

AGENDA
INFORMATIONAL HEARING
ASSEMBLY BUDGET SUBCOMMITTEE No. 5
ON PUBLIC SAFETY

ASSEMBLYMEMBER SHIRLEY N. WEBER, PH.D., CHAIR

THURSDAY, AUGUST 6, 2020
10:00 A.M, STATE CAPITOL, ROOM 437

DIVISION OF JUVENILE JUSTICE REALIGNMENT PROPOSAL

I. OPENING REMARKS AND INTRODUCTION.

Assemblymember Shirley Weber

II. PANELISTS (IN SPEAKING ORDER).

- Elizabeth Calvin, Senior Advocate of the Children’s Rights Division at Human Rights Watch
- Frankie Guzman, Director, Youth Justice Initiative at the National Center for Youth Law
- Esche Jackson, Policy Advocate and Board Member of Anti-Recidivism Coalition
- Daniel Mendoza, Youth Advocate, Fathers and Families of San Joaquin
- Chet Hewitt, President and CEO of the Sierra Health Foundation
- Chief Brian Richart, President, Chief Probation Officers of California
- Chief Tanja Heitman, South Region Chair and Legislative Vice-Chair, Chief Probation Officers of California

The Department of Finance and the Legislative Analyst’s Office will be present and available for the duration of the hearing.

III. PUBLIC COMMENT.

Public Participation Information

Due to the statewide stay-at-home order and guidance on physical distancing, seating for this hearing will be very limited. All are encouraged to watch the hearing from its live stream on the Assembly's website at: <https://www.assembly.ca.gov/todaysevents>.

*Remote Testimony Stations (RTS) and a moderated telephone line will be available to assist with public participation. The public may provide comment either by going to an RTS or by calling the following toll-free number: **1-877-692-8957 / Access Code: 131 54 37**. The public may also send written testimony to: BudgetSub5@asm.ca.gov.*

Remote Testimony Station locations may be found on the Budget Subcommittee #5 website at: <https://abgt.assembly.ca.gov/sub5hearingagendas>.

Background on the Division of Juvenile Justice

The Division of Juvenile Justice (DJJ) is currently a division within the California Department of Corrections and Rehabilitation (CDCR). The 2019-20 budget provided a total of \$231.97 million for an average daily population of 787 youth according to the most recent population data available. The youngest individuals are 15 years of age and the average age is about 19. There are currently 4 facilities, two located in Stockton, one located in Ventura, and a conservation camp in Pine Grove.

In 2003, a lawsuit, *Farrell v. Allen*, was filed against the state, alleging that it failed to provide adequate care and effective treatment programs to youth housed in DJJ. In 2004, the state entered into a consent decree in the *Farrell* case and agreed to develop and implement six remedial plans related to safety and welfare, mental health, education, sexual behavior treatment, health care, dental services, and youth with disabilities. The overarching goal of these plans was to move DJJ toward adopting a “rehabilitative model” of care and treatment. In February 2016, the lawsuit was terminated after the court overseeing the case found that DJJ had sufficiently complied with the requirements of the remedial plans. This released DJJ from court oversight and gave it greater flexibility in determining how to house and treat youth.

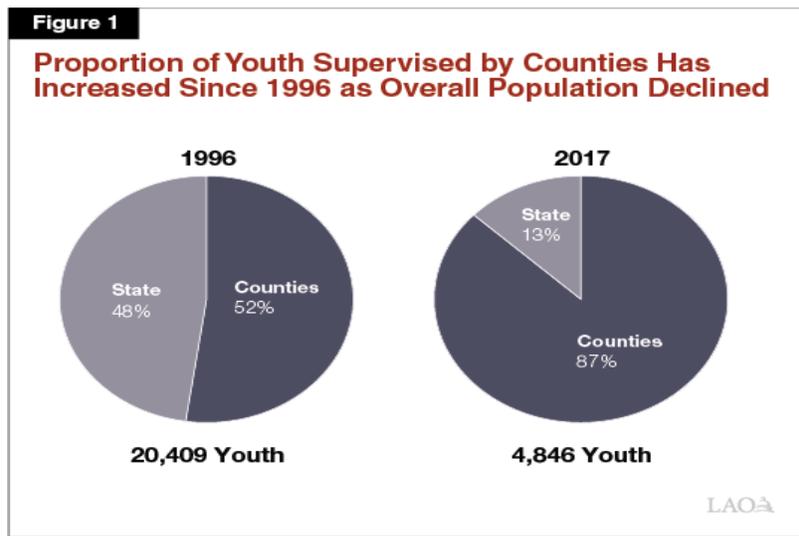
As part of the 2019 Budget Act, the Legislature approved the Governor’s proposal to move DJJ from CDCR to the Health and Human Services Agency (HHS). The 2019 Budget Act also created a subcommittee under the HHS Child Welfare Council to provide recommendations related to DJJ shift. In the 2020 May Revision, the Governor proposed to stop the DJJ transfer to HHS and instead, close DJJ and realign youth to the counties.

Youth Crime and County Capacity

Youth crime has been trending downward for the last several decades. Youth arrests for violent crime has dropped by nearly 70% since 1994. Even so, between 1996 and 2007, 41 counties spent nearly \$500 million to add juvenile beds. After 2007, as result of SB 81 realignment where youth adjudicated for non-Welfare and Institutions Code 707(b) offenses were realigned to the counties, a second round of juvenile bed expansion occurred. As of 2018, out of 43 counties, 39 county juvenile halls were less than half full and at least 7 counties were less than 25% full. In 2019, San Francisco County passed a resolution to close its juvenile hall. Sacramento’s juvenile hall is closer to being at 30% of its capacity. These reductions in youth crime and fewer occupied beds in local juvenile facilities have resulted in skyrocketing costs as juvenile operations and bed capacity has not been reduced in a commensurate manner. Grand juries in Nevada and Marin County have recommended closing their juvenile halls due to the excessive costs, and in Nevada County, the Grand Jury recommended Nevada County to contract with other county partners, a typical practice of many rural counties.

Juvenile Justice at the County Level

The Legislative Analyst’s Office notes that counties now are responsible for a greater portion of youth, although the size of the populations they are responsible for has declined. The figure below shows the number of youth in detention at the county level:



Source: LAO

Very few youth are placed in DJJ by the juvenile courts. Based on available data, an estimated 3,500-4,000 youth are adjudicated for Welfare Institutions Code 707(b) offenses annually. Of this annual total in 2017, only 224 youth were sent to DJJ. The vast majority of the youth adjudicated for these DJJ eligible offenses were kept locally.

STAFF COMMENTS

Staff notes counties currently have an overabundance of physical capacity to absorb the DJJ realigned population. The annual commitments to DJJ are roughly between 200-250 youth. In addition, counties have had a long standing practice of forming partnerships and contracting with one another, a practice that would likely continue upon DJJ’s closure. Counties could benefit from limited one-time funding to support security enhancements and some regionalized capacity to support county partnerships. By providing counties with viable alternatives, this would help address the concern raised by the Legislature regarding the risk of increases to youth charged as adults as result of DJJ’s closure.

Effective oversight of the juvenile justice system continues to be an area of concern. Issues that have been raised recently include:

- A recent audit of the Juvenile Justice Crime Prevention Act funds indicated deficiencies and gaps, including inconsistencies in the development of annual juvenile justice plans and annual reporting by counties on the effectiveness of programs.
- Media reports and watchdog advocacy organizations have revealed the overuse of toxic chemical sprays against youth in recent years. In 2019, six probation officers in Los Angeles were charged with felony assault and various misdemeanors for their unlawful use of pepper spray against female youth in custody.
- Youth of color continue to be overrepresented in the juvenile justice system and face harsher consequences than their white counterparts for the same offense. Nearly 93% of the youth in DJJ are youth of color. Strategies to reduce this glaring disparity are needed.
- Significant gaps in juvenile justice data prevent proper oversight of programming and funding. The Department of Justice, through its Juvenile Court and Probation Statistical System (JCPSS), reports annually on data submitted by counties. The California Juvenile Justice Data Working Group issued a report to the Legislature in 2016 that documented deficiencies in the system and recommendations—none of which has been implemented at this time. In preparing for this hearing, staff was unable to obtain data related to WIC 707(b) offenses from the DOJ. Further, JCPSS cannot be reconfigured to produce even baseline data such as youth recidivism. Staff notes that in order for the state to exercise accountability over the effectiveness of programming and accountability over funding, a modernized system with robust data collection is a critical component.

Staff also notes that counties have adopted a wide array of approaches to address youth crime that have resulted in improved youth outcomes and enhanced public safety. In order to embrace the diversity of California's counties, the Legislature may wish to consider funding approaches that allow for greater flexibility for program delivery that includes local government agencies and community based approaches. These strategies should be guided by standards that reflect the Legislature's priorities in improving youth outcomes and public safety.

The following alternative proposal builds upon the Governor's proposal to realign DJJ to the counties and includes the following key provisions identified as priorities for this Subcommittee to effectuate realignment:

CDCR Division of Juvenile Justice Closure Timeline

Timeline: 6/2023 intake of new cases ends; 12/2023 DJJ closes.

Provide counties with fiscal incentives in 2021-2022 to recall youth currently in DJJ and provide state funding to counties to create local alternatives to DJJ and adult prison begin 2022.

Planning and Recommendation Body

Uses an existing subcommittee that focuses on the DJJ population, within the Health and Human Services Child Welfare Council, to assist with planning duties until 2025. The subcommittee will provide information and recommendations for a variety of youth justice related issues to the Legislature.

Oversight: Office of Youth Justice Created within the Health and Human Services Agency (HHS)

Timeline: 05/2021 Office of Youth Justice (OYJ) opens. Juvenile justice related grants and duties transferred from the Board of State and Community Corrections (BSCC) to OYJ.

California is currently one of a few of states that do not have a state youth justice oversight entity. The Office of Youth Justice created under the HHS umbrella, fills that void. The OYJ will have three divisions: Regulations; Best Practice & Leadership; and, the Youth Advocate. Duties will include promulgating and enforcing regulations, serving as a clearinghouse of information on best practices, providing technical support to counties, collecting and analyzing data, managing grants and funding related duties, and having ombudsman duties. Duties related to juvenile justice currently held by the BSCC will be transferred over to the OYJ. The OYJ will convene an advisory council to provide oversight of the OYJ and input on its activities.

Funding: A Three-Pronged Approach for Local Funding

Estimated Timeline: Block grant funds to counties in FY 2021-22; Competitive grants begin in FY 2022-23. One-time facility grant for high-needs youth regional facilities in FY 2020-21.

Utilizing three different funding streams to achieve the goals of supporting the capacity of counties to implement an effective continuum of juvenile justice responses that are outcome driven:

1. **Juvenile Justice Realignment Block Grant:** Based on a funding formula that includes factors such as a county's youth population, youth adjudicated for the currently DJJ-eligible offenses, etc. Counties may use the funding to contract with nongovernmental entities or other local governments for services. Requires the submission of a plan with specified provisions, review, and approval. Formula adjusted in out years. Funding to be distributed to the county in accordance with the submitted plan with annual reporting on proper use of funds. Excludes the use of these funds for out of state contracts.
2. **Youth and Community Restoration Grant:** Ongoing competitive funding for local entities to develop and implement evidence based and promising approaches that are

trauma-informed and promote best practices in enhancing public safety and addressing the needs of youth adjudicated of serious crimes.

3. **One-Time Regional Secure Facility Grant:** This grant will support the modification and renovation of infrastructure (i.e. making an existing ranch or camp appropriate for security and programming as a longer term (more than a year) secure facility) to support a statewide total of no more than 300 secure regional beds. May not be used to build new beds or expand current county bed capacity. The recipients will manage the facilities, and contract with counties to provide confinement of and services for youth.

Other Provisions Necessary to Operationalize Realignment

Other provisions will improve and modernize juvenile justice data collection, include provisions to protect against increases in adult transfers, mirror jurisdictional age at the local level that currently exists at the state level, address indefinite detention as youth are currently sentenced to indeterminate terms, etc.

The Subcommittee is in receipt of letters from the following advocates that support a thoughtful process that pursues DJJ realignment with the proper “guidelines, spending controls, accountability of reporting mechanisms, requirements to explore a continuum of responses that include community based supports, input from communities most impacted, and criteria to ensure the development of forward-looking, best practice programs and dispositions for youth.”

Alliance for Boys and Men of Color
Alliance for Children’s Rights
Anti-Recidivism Coalition
Arts for Incarcerated Youth Network
California Conference for Equality and Justice
California Public Defenders Association
California Youth Connection
Center for Juvenile Law and Policy, Loyola Law School
Children’s Defense Fund
Children Now
Commonweal
Communities United for Restorative Youth Justice
Empowering Pacific Islander Communities
End Child Poverty CA/The GRACE Institute
Everychild Foundation
Fathers and Families of San Joaquin
First District Appellate Project
Fresh Lifelines for Youth

Fresno Barrios Unidos
Gathering for Justice
Healing Dialogue and Action
Homies Unidos
Human Rights Watch
Immigrant Legal Resource Center
John Burton Advocates for Youth
LAW Project of Los Angeles
Legal Services for Prisoners with Children
Los Angeles Youth Uprising Coalition
MILPA
National Center for Lesbian Rights
National Center for Youth Law
National Juvenile Justice Network
New Earth Organization
NextGen California
Pacific Juvenile Defender Center
Power California
Prevention Institute
Root and Rebound
RYSE
Safe Return Project
Santa Cruz Barrios Unidos
Silicon Valley De-Bug
Underground GRIT
Urban Peace Institute
Urban Peace Movement
Urban Strategies Council
W. Haywood Burns Institute
Young Women’s Freedom Center
Youth Alliance
Youth Forward
Youth Justice Coalition
Youth Law Center
Youth Leadership Institute