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1997-98 Analysis of the Governor's Budget



**Reforming California's
Juvenile Justice System**

Legislative Analyst's Office
Elizabeth G. Hill, Legislative Analyst

other hand, the rate may have decreased because of limited law enforcement resources have resulted in fewer arrests, not fewer crimes.

Regardless of the data, there is a strong public perception that juveniles are responsible for a disproportionate amount of crime. For example, in a 1996 survey, two-thirds of those sampled responded that they believed that youth violence had increased in their communities. The same proportion of respondents also believed that juveniles commit more violent crimes than adults.

Prevention and Intervention Services. There is a continuing debate on what methods and services are best to prevent or intervene with juveniles who are "at-risk" of becoming delinquent or have already committed an offense. Using specific indicators, juvenile justice system professionals believe they can identify those juveniles who, absent intervention, would be at-risk of becoming habitual offenders. How best to prevent juveniles from becoming habitual offenders is still being evaluated. However, there has been much research showing that integrated, multi-disciplinary services appear to help divert juveniles from a life of crime.

Because the juvenile justice system is primarily locally-administered, there is no statewide authority responsible for evaluating what types of programs are effective, how information on the success or failure of programs can be exchanged, and how to ensure that limited resources are used for the appropriate populations and ensure the greatest chance for success.

Juvenile Justice System Data. There is a serious lack of data on most parts of the juvenile justice system. For example, crime statistics only identify how many juveniles are arrested. There is no statewide data on how many juveniles are detained, adjudicated, or incarcerated in California. Furthermore, information is not available on whether a juvenile fares better in juvenile or adult court, or which court of jurisdiction gives "tougher" sentences to juveniles. Similarly, no comprehensive data are available on the prevalence and trends for most risk factors—those factors that indicate that a juvenile is more likely to become delinquent—such as data on school truancy, juvenile weapon possession, or adolescent substance abuse. Finally, the state doesn't measure the effectiveness of many of its efforts to prevent, suppress, or reduce juvenile crime.

Effects of Demographics and Other Changes. In our May 1995 report entitled *Juvenile Crime—Outlook for California*, we reported that California's juvenile population is projected to grow over 20 percent through 2004. This increase in the juvenile population has the potential for significant increases in the number of juvenile arrests in the future.

We also identified in that report several other indicators of future growth in juvenile criminality. For example, we reported significant increases in reports of abused, exploited, and abandoned children. In addition, we noted significant school dropout rates among certain young students. Furthermore, recent federal data indicate increases in gang activity, gang-related crimes, and juvenile possession of firearms. Finally, drug testing at three California jails shows significant increases in the number of juveniles who tested positive for drugs at the time they were arrested.

STATE ACTIONS TO ADDRESS JUVENILE JUSTICE PROBLEMS

The state has taken a variety of steps to deal with juvenile crime. In the current year, the state will spend more than \$500 million to support more than 34 different juvenile crime prevention and intervention programs. Many of these programs attempt to address the factors which put youth at risk of committing crimes. In addition, a blue-ribbon task force has just completed a major study of the juvenile justice system and made many recommendations in six major areas. We recommend that the Legislature adopt many of the recommendations and modify others.

Because of continuing concern about juvenile crime and the juvenile justice system's response to crime, the Legislature enacted Chapter 454, Statutes of 1994 (AB 2428, Epple), which established a task force to analyze all aspects of the juvenile justice system, find creative solutions, explore alternatives, and recommend a plan for improvement. The California Task Force to Review Juvenile Crime and the Juvenile Justice Response met for one year to study all aspects of juvenile justice issues. At the end of its deliberations, the task force unanimously concluded that it is important to retain a juvenile justice system separate from the adult court system, but it also concluded that the system needed to be changed.

The task force, in its final report released in December 1996, identified recommendations in six areas for improving of the juvenile justice system. Figure 5 (see page 28) shows these major areas. We discuss each of them below, along with our analysis of the task force recommendations.

Need for Leadership

The task force noted that there is a lack of comprehensive leadership in the state's juvenile justice system. As noted above, juvenile justice is primarily a local activity. As a consequence, there is no state-level entity that monitors, coordinates, or even tracks the juvenile justice system.

Figure 5

**California Task Force to Review Juvenile Crime
and the Juvenile Justice Response
Major Recommendations**

- There is a need for increased local and state level leadership in juvenile justice.
- The state should adopt a "balanced and restorative" approach to juvenile justice reform.
- Juvenile delinquency prevention should be a priority.
- Juvenile court reforms are needed to improve the system.
- There is a need to improve data collection, analysis, and dissemination.
- Funding options need to be explored, developed, and expanded.

The task force recommended that the state create a single state department or agency with responsibility for oversight, planning, development, and coordination of juvenile justice policy and program delivery. In addition, the task force recommended establishment of a state office for the prevention of youth violence.

At the time this analysis was prepared, there have been no actions to create a single state agency for juvenile justice issues.

Analyst's Recommendation. We concur with the task force that there is a need for better statewide coordination of juvenile justice issues. We do not believe, however, that the state should create a new state agency, especially one with such large and diverse responsibilities. The new agency envisioned by the task force would exercise *state* control over juvenile justice policy. However, the current juvenile justice system, like law enforcement, is primarily a *local* responsibility. We believe that the state should not extend its control to those governmental functions that are primarily local in nature.

In our 1993 report on sorting out state and local responsibilities, *Making Government Make Sense*, we noted that the state should seek to maximize the separation of state and local duties to ensure that state and local systems of government worked most effectively. Establishing a single agency could take away local agency accountability for system performance and reduce local flexibility for meeting local problems. Often, what works in one part of the state may not be an appropriate solution in another part of the state. A single state agency for juvenile justice might take from local agencies the flexibility and responsibility for local solutions to local problems.

As an alternative to assuming state control of the juvenile justice system, we believe that the state should aid local governments with better coordination and information sharing. Rather than creating a new state agency, the Legislature should consider designating an existing department, such as the Department of the Youth Authority or the Board of Corrections, as the lead state agency for juvenile justice program information-sharing, providing technical assistance to local agencies, and coordinating state juvenile justice funding. This new juvenile justice coordinating effort would work with local agencies to share information and coordinate services, but would not assume local responsibility for the operation of the juvenile justice system.

Balanced and Restorative Justice

The task force recommended that the state embrace the concept of "balanced and restorative justice" as a guiding philosophy for juvenile justice. Balanced and restorative justice is a relatively new concept that essentially changes the goal of the justice system. The current goal of the criminal justice system is to punish those convicted of crimes. Furthermore, the existing system arrests, tries, convicts, and incarcerates an offender on behalf of the state. Court sanctions are based on the crime, and the needs of the victim, community, and offender are generally not part of the judicial decision-making process.

In contrast, the balanced and restorative approach shifts the emphasis to balance the need for punishment with the need to restore the victim and community. The approach clearly identifies punishments for offenders, but goes beyond simple punishment. In practice, an offender is not only punished, but must take actions to "restore" the victim and the community. Therefore, this system does not rely simply on incarceration for punishment, but also requires restitution, community service, and offender education. Each sanction is tied to restoring the community. For example, in jurisdictions that use this model, an offender must meet with the victim of his or her offense to determine how best to make restitution

and for the offender to understand the impact of his or her crime on the victim. Furthermore, the victim will be allowed to recommend where the offender might perform community service, such as maintenance work at the victim's favorite park

In addition, the balanced and restorative approach recognizes that the community also has a level of responsibility. This responsibility is to ensure that the offender leaves the justice system more capable of productive participation in society than when he or she entered the system. Consequently, the offender will be punished, but also will receive services in the community (such as education or substance abuse treatment) that will enable him or her to find alternatives to criminality.

In order to implement balanced and restorative justice, the task force recommended changing state law to specify that the balanced and restorative approach be the goal of the juvenile justice system. In addition, the task force recommended that the state provide technical assistance to local agencies to implement the new philosophy.

The Youth Authority has attempted to incorporate some of the precepts of balanced restorative justice into its mission. For example, the Youth Authority's budget includes funds for community service programs for its parolees. The goal of these programs would be to "restore" the communities where parolees committed their criminal offenses through unpaid labor.

Analyst's Recommendation. We recommend that the Legislature consider changes to existing statutes that would allow counties, local entities, and the courts to change the emphasis of the juvenile justice system to the balanced and restorative approach. We believe that the implementation of this approach has the potential for making the juvenile justice system more effective. Offenders who would be required to restore their community through restitution and community service are more likely to understand the consequences of their criminal acts and less likely to re-offend. Furthermore, the system attempts to ensure that offenders get the services they need to become productive members of the community. In addition, the approach works to ensure that victims of crime and the community as a whole have a greater voice in the justice system.

In order to implement such an approach, the Legislature should establish a lead agency to provide technical assistance and training. The Legislature could make the provision of technical assistance for balanced and restorative justice one of the responsibilities of the juvenile justice coordinating effort we discussed above. Alternatively, the Legislature might decide to contract with one of the private nonprofit organizations in the state that provide these services.

Juvenile Delinquency Prevention

The task force made a variety of recommendations related to prevention and intervention programs. The task force identified family, individual, community, and societal risk factors that contribute to juvenile crime, and made recommendations for prevention programs that would address these risk factors. The task force did not, however, recommend criteria that prevention programs should meet. In addition to reviewing prevention models, the task force recommended that legislation be enacted that eliminates specific statutory barriers to the sharing of information among agencies that serve juvenile offenders and their families.

The Legislature and the administration have acknowledged the importance of prevention efforts for the juvenile justice system. In fact, the current-year budget includes more than \$500 million to support 34 different programs in eight departments. Some of these programs provide general types of prevention services to wide and diverse target populations. For example, the Department of Alcohol and Drug Program's "Friday Night Live" program, provides funds for peer programs to keep teenagers from using alcohol or drugs. Some of the programs target specific risk factors, such as the Department of Social Services' Child Abuse Prevention Program. Other programs are specifically aimed at juvenile offenders. For example, the Repeat Offender Prevention Program in the Board of Corrections provides funds to counties to establish integrated services for first-time juvenile offenders.

Criteria for Prevention Programs. We believe that, to be successful, prevention programs should have certain elements. A prevention program should have:

- **Detailed Prevention Goals.** The program goals should specifically identify the risk factor or behavior that will be addressed. The goals should be both achievable and measurable.
- **Target the Program Population.** The program should also identify the population that will be served. Identifying a specific population with specific needs, allows resources to be targeted.
- **Allow for Flexibility in Implementation.** Recognizing that juvenile offenders have many differing problems, and that each community is different, allowing for program flexibility will promote local solutions to local problems.
- **Maximize Available Resources With Integrated Services.** To ensure the most economical provision of services, programs should require multi-agency participation and provide integrated services. Without this type of approach, agencies might needlessly dupli-

cate expensive services or fail to maximize other sources of funds, such as federal funds.

- *Evaluating Program Performance.* Each program should have a mechanism to measure whether it is accomplishing its goals. The evaluation should show the performance of the program and document successes (and failures) and allow for information sharing.

Some of the prevention programs established in the current year have these attributes. For example, the Juvenile Crime Enforcement and Accountability Challenge Grant Program administered by the Board of Corrections—a \$50 million one-time local assistance program established by Chapter 133, Statutes of 1996 (SB 1760, Lockyer)—meets these criteria. The grant program identifies the population that should be served and requires an integrated, multi-disciplinary approach to serving the target populations. The program allows each county to develop its own local solutions for serving targeted populations. In addition, the counties identify how they will determine whether the program works or not and will complete periodic evaluations of the program. The Board of Corrections will also evaluate the program during and at the end of the grant period.

Analyst's Recommendation. We strongly agree with the task force's conclusions about the need for prevention programs for juvenile offenders. However, we believe that successful prevention programs must meet the criteria outlined above. As a consequence, we recommend that the Legislature use these criteria as it reviews proposed new prevention programs. If an individual program does not meet the criteria, the Legislature should reject the proposal. The Legislature should also apply these criteria to a review of existing programs. Further, as noted above, the Legislature should ensure that the lessons learned from these programs are shared. This can be accomplished by the state agency that would be responsible for coordination of juvenile justice issues.

Furthermore, the Legislature may wish to consider continuing or augmenting funds for certain programs that meet the prevention program criteria, but may not be fully funded. For example, the Board of Corrections will be evaluating requests from counties and awarding funds for the Juvenile Crime Enforcement and Accountability Challenge Grant program in the spring. The Governor's budget does not propose to continue the program in 1997-98. If the Board of Corrections identifies meritorious applications that exceed the available funds, the Legislature might consider continuing this program with sufficient funding to fully fund these applications.

Juvenile Court Reforms

The task force made several recommendations in the area for juvenile court reform. The task force recommended approaches for ensuring first-time offenders would be adjudicated expeditiously and would receive appropriate punishment. Currently, many first-time offenders are not adjudicated and are not punished because resources in the system are reserved for more serious or habitual offenders. The recommendations recognize that research has shown that "swift and certain" punishment for these offenders is one of the most effective ways to reduce chronic delinquency. The recommendations include streamlined and informal systems for ensuring that all juvenile offenders receive swift, certain, and appropriate discipline.

The task force also made a series of procedural recommendations to improve the court process for adjudicating serious and violent juvenile offenders. These include recommendations for streamlining hearing processes, clarifying processes for selecting judges, and assuring that victims are represented in the court process. The task force also recommended that parents be mandated to attend court hearings and that they be sanctioned if they fail to appear.

Juvenile or Adult Sanctions. The task force did not make a recommendation on a model for when juveniles should be tried as adults and receive adult punishments. The question of how best to handle young offenders who commit serious offenses is a difficult one. On one hand, there is public belief that the current juvenile court system is too lenient on juvenile offenders. For those who hold this position, the most effective remedy is to have serious and violent juvenile offenders tried in the adult criminal courts (often referred to as "remanded" or "waived" to adult court). Advocates of this approach differ on how best to accomplish this, some placing discretion with prosecutors for deciding when a juvenile is sent to adult court and others believing that decisions should be mandated in statute. There is also a great deal of debate over the age at which a juvenile offender should be sent to the adult court. Current law allows minors as young as 14 to be tried as an adult.

On the other side of the debate, some advocates believe that these offenders, even those who commit heinous crimes, are nevertheless still juveniles with special needs that can only be addressed in the juvenile court. Even among those who take this position, many believe that there are some types of offenders who should be transferred to the adult system. Those who favor keeping most minors in the juvenile justice system seek to ensure that in any "fitness" hearing—a proceeding where the juvenile court makes a determination that an offender is not fit for the juvenile court—the prosecutor has the burden of proving the juvenile is

not fit for juvenile court and should be remanded into the adult court system.

Complicating this debate is the lack of data on what type of system works best. It is not known how many minors are tried as adults in California, nor, more importantly, we do not know the disposition of their cases. We do not know if juvenile offenders receive harsher sentences in adult court or if transferring juvenile offenders to adult court has a deterrent effect. Research from other states shows that juveniles tried in adult court tended to receive *more lenient* treatment than did a comparable group of youths in juvenile court. This more lenient treatment may be due to the offender's age (and its effect on a jury). It may also be attributable to the fact that juvenile offenders, as a consequence of their age, do not have long criminal conviction records, and the severity of adult sentences is often based on prior criminal record. Because of this lack of data, the task force did not make a recommendation on the best model for dealing with serious and violent juvenile offenders.

Analyst's Recommendation. We recommend that the Legislature adopt the task force recommendations for improving judicial proceedings, especially the task force recommendations for ensuring expeditious adjudications for first-time offenders. We also agree with the task force recommendation for recognizing the needs of victims in the court process. We note that these concerns can be addressed through changes in court procedures and through the adoption of the balanced and restorative justice approach.

To address the question of which court is the most appropriate one for dealing with serious and violent juvenile offenders, we recommend that the Legislature consider adopting the concept of "blended jurisdiction." This concept keeps responsibility for the juvenile in the juvenile courts, but extends to the youth who has committed serious and violent crimes many of the procedural guarantees found in adult courts, such as jury trials. With blended jurisdiction, the juvenile court could impose both a juvenile and adult sanction on juvenile offenders who are convicted of committing serious or violent crimes. The adult sentence for a juvenile offender would be "stayed" until the offender successfully completed all of his or her juvenile sentence (incarceration and parole), and for a period afterwards. If, at any time during this period the juvenile committed another offense, the original adult sentence would be imposed, allowing for immediate incarceration in state prison. In this way, the juvenile could utilize all rehabilitative programs available to juvenile offenders, while at the same time being subject to the more severe adult sentence if the offender commits a subsequent offense. Legislation introduced in 1996, SB 2126 (Marks), contained these elements of a blended system.

Data Collection, Analysis, And Dissemination

The task force identified many juvenile justice system data deficiencies. As noted above, there is virtually no comprehensive, statewide data on most aspects of the juvenile justice system. The task force recommended that the state Department of Justice (DOJ) reinstate data collection for juvenile criminal justice statistics and that systems be developed to track offenders in both the juvenile and adult justice systems.

The Legislature has already addressed one of the task force's recommendations. Chapter 803, Statutes of 1995 (AB 488, Baca) requires that the DOJ reinstate its systems for collecting and reporting juvenile justice statistical data. According to the DOJ, the first statewide reports from the system will be available in August 1998. In addition, for the current year, the Legislature appropriated \$300,000 to the Youth Authority to contract for a study of the long-range needs for juvenile justice system data collection. The contractor will be required to look at all aspects of data availability and collection for the juvenile justice system. The contractor will look at both the criminal justice systems, such as arrest and court disposition data systems, but also review other non-criminal systems, such as educational and social services systems. The contractor will provide a long-range plan for addressing the data deficiencies it identifies.

Analyst's Recommendation. We recommend that the Legislature defer any further action in this area until the long-range plan is completed.

Juvenile Justice System Funding

The task force reported that the state's juvenile justice system suffers from serious financial problems at every level. The task force found that funding for juvenile justice programs is fragmented. The fragmentation is the result of several different agencies serving juvenile offenders, which often do not coordinate funding for services. Many persons testifying before the task force noted that there are chronic and severe resource shortages in local programs, especially in county probation departments. The task force reported that the most troubling aspect of juvenile justice funding was the absence of any coordinated, statewide plan to ensure that funds were made available in a balanced manner for all elements of the juvenile justice system—prevention, intervention, suppression, enforcement, and incarceration—resulting in disproportionate spending in some areas, such as incarceration programs, with less funding for other areas, such as prevention programs.

The task force recommended reorganization of financing for juvenile justice, including consolidating funding through a single state agency for

juvenile justice. The task force recommended that funding decisions be made based on caseload distribution, and that policymakers pursue a realignment of funding to ensure that an optimum balance is reached for all components of the juvenile justice system.

As noted above, the state has made a significant investment in juvenile justice programs. Several of the new state-level initiatives (such as the Challenge Grant program) require recipients to fully leverage other sources of funds and develop local resources to maintain the new programs when state funding declines. In addition, many counties have been investigating methods for using disparate funding sources to provide integrated services. For example, in Ventura County, departments that serve the same juvenile caseloads, such as probation, social services and mental health, pool funding to maximize all sources of funds, including federal funds. However, there is no system by which counties that have found new ways to maximize the use of funds can share this knowledge with other counties. Furthermore, various county agencies have identified statutory and regulatory barriers to using various funding sources to provide integrated services. For example, there are statutory and licensing barriers that prevent counties from developing privately operated facilities for juvenile offenders. As a consequence, counties lose the ability to develop alternatives to placements in the Youth Authority.

Analyst's Recommendation. Because so many juvenile offenders need a variety of services to prevent continued criminality, the Legislature should encourage the provision of integrated services using a multiagency approach (such as that used in Ventura County). Such an approach would ensure that existing resources are maximized. To facilitate this type of approach, we recommend that the Legislature designate the state juvenile justice coordinating agency described earlier as responsible for identifying and coordinating information on juvenile justice funding. The agency could take the lead in identifying funding sources and working with local agencies to maximize all types of funding for juvenile offenders. Furthermore, we recommend that the Legislature consider removing any barriers to maximizing juvenile justice funding.

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The Legislative Analyst's Office is located at 925 L Street, Suite 1000, Sacramento, CA 95814.
