

# SUBCOMMITTEE NO. 5

# Agenda

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Senator Nancy Skinner, Chair  
Senator Joel Anderson  
Senator Jim Beall



Thursday, March 22, 2018  
9:30 a.m. or upon adjournment of Session  
State Capitol - Room 113

Consultant: Christopher Francis

## Items Proposed for Discussion

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## Public Comment

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## ITEMS TO BE HEARD

### 5225 DEPARTMENT OF CORRECTIONS AND REHABILITATION

#### Issue 1: Current Trends in Juvenile Justice

**Governor's Budget.** The 2018-19 budget includes roughly \$200 million to support the operations of Division of Juvenile Justice (DJJ), mostly from the General Fund (including \$20 million in Proposition 98 funds). This reflects an average cost to the state of keeping a ward in the California Department of Correction's (CDCR), DJJ facilities of \$303,160 per year. This is an increase of over \$37,000 per ward over the 2017 Budget Act.

#### Panelists

- **Sue Burrell, Policy and Training Director, Pacific Juvenile Defender Center**
- **Elizabeth Calvin, Senior Advocate, Human Rights Watch**

#### Background

California's juvenile justice system is one that is largely handled locally by trial courts, county probation departments, and local law enforcement. Over the past 20 years, the Legislature has enacted various measures which realigned to counties increasing responsibility for managing juvenile offenders. Under current law, only youth adjudicated for a serious, violent, or sex offense can be sent to state facilities by the juvenile courts. As a result, over 98 percent of juvenile offenders are housed or supervised by counties. In 2016, while there were approximately 39,000 youth involved in the county probation system, with 29,000 being wards under the Welfare and Institutions Code 602 for felony and misdemeanor crimes, there were only 653 youth under the jurisdiction of the California Department of CDCR, Division of Juvenile Justice.

In addition to shifting responsibility for juvenile justice from the state to counties, the juvenile crime rate has declined significantly contributing to the 73 percent decline in the state's DJJ population from 2,516 youth in 2007 to 653 youth in 2016. At the same time, there has been a 60 percent reduction in the population housed in county juvenile camps and halls, down from 11,000 youth in 2007 to 4,200 youth in 2016.<sup>1</sup> This significant and continuing decline offers an opportunity for California to comprehensively assess its juvenile justice system and invest in the best treatments and interventions for rehabilitating youth and emerging adults and to explore additional interventions in order to continue to reduce the number of young people who end up in the criminal justice system.

**Juvenile Arrest Rates.** As noted above, juvenile crime rates have decreased dramatically in recent decades, declining from a peak of 408,131 juvenile arrests in 1974 down to 62,743 in 2016. More recently, juvenile felony arrests decreased 54.7 percent between 2011 and 2016. In addition, juvenile misdemeanor and status offenses<sup>2</sup> have decreased by 59.4 percent between 2011 and 2016.

<sup>1</sup> Data provided by the Chief Probationers of California.

<sup>2</sup> A "status offense" is an offense that would not be considered a crime if it were committed by an adult. Examples include: underage drinking, skipping school, violating a city or county curfew, or running away.

Of the 62,743 arrests made in 2016, 19,656 (31.3 percent) were for felonies, 35,756 (57 percent) were for misdemeanors, and 7,331 (11.7 percent) were for status offenses. Of the 2016 arrests, 44,980 were males and 17,763 were females. Of the felony arrests, 36.3 percent were for violent offenses (i.e. homicide, forcible rape, robbery, and assault), 29.8 percent were for property offenses (i.e. burglary, theft, and arson), 6.8 percent were for drug offenses, and 27.1 percent were for all other felony offenses (i.e. vehicular manslaughter, hit-and-run, lewd or lascivious acts, or weapons related offenses).<sup>3</sup>

**Court Adjudications.** In the juvenile justice system, cases are handled differently than the adult system. When a juvenile is arrested by a local law enforcement agency in California, there are various criminal justice outcomes that can occur depending on the circumstances of the offense and the criminal history of the offender. Many juveniles, who are arrested, particularly if their alleged offenses are more serious, are referred to county probation departments. (Probation departments also receive referrals from non-law enforcement entities and people—such as schools and parents.) The probation department then has the option to close the case, place the juvenile in a diversion program or on informal probation, or refer the case to the courts. Most such referrals are adjudicated in juvenile court, but depending on the nature of the alleged offense and the age of the accused, some cases may be prosecuted in adult criminal court. The courts place almost all juvenile offenders under the supervision of county probation departments, while a small number of juvenile offenders, are sent to state institutions, either a juvenile facility operated by DJJ or state prison.<sup>4</sup>

**Juvenile Court Petitions.** In 2016, there were 40,569 petitions filed in juvenile court. Each juvenile court petition can contain up to five different offenses, as a result within those petitions filed, there were 60,239 different offenses. Of those petitions, 24,453 (40.6 percent) were for felony offenses, 25,855 (42.9 percent) were for misdemeanors, and 9,931 (16.5 percent) were for status offenses. Of the felony petitions, 31.4 percent were for violent offenses, 31.7 percent were for property offenses, 30.7 percent are for “other” offenses, and 6.7 percent were for drug offenses.<sup>5</sup>

Of those 40,569 cases filed in 2016, the majority, 25,471 (62.8 percent) ended up under the care of the county probation departments in wardship probation. 17.2 percent (6,975) of the cases were dismissed. Of the remaining cases 2,899 (7.1 percent) resulted in informal probation, 2,529 (6.2 percent) resulted in non-ward probation, and 2,695 (6.6 percent) resulted in other dispositions including transfer to adult court, deportation, diversion, or deferred entry of judgement. Finally, 183 youth were sent to one of the state’s facilities under the jurisdiction of CDCR’s DJJ.<sup>6</sup>

For those youth receiving wardship probation, the majority (52.4 percent) were sentenced to serve that probation in their own or a relative’s home. The next largest wardship probation group, 30.8 percent were sentenced to a locked county facility. Of that group, two were under the age of 12, 855 were between the ages of 12 and 14, 5,705 were between 15 and 17 and 1,292 were between 18 and 24. Among those 25,471 sentenced to wardship probation, 20,906 were male and 4,595 were female.<sup>7</sup>

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<sup>3</sup> Department of Justice, *Juvenile Justice in California* (2016).

<sup>4</sup> Legislative Analyst’s Office, *California’s Criminal Justice System: A Primer*, January 2013.

<sup>5</sup> Department of Justice, *Juvenile Justice in California* (2016), p. 32.

<sup>6</sup> Department of Justice, *Juvenile Justice in California* (2016), Table 21, p. 81.

<sup>7</sup> Ibid.

**Direct Files to Adult Court.** Of those youth who were arrested and referred to county probation departments, less than one half of one percent (340 youth) was transferred directly to an adult court. Of those youth who were direct filed to an adult court, 317 were male and 23 were female. In addition, eight were 14 years old, 21 were 15, 100 were 16, 187 were 17, and 24 are listed as “other ages.” Finally, of those 340, 39 (11.5 percent) were white, 202 (59.4 percent) were Hispanic, 77 (22.6 percent) were black, and 22 (6.5 percent) were from other racial or ethnic groups.<sup>8</sup>

Of the 376 adult court dispositions for juveniles in 2016, 290 (77.1 percent) resulted in a conviction, 51 (13.6 percent) were dismissed, two (0.5 percent) were acquitted, and 33 (8.8 percent) were shifted to juvenile court.<sup>9</sup> Of the 290 convictions in 2016, 180 (62.3 percent) were sentenced to adult prison or the DJJ, 63 (21.7 percent) received probation and a jail term, nine (3.1 percent) received a jail term, and 20 (6.9 percent) received another sentence. Of the 290 convicted in adult court, 266 were male and 24 were female. In addition, 13 were 14 years of age, 32 were 15, 81 were 16, and 164 were 17. Seven of the 14 year olds and 15 of the 15 year olds were sentenced to DJJ or state prison.<sup>10</sup>

**Juvenile Justice Realignment.** As noted previously, over the last 20 years the state has realigned responsibility for most youth in the juvenile justice system to the counties. Specifically, the Legislature took the following steps:

- **Sliding Scale.** In 1996, the Legislature passed SB 681 (Hurt), Chapter 6, Statutes of 1996, which established a sliding scale fee to counties committing wards to the state. Under this arrangement, counties were required to pay a share of the state's costs to house each ward sent to DJJ (then called the Department of the Youth Authority), with a higher share of costs paid for lower-level offenders than for higher-level offenders. SB 681 was designed to incentivize counties to manage less serious offenders locally and decrease state costs. This sliding scale was ultimately replaced with a flat fee of \$24,000 per youthful offender in 2012.
- **Lower-Level Offenders.** Approximately a decade later, the state enacted, SB 81 (Committee on Budget and Fiscal Review), Chapter 175, Statutes of 2007, which limited admission to DJJ only to juveniles who are violent, serious, or sex offenders. To help them manage these new responsibilities, SB 81 also established the Youthful Offender Block Grant (YOBG), which provided counties with \$117,000 for each ward estimated to have been realigned under the measure. In addition, SB 81 also provided counties with \$100 million in lease-revenue funding to construct or renovate juvenile facilities, an amount that was later increased to \$300 million.
- **Parolees.** Finally, in the 2010–11 budget, the Legislature realigned from the state to county probation departments full responsibility for supervising in the community all wards released from DJJ. As part of that measure, the Legislature also established the Juvenile Reentry Grant, which provides counties with ongoing funding for managing these parolees.

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<sup>8</sup> Department of Justice, *Juvenile Justice in California* (2016), pp. 26-27.

<sup>9</sup> According to DOJ, the reason for the increase in the number of youth redirected to juvenile court was due to the passage of Proposition 57 in November of 2016 which requires that juvenile have a fitness hearing in juvenile court prior to being sent to an adult court.

<sup>10</sup> Department of Justice, *Juvenile Justice in California* (2016), Table 30, p. 93.

As noted, along with the increased responsibility, the state has provided local governments with resources to house and treat juvenile offenders, including the following estimated amounts for 2018-19 that are all ongoing:

(dollars in millions)

Source	Amount
Enhancing Law Enforcement Activities Subaccount	\$435.22
Juvenile Justice Sub Account	\$175.10
Total	\$610.32

**County Juvenile Justice System.** Following the arrest of a juvenile, the law enforcement officer has the discretion to release the juvenile to his or her parents, or to take the suspect to juvenile hall and refer the case to the county probation department. Juvenile court judges generally take into account the recommendations of probation department staff in deciding whether to make the offender a ward of the court and, ultimately, determine the appropriate placement and treatment for the juvenile based on such factors as the juvenile's offense, prior record, criminal sophistication, and the county's capacity to provide treatment. Judges declare the juvenile a ward almost two-thirds of the time.

Most wards are placed under the supervision of the county probation department. These youth are typically placed in a county facility for treatment (such as juvenile hall or camp) or supervised at home. Other wards are placed in foster care or a group home. Finally, a small number of wards (under two percent annually), generally constituting the state's most serious and chronic juvenile offenders, are committed to DJJ and become a state responsibility.

**County Services and Programs.** Counties vary widely in the quality and types of programs they provide for the youth in their locked juvenile facilities and no data is collected by the state on the specific types of rehabilitative programs provided in each juvenile facility. However, appropriate schooling is provided to all of the youth, as is mental health treatment, substance use disorder treatment and cognitive behavioral therapy, for those youth who need it. Many probation offices also work closely with their community partners to provide a wide array of programs, including art programs, faith-based programs, restorative justice programs, and foster grandparent programs. For example, during a Legislative staff visit to Yolo County's juvenile facility, staff there noted that they work with over 100 outside community organizations to provide programs for the less than 100 youth in their facility.

**Innovative County Programs.** County probation departments and the juvenile justice system has made great progress over the last decade to ensure that only youth who are a threat to public safety or themselves and cannot otherwise be safely served in the community are detained. Improved screening to determine need for detainment, statewide application of risk-needs assessment, implementation of effective prevention and diversion programs, and declining arrest rates has led to a two-fold impact on juvenile probation departments: 1) decline in facility population and 2) rise in severity of risks and needs of the youth who remain in juvenile facilities.

According to the chief probation officers association, as a result, probation now currently has youth in county facilities that have more acute rehabilitation and therapeutic needs (mental health, substance use disorder, behavioral interventions, aggression, and sexually acting out/assaultive). The association notes that probation departments, which may have an empty unit or pod in a facility or an empty camp

or juvenile facility, are now adapting their facilities to meet the current and future needs of the youth they serve by operating within a youth-centric model versus a criminal justice approach upon which older facilities were built. According to the association, the primary hurdle that prohibits more counties from adopting a youth-centric model is the infrastructure costs and financial investments necessary to retrofit or renovate facilities in order to establish these types of programs.

Examples of such programs include:

**Coastal Valley Academy (San Luis Obispo County).** The Coastal Valley Academy (CVA) was established in San Luis Obispo County and is a custody commitment program in juvenile hall for 14-17 year old male and female youth who are moderate to high risk and in need of residential treatment. Youth are ordered to stay for 6-12 months and receive intensive case management, treatment and educational services through collaboration with local treatment providers and the County Office of Education. The physical features of the unit are more home-like and the programming, education, living unit and recreation yard are all separate, even though the program is located onsite with the juvenile hall. CVS serves as an alternative to group home care and provides a safe, structured, and locally controlled alternative to group homes for youth that need to be removed from their homes, but are not appropriate for a home-based foster care setting. It also provides for greater family involvement as youth remain local.

**Job Training Center (Los Angeles County).** The Los Angeles County Probation Department intends to repurpose a juvenile camp into a voluntary residential reentry and vocational training center. Those eligible for the program would include youth exiting the juvenile probation facilities or county jails, transition-age foster youth, and youth experiencing homelessness. The target population is young adults between 18 and 25. Youth in the program will be required to stay Monday through Friday and would be able to leave the campus on weekends, but participating in the program is voluntary. The camp conversion project is intended to equip these young adults with vocational skills and link youth to a pipeline of jobs in the county.

**Transitional Adult Youth Program (Alameda, Butte, Napa, Nevada, Santa Clara Counties).** SB 1004 (Hill), Chapter 865, Statutes of 2016, authorized the counties of Alameda, Butte, Napa, Nevada and Santa Clara to enact a pilot program that allows young adult offenders age 18-21 to be housed in a juvenile detention facility, as opposed to adult county jail. The program is voluntary for eligible young adults, and upon completion of the program, they will have their felony charges dismissed. Because these young adults will be housed in juvenile detention facilities they will have services available to them, such as mental health, vocational, and educational services they otherwise would not get in a county jail.

The program is based on research that shows that young adults are undergoing significant brain development and this age group may be better served by the juvenile justice system with corresponding age appropriate intensive services such as cognitive behavioral therapy, mental health treatment, vocational training, and education. The program includes a portion of time in the juvenile hall with a focus on reentry and community supports to assist the participants in their transition back into the community.

**Gateway Program (San Bernardino County).** The Gateway program is a secure treatment facility that houses up to 42 youth and utilizes evidence-based assessments, treatment and

evaluations aimed at reducing recidivism. The program is designed to house youth who have committed non-violent offenses and includes community access for those ready for reintegration services. Treatment includes mental health, family counseling, social learning activities, substance use counseling, anger management and employment services. The San Bernardino Probation Department works closely with the Department of Behavioral Health, County Schools, Workforce Development and private providers to provide services for the program.<sup>11</sup>

### Staff Comments

***Lack of Data on Juveniles Involved in the Criminal Justice System.*** One of the frustrations often noted by people who work in the juvenile justice field in California is that there is a significant lack of data from the counties that allows the state to measure the outcomes for youth involved in the criminal justice system. California—unlike many other large states— has no state-level capacity to produce information on the recidivism or other outcomes of juveniles who are processed through the justice system. While the state is moving rapidly to enact major juvenile justice system reforms, state and local data systems are outdated and unable to provide key information on youth outcomes, the impact of law changes, or the success of new programs.

In response to these frustrations, the Legislature created California Juvenile Justice Data Working Group (JJDWG) in the 2014 budget trailer bill. That group, overseen by the Board of State and Community Corrections, provided a comprehensive analysis and recommendations to the Administration and Legislature to upgrade the state’s juvenile justice data capacity in 2016. One task assigned by legislation to the JJDWG in 2014 was to compare California’s juvenile justice data capacity to the capacities of other states. The JJDWG report to the Legislature documented multiple ways in which California’s data capacity falls below that of other major states. Texas, for example, has completely upgraded its state juvenile justice data system in the wake of a realignment reform (moving state custody youth to local control) that resembles California’s own juvenile justice realignment—but nothing comparable has occurred here. Florida collects and publishes recidivism data for each facility in which juvenile offenders are confined. Georgia has developed a juvenile justice data clearing house for public access to key trends and outcome information. In addition, a number of states have participated in national data reform projects sponsored by the Pew Charitable Trust and other foundations that are providing technical assistance to help states upgrade data and outcome measures for juvenile justice populations. The Senate may wish to review the recommendations from the JJDWG with an eye toward implementing them and explore the costs associated with expanding and updating its data collection system for juveniles.

**Staff Recommendation: Informational Item. No action necessary.**

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<sup>11</sup> Information on innovative county programs provided by the Chief Probation Officers of California.

**Issue 2: Juvenile Justice Reform (BCP)**

**Governor's Proposal.** The California Department of Corrections and Rehabilitation requests \$3.8 million General Fund and 25.6 positions in 2018-19, \$7.3 million General Fund and 51.3 positions in 2019-20, and \$9.2 million General Fund and 67.8 positions in 2020-21 and ongoing to raise the age of jurisdiction to 25 for juvenile court commitments and increase the age of confinement to 25 for superior court commitments, and to begin implementation of a program that houses young adult offenders at a juvenile facility who would otherwise be housed in adult prison.

**Panelists**

- **Chuck Supple, Director, CDCR Division of Juvenile Justice**
- **Legislative Analyst's Office**
- **Department of Finance**

**Background**

**Division of Juvenile Justice.** DJJ, originally known as the California Youth Authority (CYA), was created by statute in 1941 and began operating in 1943, providing training and parole supervision for juvenile and young adult offenders. In a reorganization of the California corrections agencies in 2005, the CYA became the DJJ within the Department of Corrections and Rehabilitation. DJJ carries out its responsibilities through three divisions: the Division of Juvenile Facilities, the Division of Juvenile Programs, and the Division of Juvenile Parole Operations. The Juvenile Parole Board, an administrative body separate from DJJ, determines a youth's parole readiness.

Youths committed directly to the DJJ do not receive determinate sentences. A youth's length of stay is determined by the severity of the committing offense and their progress toward parole readiness; however, DJJ is authorized to house youths until age 21 or 23, depending upon their commitment offense. DJJ also provides housing for youths under the age of 18 who have been sentenced to state prison. Youths sentenced to state prison may remain at DJJ until age 18, or if the youth can complete his or her sentence prior to age 21, the DJJ may house him or her until released to parole.

The state has four juvenile detention facilities: N.A. Chaderjian Youth Correctional Facility (Chad) and O.H. Close Youth Correctional Facility (Close) in Stockton housing 217 and 166 males, respectively, as of December 2017; Pine Grove Youth Conservation Camp, housing 57 males as of December; and, Ventura Youth Correctional Facility, housing 145 males and 23 females. In addition, 23 males under DJJ's jurisdiction were being housed in an adult prison. In total, there were 631 juveniles in a state detention facility on December 31, 2017. With 1,175 beds in the four facilities, the facilities are currently filled to just over 50 percent of capacity.

**Characteristics of Current DJJ Wards.** Of the 631 youth housed in a DJJ facility as of December 31, 2017, about two-thirds (470) had an assault or robbery charge as their primary offense. 55 (8.7 percent) were convicted of a homicide and 72 (11.4 percent) were convicted of forcible rape or other eligible sex offense. Currently, about 96 percent of DJJ youth are male, and about 87 percent are either African-American or Latino and 10 percent are white. The average age of the youth being housed in DJJ is 19, with the one youth currently residing in DJJ who is 14 and 10 who are 15. At the opposite

end of the age spectrum, five are 22 years-old, two are 23 and three are 24 or older. For females specifically, the mean age is 18.7 and the youngest is 15 years-old and the oldest is 20. Currently, about 137 youth residing in DJJ facilities were tried in adult court (about 22 percent of the DJJ ward population). Of those, 70 were sentenced to DJJ and 67 were sentenced to a CDCR adult facility but are being housed in a DJJ facility until they reach the age of 18 and can be transferred to an adult prison.

**County of Origin.** As discussed previously, for a very small portion of the juvenile justice population, county probation departments determine that the crimes committed or the needs of the juvenile are so great that they cannot provide adequate care and treatment in their facilities. Those youth are then sent to the state's DJJ facilities. Based on data provided by CDCR, on November 30, 2017, there were 619 youth being housed in DJJ facilities. Not surprisingly, the majority of those youth (128) came from Los Angeles County. When comparing the proportion of youth from each county with their corresponding percentage of the state population, a handful of the state's counties appear to be sending a disproportionate number of youth to the state facilities. For example, while Sacramento County comprises 3.84 percent of the state's population, they are responsible for sending 7.94 percent of the DJJ population. Similarly, 2.87 percent of Californians reside in Contra Costa County. However, their youth make up 6.3 percent of the DJJ population. In addition, Fresno County accounts for 2.52 percent of the state's population, but is responsible for 5.82 percent of the DJJ population. Also, Kings County is home to only 0.38 percent of Californians, but 3.07 percent of DJJ wards were sent by Kings County. Finally, Merced County is responsible for 2.42 percent of DJJ's wards, but contains only 0.4 percent of the state's population.

In contrast, there are other counties who send fewer wards to DJJ than their population would suggest. In fact, 28 of the small counties in the state do not have any youth housed at DJJ or have only one youth. In addition, as noted above, Los Angeles is the county of residence for 128 of the DJJ wards, which is 20.68 percent of the DJJ population. However, almost 26 percent of Californians reside in Los Angeles County. In addition, Orange County only has four wards housed at DJJ (0.65 percent) but is home to 8.08 percent of the state's population.

**Farrell v. Kernan.** On January 16, 2003, Margaret Farrell, a taxpayer in the state of California, filed a lawsuit against the director of what was then called the California Youth Authority (CYA). The suit claimed CYA was expending funds on policies, procedures and practices that were illegal under state law. Farrell also claimed that CYA failed in its statutory duties to provide adequate treatment and rehabilitation for juvenile offenders in its care. The lawsuit also alleged that the youth offenders were denied adequate medical, dental and mental health care.

On November 19, 2004, the parties entered into a consent decree in which DJJ agreed to develop and implement six detailed remedial plans in the following areas: safety and welfare, mental health, education, sexual behavior treatment, health care, dental services, and youth with disabilities.

After more than a decade of reforms in California's juvenile justice system – including limiting use of force, involving families in the rehabilitation of youth, and greatly reducing the juvenile offender population – on February 25, 2016, the Alameda County Superior Court terminated the *Farrell* lawsuit against the California Department of Corrections and Rehabilitation's DJJ.

**Cost per Ward.** The costs of DJJ have been rising dramatically in the last decade, largely because of staffing and service requirements imposed by the federal court while under the jurisdiction of a special

master as a result of the *Farrell v. Kernan* lawsuit related to educational, mental health, medical, and other deficiencies in DJJ facilities. In contrast to the proposed funding of \$303,160 in funding per youth, the budget proposes spending \$80,729 per year for each adult inmate.

Partially offsetting the state's cost, counties are assessed a reimbursement rate of \$24,000 per year for most wards sent to DJJ. The budget assumes approximately \$10 million in reimbursements from the counties for 2017-18, growing to \$10.5 million in 2018-19.

<b>Average Cost Per Offender in Division of Juvenile Justice Facilities</b>			
<b>Type of Expenditure</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>
Treatment	\$ 83,000	\$ 82,000	\$ 77,000
Security	55,000	64,000	61,000
Administration	39,000	42,000	39,000
Health Care	29,000	33,000	30,000
Education	26,000	34,000	32,000
Support (food, clothing, other)	20,000	28,000	27,000
<b>Total</b>	<b>\$ 252,000</b>	<b>\$ 284,000</b>	<b>\$ 266,000</b>

**Rehabilitation Programming.** According to CDCR's website, DJJ provides academic and vocational education, treatment programs that address violent and criminogenic behavior, sex offender behavior, substance use disorder and mental health problems, and medical care. This treatment and programming description is similar to what the CDCR provides for adult inmates. However, the actual rehabilitation programming is significantly different.

DJJ operates an accredited school district, providing youth with the same high school curriculum in each of its four institutions that they would receive in their local community. Youth attend school each day to achieve a high school diploma. Youth whose commitment period is too short to fulfill that requirement are guided through a general education development (GED) curriculum. DJJ considers a diploma or GED a minimum requirement for parole consideration. Certificates in a variety of vocations and college classes are offered to graduates as well.

According to CDCR, youth are also encouraged to build positive social and leadership skills through participation in groups and activities such as the student council, spiritual services, and events and fundraisers for victims' rights.

**Integrated Behavior Treatment Model (IBTM).** The framework for DJJ's programs is the Integrated Behavior Treatment Model (IBTM). It is designed to reduce institutional violence and future criminal behavior by teaching anti-criminal attitudes and providing personal skills for youth to better manage their environment. DJJ staff from every discipline work as a team to assess the needs of each youth and to develop an individualized treatment program to address them. Through collaboration with the youth, the team administers a case plan that takes advantage of each youth's personal strengths to maximize treatment in other areas of their life to reduce the risk of re-offending.

The IBTM guides all services provided to youth from arrival at DJJ to community reentry. Upon arrival, each youth is assessed to determine needs and strengths in the following areas:

- Education & Employment
- Attitudes & Thinking
- Mental & Physical Health
- Family & Community Support & Stability
- Peer Influences
- Violence & Aggression
- Substance Use

Using that information, staff works collaboratively with each other, the youth and the youth's family to develop and routinely update a treatment plan that helps the youth build skills for successful reentry into the community. Positive skill building is strengthened through a comprehensive behavior management system that discourages negative behavior and uses daily, weekly and monthly rewards to recognize and encourage positive change.

The impact of the IBTM treatment model on the recidivism rate for youth at DJJ is currently unknown. DJJ is currently working with the University of California at Irvine to conduct an updated outcomes evaluation, which will better measure the impact of the IBTM model. Unfortunately, the study will not be available until the second half of 2020, at the earliest.

**Volunteer Programs.** Based on information provided by DJJ last spring, unlike many of the adult institutions, DJJ facilities appear to have a fairly limited number of volunteer programs for the wards. Pine Grove Conservation Camp has the most programs, with 13, and Ventura has the least, with only five volunteer programs. The other two have ten (Chad) and seven programs (Close). In contrast, CDCR hopes to have over 3,000 volunteer programs in place in their 34 adult prisons in 2018-19.

The majority of the DJJ programs at all of the institutions appear to be faith-based. With the exception of Incarcerated Men Putting Away Childish Things (IMPACT), which operates at three of the facilities, none of the programs appear to be based on restorative justice or offender responsibility principles. In addition, despite being listed as volunteer programs, many on the list appear to be short-term or one-time in nature. For example, the Anti-Recidivism Coalition (ARC) is listed as providing volunteer programming at Chad and Pine Grove. However, according to ARC, they hold a monthly meeting with youth at Ventura who are scheduled to be going home and they meet with youth quarterly at the other three facilities. Similarly, Motorcycle Ministries visits Pine Grove monthly and the Lockwood Fire Department holds events twice a year at Pine Grove. Unlike volunteer programs in adult prisons, the presence of volunteer programs, and programming in general, outside of the educational programs, are lacking.

To increase the number of volunteer programs in the juvenile facilities, the 2017 Budget Act created two community resource manager positions and redirected \$500,000 for innovative programming grants to expand the number of available volunteer programs. Those grants are scheduled to be awarded this spring. In addition, the new leadership at DJJ is committed to significantly increasing community involvement in the facilities, including working with former prison inmates who can serve as mentors to the young men and women in the DJJ facilities.

**Arts in the State's Juvenile Justice Facilities.** Currently, the Arts in Corrections program is only available for adult inmates and the state does not provide an organized, formal arts program to the

juveniles confined to the four juvenile justice facilities. Through their schooling, students are required to take 10 hours of fine arts credit to meet California graduation requirements. In addition, the O. H. Close Youth Correctional Facility School has a band, recreational therapists are providing informal arts and crafts, and the Sexual Behavior Treatment Program has an arts component. This is in contrast to the adult institutions that have Arts in Corrections programs overseen by the California Arts Council (CAC). To rectify this problem, the 2017 Budget Act included \$750,000 in General Fund for CAC to expand their Jump StArts grant program to include all of the state's juvenile facilities. Those grants are scheduled to be awarded this spring.

**Juvenile Recidivism Rates.** According to CDCR's most recent report to the Legislature on their annual performance measures, juveniles have a similar rearrest and recidivism rate to adult offenders overall. For example, after three years, 51.3 percent of adults have been convicted of a new crime. For juveniles, the conviction rate after three years is 53.8 percent. While 75.1 percent of adults are arrested within three years of their release, 74.2 percent of juvenile wards have been arrested during the same time period. In addition, 30.5 percent of juvenile offenders are committed to an adult prison within three years of their release from a DJJ facility. Finally, 64 percent of youth who returned to state-level incarceration did so within 18 months of their release from DJJ.<sup>12</sup>

However, when looking specifically at their similar-aged cohorts housed in state prisons, it appears that youth in DJJ facilities have a lower recidivism rate than their counterparts. For example, of the 18 and 19 year olds released in 2011-12 (the same year as the DJJ population that is being tracked for recidivism data), 67.3 percent had a new conviction after three years, as opposed to 53.8 percent of DJJ youth. In addition, of the people between the ages of 20 and 24 who were released from prison in 2011-12, 62.8 percent had a new conviction within three years.<sup>13</sup> Therefore, while overall recidivism rates appear to be similar between adult and youth prisons, emerging adults in the juvenile system appear to fare better than their counterparts sent to adult prison.

### Key Legislation and Initiatives

- SB 625 (Atkins), Chapter 683, Statutes of 2017, authorized the Board of Juvenile Hearings (BJH) to make honorable discharge determinations and to grant an honorable discharge to a person discharged from a DJJ facility who has proven the ability to desist from criminal behavior and to initiate a successful transition into adulthood.
- SB 1021 (Committee on Budget and Fiscal Review), Chapter 41, Statutes of 2012, lowered the jurisdiction age for youth from 25 to 23 and replaced the previous sliding scale county reimbursement rates with an annual rate of \$24,000 per youth committed to DJJ via juvenile court. It also eliminated juvenile parole, disciplinary time additions, and new parole violator admissions after December 31, 2012. The legislation also restructured the methodology for discharge consideration hearings. It requires that all youth, on or before their initial projected board date, must be reviewed by the Juvenile Parole Board for release consideration regardless of behavior or program completion.

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<sup>12</sup> *Supplemental Report of the 2015-16 Budget Package Annual Performance Measures Report*. January 13, 2017.

<sup>13</sup> *2016 Outcome Evaluation Report: An Examination of Offenders Released in Fiscal Year 2011-12*. CDCR. October 2017. Page 21.

- AB 1628 (Blumenfield), Chapter 729, Statutes of 2010, transferred supervisory responsibility to the jurisdiction county’s probation department for community supervision of youth released on or after implementation.
- SB 81 (Committee on Budget and Fiscal Review), Chapter 175, Statutes of 2007; and AB 191 (Committee on Budget), Chapter 257, Statutes of 2007, restricted juvenile court commitments to cases committed for specified (serious/violent) offenses listed in subdivision (b) of section 707 of the Welfare and Institution Code (WIC) or for specified non-WIC 707(b) sex offender registrants (Penal Code section 290.008). Non-WIC 707(b) (excluding sex offenders) cases that were on parole on September 1, 2007 and were discharged once they completed their parole time.
- SB 681 (Hurt), Chapter 6, Statutes of 1996, required counties to pay the state for each juvenile court commitment pursuant to a “sliding scale fee system” based on commitment offense as an incentive to the county when they do not commit a juvenile because of the associated costs. Commitment offenses are categorized according to Title 15 of the California Code of Regulations seriousness of the primary offense: Category I, most serious to Category VII, least serious. Counties paid 50 percent of the per capita facility cost for offense Category V juvenile court commitments, 75 percent for Category VI commitments, and 100 percent for Category VII commitments.
- AB 3369 (Bordonaro), Chapter 195, Statutes of 1996, reduced the age limit for authorizing a transfer of a person to CYA, now known as DJJ, by the Director of CDCR to under 18 years and requires the transfer to terminate in specified situations. This was only applicable to minors convicted as an adult but housed at the DJJ under WIC 1731.5(c).
- Proposition 57 – Public Safety and Rehabilitation Act of 2016 (November 8, 2016) provided juvenile court judges authority to decide whether juveniles aged 14 and older should be sentenced as adults for specified offenses.
- Proposition 21 – Gang Violence and Juvenile Crime Preventive Act (March 7, 2000) made changes to the prosecution, sentencing, and incarceration of juvenile offenders:
  - Increased punishment for gang-related felonies; death penalty for gang-related murder; indeterminate life sentences for home-invasion robbery, carjacking, witness intimidation, and drive-by shootings; created crime of recruiting for gang activities; and authorized wiretapping for gang activities.
  - Allowed for the direct filing of a felony complaint to the adult criminal court for juveniles aged 14 years or older under a variety of circumstances.
  - Eliminated informal probation for juveniles committing felonies.
  - Required registration for gang related offenses.
  - Designated additional crimes as violent and serious felonies, thereby making offenders subject to adult prosecution.

1. **Age of Jurisdiction.** To allow offenders to benefit from rehabilitative programming designed for young offenders and be more successful upon release, the Administration proposes to raise the age of jurisdiction to 25. While the exact population effects are unknown, prior to reducing the age of jurisdiction in 2012-13 from 25 to 23, DJJ housed approximately 40 wards that were ages 23 or older.

The *Farrell v. Kernan* lawsuit resulted in a complete reform of the state juvenile system, including several legislative changes that were implemented to dramatically reduce the Division of Juvenile Justice population from around 3,000 in 2005 to approximately 1,100 in 2011. To continue population reductions and generate savings, the 2012 Budget Act changed the age of jurisdiction from 25 to 23 for youths sent to the DJJ.

New research on brain development and juvenile case law around diminished culpability of juvenile offenders has prompted the Administration to reevaluate this decision. Currently, juvenile court commitments are eligible to be housed at a juvenile facility until the age of 23, and superior court commitments are transferred to an adult prison at the age of 18 if they are not able to finish their sentence by the age of 21.

2. **Young Adult Offender Pilot Program.** The proposed budget includes \$3.8 million General Fund to establish two housing units to support a Young Adult Offender Pilot Program that would divert 76 young adult offenders from adult prison to a juvenile facility. Specifically, the pilot would be available for male offenders who were sentenced for committing specified crimes prior to their 18<sup>th</sup> birthday and who could complete their sentences prior to the age of 25. This would allow these offenders to benefit from specialized rehabilitative programming designed for young offenders with the goal of reducing recidivism. The Administration notes that, both of the proposed changes are intended to divert young offenders from adult prison to DJJ to avoid the adult prison environment, especially gang activity.

### LAO Assessment and Recommendation

**Approve Proposals With Sunset Date.** Given that research suggests that youths generally have better outcomes when they remain in juvenile court and/or are housed in juvenile facilities rather than prison, the Governor's proposed statutory changes have merit. However, given that the effectiveness of these proposals depends on how effective DJJs programs are—about which there is some question—the LAO recommends that the Legislature approve these policy changes (with some modification to the proposal to increase DJJs age of jurisdiction for juvenile court youths discussed below) for a fixed time period—such as seven years. This would allow sufficient time for the proposed changes to be implemented and for the Legislature to determine whether they should continue.

**Require Evaluations.** In order to ensure that the Legislature has sufficient information to assess whether the proposed young adult offender pilot program should continue to be funded after it sunsets, the LAO also recommends that the Legislature require DJJ to contract for an independent evaluation to assess the cost-effectiveness of the program. This evaluation shall be completed by January 10, 2025, with a final evaluation report provided to the Legislature. The LAO estimates that the evaluation would likely cost a couple hundred thousand dollars. The LAO also recommends DJJ provide the outcomes of its fidelity assessments as they become available, as well as the current evaluation that is expected to

be complete by the end of 2019-20. These reports would allow the Legislature to monitor DJJ's overall rehabilitation programs and provide some insight into the merit of the proposed age of jurisdiction changes.

***Modify Governor's Proposal Age of Jurisdiction Proposal.*** Given that returning DJJ's age of jurisdiction to 25 could potentially reduce recidivism and lower costs for youths who would otherwise be transferred to adult court, the LAO finds that this change merits legislative approval. However, because keeping some of these youths for a longer period of time may have little effect and could increase costs, the LAO recommends modifying the Governor's proposal. Specifically, the LAO recommends that the Legislature provide juvenile court judges who are conducting transfer hearings the discretion to allow a youth to remain in DJJ up to the age of 25 in cases where a judge determines that not doing so would necessitate that the youth be transferred to adult court. This would provide an alternative to sending such youth to adult court without resulting in other juvenile court youths remaining in DJJ beyond their 23rd birthday unnecessarily. The LAO notes that this would also likely reduce the cost of the administration's proposal somewhat, though the precise amount would depend on how judges used this proposed discretion.

#### **Staff Comments**

As discussed previously, the landscape of juvenile sentencing and rehabilitation policy is rapidly changing. In addition to juvenile brain development research, there is other research that indicates that emerging adult offenders released from adult prison recidivate at a higher rate than similarly aged offenders released from a juvenile facility (see previous recidivism rate discussion). There appears to be widespread interest in treating the emerging adult offender group similar to today's juvenile offender population. As noted previously, in recognition of the changing philosophy related to the emerging adult population, the Legislature enacted SB 1004 (Hill), Chapter 865, Statutes of 2016, which authorized a five county pilot program to house youth aged 18 to 21 in juvenile halls rather than county jails. The budget proposes creating a similar pilot at DJJ for emerging adults in prison. The Administration notes, all of these recent changes, including changes made to juvenile sentencing under Proposition 57, have led them to propose a similar pilot program at the state level.

***Drawbacks Related to Continuing to House Youth in the State's Three DJJ Facilities.*** The Governor's budget for 2012–13 included a plan to complete the realignment of juvenile justice to counties. Under the plan, DJJ would have stopped receiving new wards on January 1, 2013. However, DJJ would continue to house wards admitted to its facilities prior to this date until they were released. The Administration estimated that DJJ's population would reach zero by June 30, 2015, at which time all DJJ facilities would have been closed and the division would have been eliminated. However, in the May Revision that year, the Administration withdrew the proposal.

Since that time, some advocacy groups have continued to advocate for the closure of DJJ. In part, they argue, research shows that youth have better outcomes if they are housed in smaller settings and closer to their communities and families. On the other hand, counties have expressed serious concerns regarding their ability to effectively provide rehabilitative treatment and programming for those youth they currently send to the state.

Given both the concerns of the advocates and the concerns of counties and the research regarding juvenile justice, the Senate may wish to consider following the lead of states like Texas, New Jersey and New York that have implemented a regional approach to juvenile justice in recent years. Essentially, these states have moved away from larger centralized facilities for their youth and have created smaller, regional facilities that house approximately 30 youth each. For example, in 2014 the Texas Legislature passed SB 1630 which represented a fundamental shift in how young people would be served by the justice system by creating a regionalization plan for the Texas Juvenile Justice Department. The plan is designed to allow youth to be kept closer to their home communities in lieu of commitment to distant state-secure facilities.

Adopting an approach like Texas' would ideally address both the concerns of the juvenile justice advocates and of the county probation departments. Youth would be housed closer to their communities and in smaller settings. At the same time, those youth would continue to be under the jurisdiction of the state. Along with the concerns raised by advocates regarding the state's current system, one of the concerns raised by DJJ is the lack of collaboration between them and the counties that are supervising DJJ youth upon their release. Under a regionalized approach, youth would generally be housed either within or close to their county of commitment. Therefore, proximity may make it easier for staff at the regionalized facilities to collaborate and coordinate with the county probation departments that will be overseeing the youth once they leave the DJJ facilities.

***Emerging Adults.*** Under most laws, young people are recognized as adults at age 18. As a result, young adults convicted of crimes currently serve their sentences in county jails or state prisons. But emerging science about brain development suggests that most people do not reach full maturity until the age 25. Research shows that people do not develop adult-quality decision-making skills until their mid-20s. This can be referred to as the "maturity gap." Because of this, young adults are more likely to engage in risk-seeking behavior which may be cultivated in adult county jails and prisons where the young adults are surrounded by older, more experienced criminals and entrenched gangs. Therefore, young offenders age 18-24 are still undergoing significant brain development and it is becoming clear that this age group may be better served by the juvenile justice system with corresponding age appropriate intensive services.

As such, in order to address the unique criminogenic and behavioral needs of young adults, it is important that age appropriate services are provided, services that may not currently be available in the adult criminal justice system. With some modification and enhancements, DJJ facilities may be better equipped to meet the needs of emerging adults. Those services include, but are not limited to the state's IBTM treatment model, cognitive behavioral therapy, mental health treatment, vocational training, and education, among others.

The Governor's budget is currently proposing a pilot program shifting some young adults from prison to DJJ. The Administration hopes DJJ will be better equipped to meet the needs of the emerging adult population. In addition, the Governor proposes increasing the age of jurisdiction for their juvenile justice facilities from 23 to 25 thus allowing young people to remain in DJJ for a longer period of time.

While the Administration's proposal shows a great deal of merit, there is concern that an across the board increase of the age of jurisdiction from 23 to 25 could result in youth remaining in DJJ longer than they would otherwise be required to or need to under the current statute. In addition, the Governor proposes targeting young men in prison who are between the ages of 18 and 21 who committed their

crimes at the age of 17 and were sentenced to adult prison. After an initial review of the proposal, some juvenile justice experts have expressed concern that this proposal, which allows young men to be sentenced as adults but serve their sentences entirely in a juvenile justice facility, may result in an increase in the number of youth sentenced as adults. Primarily, the concern is that this program may allow judges who are facing considerable pressure to try a young person as an adult but do not want to sentence that youth to adult prison, to bow to that pressure with an adult conviction and a sentence to be served at DJJ. As a result, more young people could end up with adult convictions on their records.

Neither of the initial concerns raised appear to be insurmountable. The Senate may wish to consider modifying the language for the proposals to limit the expanded age of jurisdiction to only certain crimes or certain sentences. For example, jurisdiction to age 25 could be limited to those youth who would otherwise be facing sentences in adult prison of seven years or more. In addition, rather than limiting the pilot project to individuals who committed their crimes at the age of 17, the Senate may wish to explore refocusing the pilot to those young adults who committed their crimes at the age of 18 or 18 and 19. This shift would avoid any unintended consequences in the sentencing of 17 year olds.

***Housing Emerging Adults with Younger Boys.*** Under the pilot proposed by the Governor, 76 beds would be used to house emerging adults between the ages of 18 and 25 at Chad. Currently, among the 217 youth serving time in Chad, there is one who is 14, five who are 15 and 11 who are 16. While there are no 12 and 13 year-olds at Chad at the present time, children as young as 12 can be committed to a state juvenile justice facility.

As the state begins to consider significantly increasing the number of emerging adults in its DJJ facilities, it is important for the Senate to consider whether it is effective and appropriate for younger boys and girls to be housed in the same facilities and provided with the same rehabilitative programming as emerging adults. The Legislature may wish to take this opportunity to reconsider the minimum age for confinement in a DJJ facility. If confinement in DJJ is limited to youth and emerging adults between the ages of 16 or 17 and 25, it could provide the state with an opportunity to more effectively provide age-appropriate intensive rehabilitative treatment and programming geared toward emerging adults, rather than providing programming to both children and young adults who are at very different stages developmentally.

***California Leadership Academy.*** The 2014 Budget Act included \$865,000 from the Recidivism Reduction Fund for CDCR to develop a strategic plan for creating the California Leadership Academy (CLA), which would provide housing and specialized, intensive programming for young men in prison who were between the ages of 18 and 25. As a follow up to the development of a strategic plan, in the 2017-18 budget proposal summary, the Administration noted:

*The Department contracted with an external consultant to make recommendations for a California Leadership Academy—a program aimed at reducing recidivism among 18- to 25-year-old male inmates in the state’s adult prison system. The report recommended a college-like campus that would house approximately 250 offenders with small living units that focus on developing pro-social behavior, education, and job training. Diverting younger offenders from the adult prison setting is consistent with one of the goals of Proposition 57, and would give younger offenders a better chance of rehabilitation and reduce recidivism. As such, the Administration recommends that the program focus on youthful offenders who are sentenced by an adult court, but serve the beginning of their sentence in the Division of Juvenile Justice and*

*then transfer to an adult prison. Priority would be given to offenders sentenced by an adult court and eligible for release prior to their 26th birthday.*

*The report also recommended a combination of private and public funds. Given the current state of the General Fund, the Administration will work with external stakeholders to solicit interest from private investors to fund this project. While the state has surplus property that could potentially be used as a site for the Academy, depending on the interest of private investors, the state could also choose to dedicate a yard at an existing adult institution or housing unit at an existing juvenile facility to create a smaller Academy.*

CDCR notes that while they have attempted to find private funding to assist with the creation of a leadership academy, so far they have been unsuccessful. They see this year's pilot project proposal as a step toward implementing the goals outlined in their CLA strategic plan.

**Staff Recommendation: Hold open.**

**Issue 3: Academy-Division of Juvenile Justice (BCP)**

**Governor's Proposal.** The California Department of Corrections and Rehabilitation requests \$721,000 General Fund in 2018-19 and 2019-20 to conduct one Basic Correctional Juvenile Academy each year to support the Division of Juvenile Justice workforce.

**Panelists**

- **Stacy Lopez, Associate Director, CDCR Peace Officer Selection and Employee Development**
- **Legislative Analyst's Office**
- **Department of Finance**

**Background**

In 2011, Public Safety Realignment was implemented, which reduced the number of offenders housed in CDCR prisons and the staff necessary to run them. As a result, CDCR's academy resources were reduced, and academy graduations were put on hold with a large number of peace officers being laid off. Following the initial resizing of the peace officer workforce, promotions and separations began to drive CDCR's vacancy rate. In 2013, the Basic Correctional Officer Academy resumed and CDCR began hiring peace officers for adult prisons. In 2016-17, the Peace Officer Selection and Employee Development (POSED) were provided \$3.7 million GF for two years to send 160 cadets through the juvenile and parole academies.

In 2016-17, CDCR began the process of ramping up the juvenile academy due to the growing number of peace officer vacancies from retirements, promotions, and separations. CDCR received funding for two years to meet this need and continued to evaluate workforce trends. Based on current vacancies and an annual attrition rate, CDCR is anticipating the need for 80 cadets over the next two years.

The CDCR argues that the requested funding will provide CDCR the necessary resources to conduct one academy each year over the next two years, with a class of 40 students each. A total of 80 Youth Correctional Officers and Youth Correction Counselors will attend the juvenile academy, which is anticipated to stabilize and sustain the Division of Juvenile Justice's growing vacancy rate over the next two years.

**Staff Recommendation: Hold open.**