available on a contract basis to counties for the placement of wards.” Additionally, the law provides that counties may jointly develop regional centers.¹⁰⁷

As the state transfers responsibility for all juvenile offenders to counties, the duties of the Juvenile Parole Board – which currently decides when wards in state facilities are ready for release – will no longer be required. Currently, presiding juvenile court judges – advised by probation officials – set goals and requirements for offenders in local facilities and determine when juvenile offenders are ready for release from detention or probation. As a result of SB 81, juvenile court judges now are conducting re-entry disposition hearings to set probation requirements for non 707(b) offenders released from state juvenile facilities.¹⁰⁸ As all juvenile offenders eventually are kept at the local level, juvenile court judges will have jurisdiction over probation requirements and release dates for all juvenile offenders. To improve public safety and outcomes for offenders, counties could consider establishing juvenile re-entry courts for older and more serious offenders.

It is important to point out that two categories of offenders will continue to pose challenges, even if the state provided dedicated resources and gave counties time to plan and implement programs targeting the longer-term, more serious youth offender population.

Older Youth Offenders. California is one of four states that allow juvenile court jurisdiction of offenders through age 25. The other three states are Montana, Oregon and Wisconsin. The vast majority, 33 states, retain juvenile court jurisdiction through age 20.¹⁰⁹ In the 2004-05 Governor's Budget, Governor Arnold Schwarzenegger proposed reducing the age of jurisdiction in state juvenile facilities from 25 to 22 although the proposal was not adopted. The Governor's Juvenile Justice Working Group, convened in 2004 to advise the governor on various issues, discussed jurisdictional age and members concluded that the age should remain at 25. The governor's proposal in part was based on the hope that changing the age of jurisdiction would save the state money, but the number of young adults above age 22 in juvenile facilities was and remains fairly small, and changing the jurisdictional age would not generate significant savings.

The Commission did not specifically look at the state's policy on supervising youth offenders until age 25 as part of this study, though the issue did come up at one of the Commission's prior roundtable meetings on juvenile justice.¹¹⁰ Some at the meeting said that having youth languish in state facilities for so many years at significant cost to the state, often without participating in programs or services, provided no benefit. However, they said one alternative – housing them in an overcrowded adult prison, where programs and services are even less frequently available and where the primary goal of incarceration is punishment as opposed to rehabilitation – was worse. Another alternative – releasing offenders at a younger age – would mean shorter sentences for serious crimes, an option that was not acceptable to district attorneys or crime victims. One participant on the Governor's Juvenile Justice Working group said that prosecutors and defenders agreed that housing youth offenders in juvenile facilities through age 25 was a sentencing option that should not be discarded, even if California is unlike other states in this respect.¹¹¹

Many states have adopted blended sentencing schemes where a juvenile court can combine a juvenile disposition with a suspended criminal sentence. Blended sentencing encourages and rewards good behavior and often requires youth offenders to participate in various programs and achieve specific goals – such as high school graduation, earning a GED or successfully completing a drug treatment program. Youth are given the opportunity to succeed in the juvenile system and if they do not, can be transferred to an adult prison at age 18 or 21, depending on

the state. Many other states have criminal blended sentencing laws that allow criminal courts to impose sanctions normally ordered in a juvenile court, also providing an opportunity for a youth to remain in the juvenile system on a conditional basis.¹¹² If California were to consider implementing some form of blended sentencing option, such a policy would require that programs and services be available to youth so that they could achieve identified goals. It also would require a reduction in violence in the facilities that have led to ongoing lockdowns and prevent offenders from participating in treatment and education programs.

The Legislature should hold public hearings on whether the state should lower the jurisdictional age for youth offenders to be more in line with practices in other states and to determine whether all youth offenders should have the opportunity to be released from confinement should they achieve specified goals or be moved to a state prison after age 21.

In the meantime, two state juvenile facilities house youth aged 18 to 25 – the Heman G. Stark Youth Correctional Facility in Chino, and the N.A. Chaderjian Youth Correctional Facility in Stockton. A joint powers authority could be established to supervise these older offenders or the state could lease its existing facilities housing older offenders to multiple willing counties and provide funding for county-run programs and services for the older youth offender population. Ideally, appropriate regional facilities should be built by the state and leased to and operated by the counties. Additionally, counties could develop or contract with community-based providers to provide re-entry programs for the final months of confinement for older offenders who have served longer sentences.

Youth Serving Lengthy or Life Sentences. A small number of offenders in state youth facilities have been convicted of serious crimes in adult courts and are serving very long terms or, in some cases, life sentences in prison, but are too young to be transferred to an adult prison where legally required educational programs may not be available. Currently, there are approximately 245 youth offenders convicted in adult criminal courts serving time in state youth facilities.¹¹³ Those who will complete their sentence and parole before age 21 can remain in a juvenile facility up until age 21. Those who will not complete their term before turning 21 will graduate directly from youth facilities at age 18 to adult prisons to continue their terms.¹¹⁴ Counties currently do not have programs geared toward providing these offenders with the skills needed to survive a long or a life sentence in an adult prison.

While both categories of offenders – older offenders and those sentenced to long or life sentences – are relatively small, special consideration

would need to be given to them as far as appropriate housing, should the state eventually turn supervision of all youth offenders over to counties.

Summary

Costs to run the state's juvenile justice operations have sky-rocketed as the state has attempted to comply with the reforms it agreed to in the Farrell consent decree. The realignment legislation eased the state's burden by significantly reducing the population. But the state's annual costs per ward will continue to increase as the state supervises an increasingly smaller number of youth in facilities and simultaneously supports a system designed for many more. The majority of the state's youth facilities are more than 40 years old and have not been consistently or adequately maintained. Despite some progress in implementing the reforms required by the Farrell consent decree, the plaintiffs in the case have asked the court to consider appointing a receiver – a move that would put control of the juvenile justice divisions and their budgets under the court and not the state's elected officials.

In the previous chapter, the Commission recommended that the state establish a Governor's Office of Juvenile Justice to provide statewide leadership on juvenile justice. The Commission recommended that this office provide technical assistance and guidance to help counties implement evidence-based programs and provide oversight of state-funded local programs and grants.

With assistance from the counties, the Governor's Office of Juvenile Justice should analyze the types of programs and services needed for the most serious offenders. It should guide and facilitate the development of county consortiums and joint powers authorities to develop regional facilities for the most serious offenders. These facilities could be built by the state but leased to and run by the counties. The Youthful Offender Parole Board should be eliminated, with release decisions turned over to presiding juvenile court judges.

Closing the state's current juvenile justice facilities and operations would result in substantial savings, some of which should be used to pay for county-run regional facilities. Additionally, key state officials and staff involved with developing and implementing the state-level reforms should be shifted from CDCR to the Office of Juvenile Justice to guide statewide juvenile justice policy and to facilitate and oversee the establishment of state-local build-lease regional facilities, joint powers authorities or other state and local partnerships.

Recommendation 4: The state should eliminate its juvenile justice operations by 2011. As previously described, the governor and the Legislature must consolidate all programs and services for juvenile offenders into a Governor's Office of Juvenile Justice. In addition to the responsibilities described previously, the Office should:

- ❑ Guide, facilitate and oversee the development of new regional rehabilitative facilities or the conversion of existing state juvenile facilities into regional rehabilitative facilities for high-risk, high-need offenders to be leased to and run by the counties.
- ❑ Provide counties with sustained, dedicated funding to establish programs and services for regional facilities.
- ❑ As regional facilities become fully operational, the state should:
 - ✓ Eliminate state juvenile justice operations, including facilities, programs and parole and the Youthful Offender Parole Board. All juvenile offender release decisions should be made by presiding juvenile court judges.
 - ✓ Provide guidance and oversight of the regional juvenile facilities and administer dedicated funding to counties to manage the regional juvenile offender programs and services tied to performance-based outcomes.

Conclusion

California has entered a new era of juvenile justice. In 2007 policy-makers took the historic step of turning responsibility for all but the most serious and violent youth offenders over to the counties and provided counties with resources to handle the expanded population.

This realignment was overdue, had long been advocated by many, and marks a critical juncture – policy-makers awakening to the reality that the state can no longer afford its failed juvenile justice system.

While the realignment represents substantial savings, the state will continue to spend half a billion dollars per year on fewer than 2,000 youth offenders in state facilities, approximately \$252,000 per youth offender. These youth are the highest risk to public safety and rarely are sent to the state without a long list of prior offenses. They have extensive mental health and substance abuse issues which require intensive counseling and often highly-specialized intervention programs – expensive whether they are provided at the state or local level.

During the past decades, the state has not shown the will or the capability to provide the programs and services to help the youth in its care become self-sufficient, law-abiding adults. This was not always the case. In the 1970s, California’s juvenile justice system was a national model. Its slide into mediocrity and eventually utter failure did not happen overnight. The culture inside the walls and fences – fed by fear and false prophesies of rampant teenage crime on the outside – became more punitive than rehabilitative. Reform schools became mini-prisons. Violence and lockdowns became the order of the day. Gang leaders called the shots, not counselors or correctional officers. Though these youth are in state facilities because they committed serious offenses – leaving countless victims in their wake – the vast majority will return to the community. Most will commit new crimes.

No one planned for the state’s juvenile justice system to go from national leader to where we are today. If performance measures were in place, the state could have tracked where it was headed and evaluated whether or not it wanted to spend half a billion dollars on juvenile justice policies that tear at the social fabric of California communities and divert resources from education, health care and other critical needs.

The enormous cost in terms of lives and dollars leads to important questions. What is the goal of the system? What are Californians getting for this significant investment and what is the state accomplishing?

The goal of the juvenile justice system is grounded in California law: When juvenile offenders become wards of the court, the court must “consider the safety and protection of the public, the importance of redressing injuries to victims, and the best interests of the minor.”¹¹⁵

Answers to the other questions are more elusive. The state cut back on its highly acclaimed juvenile justice research department. Data the state collects can tell policy-makers how many offenders are in state facilities, where they came from, the category of crime they committed and other facts, but it cannot tell policy-makers what programs are working. The state must track what is working by measuring how many offenders returning to the community remain free from crime and substance abuse, get jobs or return to school, or other identifiable outcomes.

If not for this data void, perhaps policy-makers would have seen and responded to the systemic problems before lawyers and the courts became involved. Counties saw the problems and expanded intervention and local detention programs realizing that the youth they were sending to the state eventually would be coming back to their communities. Many counties took note that they were coming back more violent and disturbed than when they left. But youth offender programs are costly and not all counties chose to make the investment, leading to disparities.

Forced by the courts, the state has slowly begun to turn its system around, but the road to reform is long and expensive. Unfortunately, it is too late and the price of reform is too steep.

The Commission could come to no other conclusion than to recommend that the state set course for turning all offenders, together with the necessary resources, over to the counties. The cost for the highest risk, highest need offenders is significant. Resources can be re-directed from state savings, but must be dedicated and stable so that counties can build the programs and infrastructure to do what the state could not.

As the state moves toward this end, leadership to ensure a statewide continuum of juvenile justice programs and services, and oversight to ensure that counties spend new money wisely, will be more important than ever. To accomplish this, the Commission recommends the state establish an Office of Juvenile Justice to ensure the new era of juvenile justice in California is one that results in improved public safety and public spending. Californians must get the highest possible return on their investments in juvenile justice policies and programs.

The Commission's Study Process

The Commission previously examined juvenile justice in its 1994 study, "The Juvenile Crime Challenge: Making Prevention a Priority" and again in its 2001 study, "Never Too Early, Never Too Late to Prevent Youth Crime and Violence." It also reviewed Governor Arnold Schwarzenegger's reorganization plan creating the California Department of Corrections and Rehabilitation (CDCR) in its 2005 report, "Reconstructing Government: A Review of the Governor's Reorganization Plan Reforming California's Youth and Adult Corrections Agency."

The Commission initiated this study in the fall of 2007 to review the realignment of California's juvenile justice system, through the examination of both the shift in responsibility from the state to the counties for the majority of juvenile offenders and the role and responsibilities of the state for the most serious and violent juvenile offenders. This study also served as an opportunity for the Commission to return to the oversight role that it committed to following its 2005 review of the reorganization plan creating CDCR.

In pursuing its study, the Commission convened two public hearings and a number of site visits.

At the first public hearing, held in November 2007, youth advocates discussed the major events that led up to the realignment as well as the challenges and opportunities that the shift presented. The Commission also heard from a panel of chief probation officers who shared their perspectives on implementation, as well as from the chief deputy secretary of juvenile justice from the CDCR and the executive director of the Corrections Standards Authority who discussed the roles of each organization in the realignment.

The second hearing, in February 2008, brought together a national expert who discussed evidence-based corrections practices for juvenile offenders; a researcher who specializes in data collection and analysis of California juvenile justice programs; representatives of key local officials, including judges, district attorneys and county officials; and, two members of the State Commission on Juvenile Justice.

In addition to the public hearings, the Commission's Juvenile Justice Subcommittee visited county-run juvenile justice facilities in Orange

County in November 2007 and in San Mateo County in January 2008. The subcommittee also visited the state-run Heman G. Stark Youth Correctional Facility in Chino in January 2008. Commission staff also visited Sacramento County's juvenile facilities in December 2007. Commission staff received valuable feedback from a number of experts representing various components of California's juvenile justice system as well as from experts in other states.

Hearing witnesses are listed in Appendix A. The Commission greatly benefited from the contributions of all who shared their expertise, but the findings and recommendations in this report are the Commission's own.

All written testimony submitted electronically for each of the hearings, and this report is available online at the Commission Web site, www.lhc.ca.gov.

Appendices & Notes

- ✓ *Public Hearing Witnesses*
- ✓ *List of 707(b) Offenses*
- ✓ *Summary of County Juvenile Justice Development Plans*
- ✓ *Major Sources of Funding for California's Local Juvenile Justice Programs and Services*
- ✓ *Selected Acronyms*
- ✓ *Commissioner David A. Schwarz Comments*
- ✓ *Notes*

Appendix A

Little Hoover Commission Public Hearing Witnesses

***Witnesses Appearing at Little Hoover Commission
Public Hearing on Juvenile Justice, November 15, 2007***

Kim Barrett, Chief Probation Officer, San Luis Obispo County and President, Chief Probation Officers of California

Donald H. Blevins, Chief Probation Officer, County of Alameda

Sue Burrell, Staff Attorney, Youth Law Center

C. Scott Harris, Executive Director, Corrections Standards Authority

Dan Macallair, Executive Director, Center on Juvenile and Criminal Justice

Don Specter, Executive Director, Prison Law Office

Verne Speirs, Chief Probation Officer, Sacramento County

Bernard Warner, Chief Deputy Secretary for Juvenile Justice, California Department of Corrections and Rehabilitation and Tri-Chair, State Commission on Juvenile Justice

***Witnesses Appearing at Little Hoover Commission
Public Hearing on Juvenile Justice, February 28, 2008***

Steve Aos, Assistant Director, Washington State Institute for Public Policy

Penelope Clarke, Administrator, Countywide Services Agency, County of Sacramento and Tri-Chair, State Commission on Juvenile Justice

Karen Hennigan, Director, Center for Research on Crime and Social Control, Department of Psychology, University of Southern California

Rick Lewkowitz, Supervising Deputy District Attorney, Sacramento County District Attorney's Office, Juvenile Division

The Honorable Kenneth G. Peterson, Presiding Juvenile Court Judge, Superior Court of California, County of Sacramento

David Steinhart, Director, Juvenile Justice Program, Commonwealth, and Member, State Commission on Juvenile Justice

Appendix B

List of 707(b) Offenses

Eligibility for Commitment
California Department of Corrections and Rehabilitation, Division of Juvenile Facilities (DJF)

Welfare and Institutions Code § 1731.5(a)(1)
Offenses listed in W&I § 707(b) and PC § 290(d)(3)
By Senate Bill 81 and Assembly Bill 191

LISTED NUMERICALLY BY CODE SECTION

Qualifying §	Crime	Crime Code §
707(b)(19)	Witness intimidation	136.1, 137 PC
707(b)(21)	Violent gang felony	186.22(b) PC + 667.5 PC
707(b)(1)	Murder	187 PC
707(b)(30)	Manslaughter, voluntary	192(a)
707(b)(24)	Mayhem, aggravated	205 PC
707(b)(23)	Torture	206, 206.1 PC
290(d)(3)®	Kidnap with intent to commit rape, sodomy, child molest, oral copulation or penetration with a foreign object	207(a) PC + sexual purpose
707(b)(11)	Kidnap with bodily harm	207(a) PC + bodily harm
290(d)(3)®	Kidnap by enticement to molest	207(b) PC
707(b)(26)	[No such section]	208(d) PC
707(b)(9)	Kidnap for ransom	209(a) PC
707(b)(10)	Kidnap for robbery	209(b)(1) PC
290(d)(3)®	Kidnap with intent to commit rape, sodomy, child molest, oral copulation or penetration with a foreign object	209(b)(1) PC
707(b)(27)	Kidnapping for carjacking	209.5 PC
707(b)(3)	Robbery	211 PC
707(b)(25)	Carjacking while armed with weapon	215 PC + "armed" with weapon
290(d)(3)(A)	Assault with intent to commit specified sexual offenses	220 PC
Qualifying §	Crime	Crime Code §
707(b)(14)	Assault by means of force likely to produce great bodily injury	245(a)(1) PC
707(b)(13)	Assault with firearm	245(a)(2) PC
707(b)(15)	Shooting into inhabited building	246 PC
290(d)(3)(B)	Rape of victim incapable of consent	261(a)(1) PC
707(b)(4) 290(d)(3)(B)	Rape by force or violence or threat of great bodily harm	261(a)(2) PC

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290(d)(3)(B)	Rape of intoxicated victim	261(a)(3) PC
290(d)(3)(B)	Rape of unconscious victim	261(a)(4) PC
290(d)(3)(B)	Rape by threat of future retaliation	261(a)(6) PC
290(d)(3)(B)	Sexual offense in concert	264.1 PC
290(d)(3)(B)	Sexual assault by false pretenses	266c PC
290(d)(3)(B)	Abduction of minor for prostitution	267 PC
290(d)(3)(B)	Sodomy with minor	286(b)(1) PC
290(d)(3)(B)	Sodomy of child under 14, 10 years younger	286 [©] (1) PC
707(b)(5) 290(d)(3)(B)	Sodomy by force, violence, duress, menace or threat of great bodily harm	286 [©] (2) PC
290(d)(3)(B)	Sodomy in concert	286(d) PC
290(d)(3)(B)	Child molest of child under 14	288(a) PC
707(b)(6) 290(d)(3)(B)	Child molest by force, violence, duress, menace or fear of great bodily harm	288(b) PC
290(d)(3)(B)	Child molest of 14-15 year old child	288 [©] (1) PC
290(d)(3)(B)	Continuous child molest	288.5 PC
290(d)(3)(B)	Oral copulation with child under 18	288a(b)(1) PC
290(d)(3)(B)	Oral copulation of child under 14, 10 years younger	288a [©] (1) PC
707(b)(7) 290(d)(3)(B)	Oral copulation by force, violence, duress, menace or threat of great bodily harm	288a [©] (2) PC
290(d)(3)(B)	Oral copulation in concert	288a(d) PC
707(b)(8) 290(d)(3)(B)	Penetration with a foreign object	289(a) PC
707(b)(2)	Arson	451(a) or (b) PC
290(d)(3)(B)	Annoy/molest child under 18	647.6 PC
707(b)(12)	Attempted murder	664/187 PC
707(b)(22)	Escape from juvenile hall/ranch by force with great bodily injury on employee	871(b) PC + 12022.7 PC
707(b)(16)	Robbery with great bodily injury on elderly or disabled victim; or attempt; or attempt	1203.09(a)(2), 211 PC

Qualifying §	Crime	Crime Code §
707(b)(16)	Burglary with great bodily injury on elderly or disabled victim; or attempt	1203.09(a)(5), 459 PC
707(b)(16)	Rape by force, violence, duress, menace or fear of bodily injury of spouse with great bodily injury on elderly or disabled victim; or attempt	1203.09(a)(6), 261(a)(2), 262(a)(1) PC
707(b)(16)	Rape or rape of spouse by threat of retaliation with great bodily injury on elderly or disabled victim; or attempt	1203.09(a)(6), 261(a)(6), 262(a)(4) PC
707(b)(16)	Assault with intent to commit robbery or sodomy with great bodily injury on elderly or disabled victim; or attempt	1203.09(a)(7), 220 PC
707(b)(16)	Carjacking with great bodily injury on elderly or disabled victim; or attempt	1203.09(a)(8), 215 PC
707(b)(28)	Shoot from a vehicle at another who is not in a vehicle	12034 [©] PC
707(b)(13)	Assault with destructive device	12303.3, 12308, 12309, 12310 PC
707(b)(29)	Explode a device with intent to murder	12308 PC
707(b)(20)	Manufacturing or selling ½ ounce or more of Schedule II drug (opiates, cocaine, methamphetamine, PCP)	11352, 11379, 11379.6 H&S (11055 H&S)
	SPECIAL SITUATIONS:	
707(b)(18)	Use of prohibited weapon in any felony, personal	12020(a) PC
707(b)(17)	Use of a firearm	12022.5, 12022.53 PC

Note: Penal Code section 290(d)(3) was deleted by Senate Bill 172, chaptered October 13, 2007. The crimes listed in the former Penal Code section 290(d)(3) are now listed in Penal Code section 290.008(c). However, the sections that provide for commitment to the Division of Juvenile Facilities (Welfare and Institutions Code sections 731(a)(4), 733(c) and 1731.5(a)(1)) were not amended and still refer to the now deleted Penal Code section 290(d)(3). This list was submitted to the Commission by the Honorable Judge Kenneth G. Peterson, Presiding Juvenile Court Judge, Superior Court of California, County of Sacramento, as part of his testimony to the Commission on February 28, 2008.

Appendix C

Summary of County Juvenile Justice Development Plans

County	Population Projection Ages 10-17 for Fiscal Year 2006-07	Total Expected Returnees (through 2009)	YOBG Allocations to Counties (2007-08)	YOBG Funds Used For The Following Programs & Services (0 = No, 1 = Yes)								
				Totals	A	B	C	D	E	F	G	H
Los Angeles	1,348,528	131	\$5,460,396	6	1	1	0	1	1	1	0	1
San Diego	370,356	34	\$1,434,647	5	0	1	1	1	1	1	0	0
Orange	364,624	30	\$1,539,093	4	0	1	0	1	0	1	0	1
San Bernardino	293,055	51	\$1,648,906	8	1	1	1	1	1	1	1	1
Riverside	291,380	33	\$1,814,310	7	1	1	1	1	1	1	0	1
Santa Clara	196,166	13	\$790,663	4	0	0	0	1	1	1	0	1
Sacramento	177,021	28	\$1,103,062	1	0	0	0	0	0	1	0	0
Alameda	160,548	27	\$730,128	5	0	1	1	0	1	1	1	0
Fresno	125,334	43	\$689,807	4	1	1	1	1	0	0	0	0
Contra Costa	122,084	9	\$443,277	2	0	1	0	0	1	0	0	0
Kern	112,517	34	\$849,966	6	1	1	1	1	1	0	0	1
Ventura	100,513	27	\$389,123	6	1	0	1	1	1	1	0	1
San Joaquin	98,630	18	\$602,322	7	1	1	1	1	1	1	0	1
Stanislaus	75,547	11	\$278,735	5	0	1	0	1	1	0	1	1
San Mateo	70,226	14	\$363,742	8	1	1	1	1	1	1	1	1
Tulare	61,646	31	\$260,455	7	1	1	1	1	1	1	0	1
Sonoma	53,756	5	\$261,015	6	1	1	1	1	0	1	0	1
Solano	51,930	3	\$409,064	2	0	1	0	0	0	0	0	1
Monterey	50,827	21	\$185,697	3	0	1	1	1	0	0	0	0
Santa Barbara	47,708	7	\$259,089	5	0	1	1	1	1	1	0	0
San Francisco	41,785	1	\$287,150	3	0	0	0	0	1	1	0	1
Placer	41,177	3	\$147,000	6	0	1	1	1	1	1	0	1
Merced	36,774	31	\$236,877	3	0	0	1	0	1	1	0	0
San Luis Obispo	26,164	1	\$100,274	3	1	0	0	1	0	0	0	1
Santa Cruz	25,742	1	\$94,752	3	0	1	0	1	1	0	0	0
Butte	23,903	7	\$119,232	2	0	1	0	0	0	0	0	1
Marin	23,604	0	\$103,118	3	1	0	1	0	0	1	0	0
Imperial	22,554	3	\$74,364	5	1	1	1	1	1	0	0	0

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County	Population Projection Ages 10-17 for Fiscal Year 2006-07	Total Expected Returnees (through 2009)	YOBG Allocations to Counties (2007-08)	YOBG Funds Used For The Following Programs & Services (0 = No, 1 = Yes)								
				Totals	A	B	C	D	E	F	G	H
Yolo	22,261	2	\$102,919	6	1	0	1	1	1	1	0	1
El Dorado	21,812	1	\$94,387	3	1	0	0	1	0	0	1	0
Shasta	21,548	8	\$90,595	7	1	1	1	1	1	1	0	1
Madera	20,469	11	\$101,441	7	1	1	1	1	1	1	0	1
Kings	19,617	5	\$96,499	5	1	1	1	0	1	1	0	0
Napa	15,384	3	\$92,250	3	0	0	1	1	1	0	0	0
Humboldt	13,125	0	\$58,851	1	0	1	0	0	0	0	0	0
Sutter	12,617	1	\$58,568	6	1	0	1	1	1	1	0	1
Nevada	10,746	0	\$58,500	3	1	1	1	0	0	0	0	0
Yuba	10,501	1	\$58,500	3	1	0	1	0	0	1	0	0
Mendocino	9,700	1	\$58,500	1	0	0	0	1	0	0	0	0
San Benito	8,193	1	\$58,500	4	0	0	1	0	1	0	1	1
Tehama	7,520	5	\$58,500	1	0	1	0	0	0	0	0	0
Lake	6,546	5	\$58,500	3	1	1	0	1	0	0	0	0
Tuolumne	5,132	0	\$58,500	6	0	1	0	1	1	1	1	1
Siskiyou	4,786	3	\$58,500	2	1	0	1	0	0	0	0	0
Calaveras	4,651	0	\$58,500	8	1	1	1	1	1	1	1	1
Glenn	3,789	2	\$58,500	1	0	0	0	1	0	0	0	0
Amador	3,749	0	\$58,500	3	1	0	1	0	0	0	0	1
Lassen	3,623	3	\$58,500	5	1	0	1	1	1	0	0	1
Del Norte	3,115	1	\$58,500	7	1	1	1	0	1	1	1	1
Colusa	2,895	0	\$58,500	4	1	1	1	0	1	0	0	0
Plumas	2,110	0	\$58,500	4	1	1	1	1	0	0	0	0
Inyo	2,062	0	\$58,500	3	1	1	0	0	0	1	0	0
Mariposa	1,749	0	\$58,500	1	0	0	0	1	0	0	0	0
Trinity	1,590	0	\$58,500	1	0	0	0	1	0	0	0	0
Mono	1,420	0	\$58,500	3	1	1	0	1	0	0	0	0
Modoc	1,182	0	\$58,500	5	1	1	1	1	0	1	0	0
Sierra	348	0	\$58,500	3	1	0	0	1	0	1	0	0
Alpine	101	0	\$58,500	3	1	1	1	0	0	0	0	0
Total	4,656,440	670	\$22,658,771		34	37	35	38	31	30	9	27

Sources: Number of Total Returnees from the California Department of Corrections and Rehabilitation, Division of Juvenile Justice. "Non 707(b) Commitments in DJJ Facilities, as of October 14, 2007." Also, Department of Finance. "Population By County Ages 10-17 Projections For Fiscal Year 2006-2007." Data provided by Department of Finance, Demographic Research Unit. Also, California Department of Corrections and Rehabilitation, Corrections Standards Authority. County Juvenile Justice Development Plans.

Youthful Offender Block Grant (YOBG) Fund Categories

Totals: The total number of spending categories identified in County Juvenile Justice Development Plans

A: Risk and needs assessment tools and evaluations to assist in the identification of appropriate youthful offender dispositions and reentry plans.

B: Placements in secure and semi-secure youthful offender rehabilitative facilities and in private residential care programs, with or without foster care waivers, supporting specialized programs for youthful offenders.

C: Nonresidential dispositions such as day or evening treatment programs, community service, restitution, and drug-alcohol and other counseling programs based on an offender's assessed risks and needs.

D: House arrest, electronic monitoring, and intensive probation supervision programs.

E: Reentry and aftercare programs based on individual aftercare plans.

F: Capacity building strategies to upgrade the training and qualifications of juvenile justice and probation personnel serving the juvenile justice caseload.

G: Regional program and placement networks, including direct brokering and placement locating networks to facilitate out-of-county dispositions for counties lacking programs or facilities.

H: Other programs, placements, services, or strategies to be funded by the county's block grant allocation.

Appendix D

Major Sources of Funding for California's Local Juvenile Justice Programs and Services

Source	Purpose	Amount Available 2007-08
State		
Juvenile Justice Crime Prevention Act	Supports local government to reduce juvenile crime.	\$119 million ¹¹⁶
Juvenile Probation and Camps Funding	Supports programs for at-risk youth and juvenile offenders and their families; additionally supports counties that operate juvenile camps or ranches.	\$201.4 million ¹¹⁷
Youthful Offender Block Grant	Funding to counties to support realignment.	\$23.7 million ¹¹⁸
Juvenile Mentally Ill Offender Crime Reduction Program	Supports local efforts to reduce recidivism and promote long-term stability among juvenile mentally ill offenders.	\$22.3 million ¹¹⁹
Juvenile Justice Community Reentry Challenge Grant Program	Supports counties or nonprofit organizations that provide reentry services for juvenile parolees. Awarded to 5 counties for use during 2007-2009.	\$9.5 million ¹²⁰
Proud Parenting Program	Supports community-based organizations and other local agencies to teach parenting skills to at-risk youth and youth reentering the community from state juvenile facilities.	\$.837 million ¹²¹
Pupil Retention Block Grant	Provides funds to county offices of education and school districts to provide a variety of programming, including after-school programs for students who have been incarcerated or who are first-time offenders and are on probation. All counties, except for Alpine, are eligible to receive these funds.	\$95.5 million ¹²²
Comprehensive Drug Court Implementation Act	Provides funds to support a variety of drug court systems, including those for juvenile offenders. The Judicial Council and the California Department of Alcohol and Drug Programs administer the program. 13 counties support juvenile drug courts with funding from this act.	\$.809 million ¹²³
Mental Health Services Act	Funds a broad continuum of public mental health services. Prohibits spending on offenders in state facilities or on parole, but allows spending on offenders in juvenile detention facilities or on probation.	unknown ¹²⁴
Proposition 98	Education services are funded through Proposition 98, including services for juveniles in correctional institutions.	unknown ¹²⁵
	<i>State Total</i>	<i>> \$473 million</i>

LITTLE HOOVER COMMISSION

Federal		
Juvenile Accountability Block Grant	Provides states with funds to support accountability-based improvements in state and local juvenile justice systems.	\$4.02 million ¹²⁶
Neglected and Delinquent State Agency and Local Educational Agency Program (Title I-D)	Provides formula grants to state education agencies for education services for incarcerated youth.	\$2.52 million ¹²⁷
Delinquency Prevention & Intervention Program (Title II)	Supports state and local efforts to prevent and reduce delinquency and to improve the juvenile justice system. Only 13 counties received this grant funding.	\$6.6 million ¹²⁸
Federal Payments for Foster Care and Adoption Assistance (Title IV-E)	County probation departments receive administrative funding for a variety of activities including determining eligibility for foster care, conducting assessments, training, court-related functions and case management.	\$193 million ¹²⁹
Community Prevention Grants Program (Title V)	Supports activities that keep at-risk youth and first-time non-serious offenders from entering the local juvenile justice system.	\$0.75 million ¹³⁰
	<i>Federal Total</i>	> \$206.9 million
	<i>Combined Total</i>	> \$679.9 million

Note: This table is meant to document a point-in-time assessment of some of the major funding sources available to California’s counties for juvenile justice programs and services. However, it is not exhaustive for a number of reasons. The amounts of grant awards may change from year to year depending on both federal and state budget climates—what is listed for FY 2007 may not accurately reflect the funding available in FY 2008. The focus of this table is on local grants, but some federal grants fund both state and local programs and services. Additionally, some of the grants listed here are only available to a limited number of counties. The focus also is on funds for youth in the juvenile justice system, but some grants listed also target youth who are at-risk of entering the juvenile justice system. Finally, counties are very creative in tapping into various other grant programs that may not be listed here.

Appendix E

Selected Acronyms

ACJJDP – Advisory Committee on Juvenile Justice and Delinquency Prevention

CDCR – California Department of Corrections and Rehabilitation

CSA – Corrections Standards Authority

CYA – California Youth Authority

DJF – Department of Juvenile Facilities

DJJ – Division of Juvenile Justice (a commonly-used acronym for two divisions in the Department of Juvenile Facilities)

DOJ – Department of Justice

JCPSS – Juvenile Court and Probation Statistical System

JJCPA – Juvenile Justice Crime Prevention Act (formerly the Schiff-Cardenas Crime Prevention Act of 2000)

JPCF – Juvenile Probation and Camps Funding

MIOCR – Mentally Ill Offender Crime Reduction Program

OCJP – Office of Criminal Justice Planning

Proposition 21 – The Juvenile Crime Initiative of 2000

Proposition 63 – The Mental Health Services Act

YOBG – Youthful Offender Block Grant

Appendix F

Commissioner David A. Schwarz Comments

July 21, 2008

The Honorable Arnold Schwarzenegger
Governor of California

The Honorable Don Perata
President pro Tempore of the Senate
and members of the Senate

The Honorable Karen Bass
Speaker of the Assembly
and members of the Assembly

The Honorable Dave Cogdill
Senate Minority Leader

The Honorable Michael Villines
Assembly Minority Leader

Re: *Juvenile Justice Reform: Realigning Responsibilities*, Report of the Little Hoover Commission (July 14, 2008)

Dear Governor Schwarzenegger and Members of the Legislature:

I agree with many of the conclusions in the Commission's Report, *Juvenile Justice Reform: Realigning Responsibilities* (the "Report"), in particular the recommendation to create a Governor's Office of Juvenile Justice separate from the California Department of Corrections and Rehabilitation ("CDCR"). At this moment, the most urgent issue to be addressed is how the counties will cope with implementation of Senate Bill ("SB") 81, and what the state can do to assist the counties to meet the challenges of juvenile justice realignment. Those challenges are great: As Judge Kenneth Peterson stated, "[u]nless there is a timely, significant – and I fear, unlikely – increase in sophisticated and secure treatment facilities at the local level, the judges will make the same finding that there is no effective or appropriate facility or program for the young person, but will have no answer to solve the problem." February 5, 2008 Written Testimony by Judge Kenneth G. Peterson, Presiding Judge of the Juvenile Court, Superior Court of California, County of Sacramento ("Peterson Testimony"), at 5.

I express concerns as to two conclusions reached in the Report.

First, the Commission recommends that the state should eliminate its juvenile justice operations by 2011, with the counties assuming these responsibilities. That conclusion is based on the observation that the state is struggling to meet the judicially-imposed standards for running juvenile offender facilities, the high recidivism rate of offenders who are sent to a state facility, and the significant costs involved with housing and treating a diminishing number of offenders.

However, I remain concerned as to whether the counties can succeed where CDCR has failed in the past, or that the state should abdicate this core public safety responsibility. The proposed three year transition to the counties for the responsibility of housing those that otherwise are sent to state juvenile facilities – typically the most dangerous or most problematic offenders – will add significant burdens to the counties.

SB 81 is already placing the counties under the tremendous burden of dealing with certain high-risk or special needs offenders, while eliminating the alternative to sending certain of these individuals to a state facility. Many counties are not equipped to supervise and treat wards who displayed behaviors that caused Juvenile Court judges to conclude that they could not be treated in community, county, or out-of-state facilities; that is why, as a last resort, they were sent to a state facility. The Report recognizes this reality. *See* Report at 47. Most county juvenile justice programs "are designed for youth under 18 years of age and the program duration in county facilities is typically 90 days or a year, for even the most serious offenders." Report at 47. Thus, counties will have to fundamentally retool themselves to deal with the hardest cases, adding to their rehabilitative model of short-term care and community supervision the responsibility of housing dangerous or mentally incompetent offenders, for whom early release is simply not an option. Some of the counties lack the staff, experience, mandate, or guaranteed (and adequate) financial resources to provide these wards a constitutionally-required level of care.

There will always be a subset of juvenile offenders for whom long-term incarceration is the only option. SB 81 still provides state incarceration as an alternative to county custody as to certain juvenile offenders. The elimination of that option may only cause a repeat of the problems which led to the *Farrell* litigation, but this time on the county level. Some counties are not equipped to meet the minimum requirements for maintaining juvenile facilities, as reflected in the fact that there have been two Department of Justice investigations into county conditions, and two lawsuits brought to address *Farrell*-like conditions. Those problems may likely magnify as the counties take on increasingly large responsibilities for juvenile incarceration and rehabilitation.

The elimination of state facilities may also deprive Juvenile Court judges of a key deterrent tool for recidivist youths. The prospect of remanding a recidivist offender to a state prison can motivate a juvenile to abide by the terms of the lesser sentence, or a term in a less confining institution. He (or she) knows that there will be significant consequences to a parole violation, or to acting out within a facility oriented toward rehabilitation. *See* Peterson Testimony, at 8.ⁱ Eliminating the threat of incarceration in a state facility may also curtail the use of private out-of-state facilities. The ward must agree to be sent to such a facility, and often will only agree to this when given a choice between a state prison or an assignment to a facility in Pennsylvania or Nevada. Once that choice is eliminated, youths will be told by their public defender that they

ⁱ As Judge Peterson notes, since the adoption of SB 81, "some minors have intentionally 'sabotaged' their commitment to the county's last-resort ranch/camp option under the belief that there is nothing else the Juvenile Court can do to them. The ranch program returned those minors to court as ranch failures, leaving the court with no effective follow-up option. Young people, even reasonably well-adjusted ones, are famous for testing limits. It is likely that there will be some effect of this sort in other cases now that the prohibition on commitment to a state facility for most offenses has been established. Probation Officers will see some there-is-nothing-you-can-do-to-me attitudes among their most recalcitrant wards. Then what?" *Id.*

don't have to opt for this solution; they will go to a county or regional facility, which may not be equipped to handle them, or which may be overcrowded, in part because the option of out-of-state (or state correctional) facilities has been eliminated.

There is also the subsidiary, but no less important, issue of whether a county facility, or a regional facility, can be required to house a juvenile sent to it from another county. As Judge Peterson noted, the Juvenile Court has the power to order a ward to a facility, but does not have the power to keep them there, if that county refuses to take the offender, or sends him back for bad behavior, or a shortage of beds. What is to happen to that offender, if the alternative of state incarceration – where there is little choice but to accept the ward – is eliminated?

However serious may be the continuing problems within CDCR, we acknowledge that some progress is being made to address the issues raised in the *Farrell* litigation. See Report at 43. Bernard Warner, Chief Deputy Secretary for Juvenile Justice, CDCR, testified that one of the consequences of SB 81's realignment will be to reduce, perhaps dramatically, the number of inmates in state facilities. This may, in his opinion, facilitate the ability of the state to meet the goals of the *Farrell* consent decree, while at the same time reducing the overall costs to house and treat wards. Certain state facilities will be closed; those that remain open can be the focus of reform efforts. We have already seen that one facility, the O.H. Close (Youth Correctional Facility) "has been singled out as exemplary by a consensus of the experts, where youth are benefiting from its substantial compliance with the remedial plans. Some of the experts have reported that the Southern Youth Correctional Reception Center and Clinic may be making comparable progress under the remedial plans, with comparable benefits for youth." Report at 43.

Finally, the transition of responsibilities to the counties won't eliminate CDCR's on-going obligation to comply with the *Farrell* consent decree. Absent a dramatic, coordinated, and court-approved shift from the state to the counties, CDCR will still have to meet the requirements of the court's order, and it will have to do it, soon. That effort is on-going, and will continue to be subject to court jurisdiction. Significant monies have been dedicated to meeting the goals of the consent decree, and I suspect that implementation of the required reforms will not be shelved while the state waits for new regional facilities to be constructed. The continuum of care mandated by the *Farrell* consent decree goes well beyond addressing facilities problems; there is every reason to believe that the court will require no less compliance (under court supervision), in the event an effort is made to shift responsibilities from the state to the counties, or a consortium of counties.

The proposed Office of Juvenile Justice may be exactly what is needed for the state to meet the *Farrell* requirements, and to avoid a receivership: An organization reporting directly to the Governor's Office, which has no other priority or mission than juvenile justice and rehabilitation. That does not lead, however, to the conclusion that the state should, in essence, get out of the business of incarcerating youth offenders, or that the counties can meet these needs.

Second, the Report recommends that the Governor's Office of Juvenile Justice be given some oversight as to the funding and outcomes to be implemented on the county levels, using General

Fund allocations. This would, in other words, split (or perhaps dilute) oversight between this new organization and the Correctional Standards Agency ("CSA").

At present CSA is charged with setting standards, monitoring county juvenile facilities and enforcing standards compliance. As the Report notes, CSA has not done an exemplary job in this regard, as reflected by the numerous litigations and U.S. Department of Justice investigations into county facilities which CSA is supposed to monitor. The Report also notes that CSA was given a very limited oversight role in the realignment. As the Commission did not directly consider CSA's role under a realigned juvenile justice system, it remains an issue to watch carefully. What we do know about CSA does not support the conclusion that it can provide the necessary oversight and enforcement of minimum standards at present. Yet such oversight will be even more critical in the context of any proposal to transfer all correctional housing responsibilities to the counties.

Removing juvenile justice responsibilities from CDCR, and placing supervision of its facilities under a stand alone organization makes sense. That could be part of the mandate of the proposed Office of Juvenile Justice, provided it is given oversight and enforcement responsibilities over county or regional facilities. An office dedicated to state-wide standards setting, with licensing authority, enforcement powers, and the mandate to operate a limited number of state facilities, presents an opportunity to assemble in one organization the spectrum of expertise – mental health, drug rehabilitation, therapeutic alternatives for developmentally disabled, and correctional expertise specific to a youth population – seems to be a more plausible alternative to the elimination of the state's juvenile justice operations and putting these responsibilities at the county level.

In this regard, the recommendation does not go far enough. While it proposes consolidation of certain programs and services into the Office of Juvenile Justice, it stops short of giving that new organization the authority to set standards and to enforce them. Instead, it proposes to split oversight between the new Office of Juvenile Justice and the CSA. As noted, this balkanization of oversight and enforcement may dilute the power of the new organization we propose.

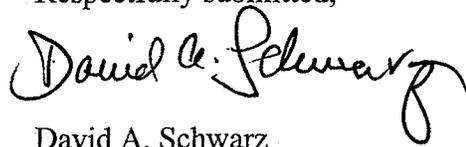
A consistent theme heard from both the probation chiefs and the public interest advocates is that there is no enforcement mechanism to put "teeth" into the requirements of meeting certain minimum standards for juvenile correctional facilities. The probation chiefs would welcome state-imposed standards, whether through licensing or some other mechanism. It would give them a more powerful basis to negotiate a budget with their County Board of Supervisors that is sufficient to meet the requirements imposed by a state enforcement authority.

As the Report notes, many problems have been allowed to persist because the Attorney General has taken the position that state juvenile facilities regulations are unenforceable. Report at 33. As Sue Burrell of the Youth Law Center testified, the only "enforcement" mechanism is public interest (or federal agency) litigation. That's a cumbersome, inefficient, and uncertain avenue to resolve serious problems, and when "successful," places the correctional system under the mandate of a consent decree or a receiver. We have seen the consequences of these outcomes in the area of health care to our adult prison population, which are not only costly, but reflect the state's inability to address its own problems short of litigation.

In the long run, it may be that the only way to achieve the management of regional facilities is under the supervision of a state organization, with standard setting and enforcement powers, dedicated funding, a full-time staff, and the ability to achieve economies of scale within an organizational framework that has the expertise to provide mental health, rehabilitative training, therapeutic programs, and experience in incarcerated environments, to address issues such as gang violence and inmate discipline.

I believe that certain of the course corrections proposed by the Commission – in particular decoupling juvenile justice oversight and program administration from CDCR – are a critical step in the right direction. We ought to see if they work before the state abdicates this responsibility, and leaves to the counties the task of fixing the problem.

Respectfully submitted,

A handwritten signature in black ink that reads "David A. Schwarz". The signature is written in a cursive, flowing style with a large, decorative flourish at the end of the name.

David A. Schwarz

Notes

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