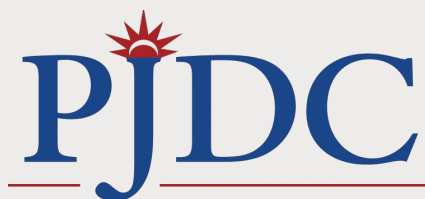




A Research Project from the Pacific Juvenile  
Defender Center and the Youth Law Center

# **CALIFORNIA'S COUNTY JUVENILE LOCKUPS: EXPENSIVE, OVERUTILIZED, AND UNACCOUNTABLE**

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Cover photo: Inside the Ventura County Juvenile Facilities Complex, in which youth serve commitments of up to one year.

*Ventura County Probation Department, Juvenile Facilities*  
*<http://venturaprobatation.org/index.php/facilities/juvenile-facilities> [as of August 3, 2020]*

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# I. Introduction

Just after taking office in January 2019, Governor Gavin Newsom announced his intention to “end juvenile imprisonment in California as we know it.”<sup>1</sup> With his 2020-2021 budget proposal, released in May 2020, Governor Newsom took a strong step in that direction, proposing to close California’s state youth incarceration facilities entirely and shift responsibility for all youth held in custody to the state’s 58 counties.<sup>2</sup>

The Legislature agreed, and in September 2020, Governor Newsom signed S.B. 823, setting into motion the closure of the state Division of Juvenile Justice (DJJ) system and providing substantial funding to the counties to serve the population of youth who previously would have been eligible for DJJ commitment.<sup>3</sup>

This “realignment” is intended to enable counties to “meet the needs of youth by providing and implementing public health approaches to support positive youth development, building the capacity of a continuum of community-based approaches, and reducing crime by youth.”<sup>4</sup> The measure specifically states that:

It is the intent of the Legislature and the administration for counties to use evidence-based and promising practices and programs that improve the outcomes of youth and public safety, reduce the transfer of youth into the adult criminal justice system, ensure that dispositions are in the least restrictive appropriate environment, reduce and then eliminate racial and ethnic disparities, and reduce the use of confinement in the juvenile

justice system by utilizing community-based responses and interventions.”<sup>5</sup>

This sweeping realignment of youth to the counties brings California to a crossroads: will the closure of the state Division of Juvenile Justice “end juvenile imprisonment as we know it” or simply replicate the state system at a local scale? In order to transform the juvenile justice system, county-level locked commitment programs must not re-create the problems of the state system, including prison-like conditions, racial disproportionality, and lack of accountability.<sup>6</sup>

Policymakers, stakeholders, and community leaders must closely examine the county systems currently in place and consider how our communities could be better served by investing in alternatives to county-based incarceration. This report shines a spotlight on the widespread use of incarceration already occurring at the county level and contextualizes these practices within the harms and costs associated with the confinement of youth in locked correctional facilities.

We conclude that county-level locked commitments must end as we know them, and that healthier, more effective alternatives must be developed both for the existing county population and the realigned DJJ youth. We also conclude that the state must pay much greater attention to what is happening in county programs, and that counties should be held accountable for the conditions and services provided in them.

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1 Office of Governor Gavin Newsom, *Governor Newsom Announces his Intention to End Juvenile Imprisonment in California as We Know It*, News Release (Jan. 22, 2019) <https://www.gov.ca.gov/2019/01/22/end-juvenile-imprisonment/> [as of July 24, 2020].

2 Egelko, *Newsom proposes closing youth prisons as crime drops, coronavirus drains budget*, S.F. Chronicle (May 25, 2020) <https://www.sfchronicle.com/news/article/Newsom-proposes-closing-youth-prisons-as-crime-15292274.php> [as of July 17, 2020] [hereinafter Egelko, Newsom proposes closing youth prisons]; California’s 2021-21 May Revision to the Governor’s Budget (May 14, 2020) p. 88 <http://www.ebudget.ca.gov/2020-21/pdf/Revised/BudgetSummary/FullBudgetSummary.pdf> [as of July 28, 2020].

3 S.B. 823, California 2019-2020 Regular Session. [Approved by Governor September 30, 2020. Filed with Secretary of State September 30, 2020.]

4 S.B. 823, *supra*, Section 1, subdivision (c).

5 S.B. 823, *supra*, Section 1, subdivision (e).

6 Petek, California Legislative Analyst’s Office, *The 2019-20 Budget: Reorganization of the Division of Juvenile Justice* (Apr. 19, 2019) <https://lao.ca.gov/Publications/Report/3998> [as of July 27, 2020].



## A Caveat About This Report

While this report contains substantial concerns about existing juvenile hall and juvenile hall-like “camp” programs, nothing in this report should be taken as suggesting that youth would be no worse off if relegated to the adult criminal justice system. Even the worst juvenile hall commitment program would provide substantially greater benefits to youth than would state prison or adult jail.<sup>7</sup> We offer this report in the spirit of calling on counties to scrutinize what they are doing now, and to embrace the goals of the realignment legislation in developing alternatives to correctional institutions and investing in public health approaches to support positive youth development.

## Overview of California’s locked juvenile facilities

Young people who are adjudicated for a violation of a criminal law may receive a range of dispositional options from the juvenile court, including probation at home with conditions, residential placement in a foster home or short-term residential therapeutic program, or incarceration in a locked (“secure”) facility.<sup>8</sup> Counties incarcerate youth in two different types of locked facilities: juvenile halls and juvenile camps. Juvenile halls are jail-like facilities designed to incarcerate youth temporarily, before their cases have been adjudicated in juvenile court.<sup>9</sup> In juvenile halls, youth experience severe restrictions on their freedom of movement and access to the community.<sup>10</sup> Because of concerns about incarcerating young people in jail-like settings, Welfare and Institutions Code section 730,

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7 “Adult prisons and jails are unquestionably the worst places for youth.” (Prison Policy Initiative, *Youth Confinement: the Whole Pie 2019* (Dec 19, 2019), <https://www.prisonpolicy.org/reports/youth2019.html> [as of October 10, 2020].)

Youth held in adult facilities are much more likely than those held in juvenile facilities to commit suicide, be sexually assaulted, and to be attacked with a weapon by adults or beaten by staff. (Redding, *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?* U.S. Dept. of Justice, Office of Juvenile Justice and Delinquency Prevention, OJJDP Juvenile Justice Bulletin (June 2010), p. 7; and see, e.g., Human Rights Watch, *“When I Die, They’ll Send Me Home”: Youth Sentenced to Life without Parole in California* (2008) pp. 54-56.)

Further, adult facilities are even worse than juvenile halls as a place for rehabilitation. Youth have reported that much of their time in adult facilities is spent learning criminal behavior from adult inmates and proving how tough they are. (Redding, *Juvenile Transfer Laws: An Effective Deterrent to Delinquency?* *supra*, at p. 7.) Nor is the California prison system equipped to provide rehabilitative services to youth. It struggles to provide needs assessments, academic education, and access to rehabilitative services. (See California Rehabilitation Oversight Board, *C-Rob Report* (Sept. 15, 2020) pp. 6-10, 26.) During Fiscal Year 2018-2019, it failed to meet any of the rehabilitative needs for 62 percent of the inmates who had been assessed as at risk of recidivating. (Auditor of the State of California, *California Department of Corrections and Rehabilitation: Several Poor Administrative Practices Have Hindered Reductions in Recidivism and Denied Inmates Access to In-Prison Rehabilitation Programs* (January 2019), p. 10.) Nor is California’s adult jail system any better for youth. Rife with violence, suicides, abuse of mentally ill inmates, and crowding, they are hardly the place for transferred youth. (See Pohl & Gabrielson, *California Tried to Fix Its Prisons. Now County Jails Are More Deadly*, Sacramento Bee and ProPublica (April 24, 2019), and the series *Overcorrection: Crisis in California Jails*, <https://www.propublica.org/series/overcorrection> [as of October 10, 2020].)

Beyond the facilities themselves, transfer to the adult system also hobbles youth long after release. Adult court convictions interpose barriers to employment, higher education and financial aid, professional certifications and a range of other opportunities and services that could help youth to move forward into productive lives. Although young people in the juvenile system do experience collateral consequences, they are much less severe than in the adult system. (See Council of State Governments Justice Center, *National Inventory of the Collateral Consequences of Conviction*, <https://niccc.csgjusticecenter.org/> [as of October 10, 2020], as contrasted with Pacific Juvenile Defender Center, *Collateral Consequences of Juvenile Delinquency Proceedings in California* (2011).)

Not surprisingly, the Centers for Disease Control has found that youth transferred to adult court experience increased arrest for subsequent crimes, compared with those retained in the juvenile justice system. (Centers for Disease Control and Prevention, *Effects on Violence of Laws and Policies Facilitating the Transfer of Youth from the Juvenile to the Adult Justice System: A Report on Recommendations of the Task Force on Community Preventive Services*, 56 MMWR No. RR-9 (November 30, 2007), p. 9.)

8 Welfare and Institutions Code sections 727, 730, 731.

9 California regulations define “juvenile hall” as “a county facility designed for the reception and temporary care of youth detained in accordance with the provisions of this subchapter and the juvenile court law.” (Board of State and Community Corrections (BSCC), Title 24 Minimum Standards For Juvenile Facilities section 13-201 (2019) p. 6 <http://bscc.ca.gov/wp-content/uploads/Juvenile-Title-24-SOUL-Effective-1.1.2020.pdf> [as of July 30, 2020] [hereinafter BSCC, Title 24]; see also Welfare and Institutions Code section 850.)

10 Juvenile halls and some camps are referred to as “secure facilities,” meaning that “a juvenile is held behind a locked door, gate, or fence, or in which some person is responsible for physically preventing the juvenile’s escape or departure from the facility.” (Calif. Dept. of Justice, Juvenile Justice in California (2019) p. 108 <https://data-openjustice.doj.ca.gov/sites/default/files/2020-06/Juvenile%20Justice%20In%20CA%202019.pdf> [as of August 3, 2020]; see also Welfare and Institutions Code section 206.)

subdivision (a), has long allowed counties to house youth serving post-dispositional commitments in juvenile halls only “[i]f there is no county home, ranch, camp, or forestry camp within the county.”

Juvenile camps, in contrast, house youth who are serving a custodial commitment after their cases have been adjudicated. Historically, camps were primarily in rural settings, where youth could have a significantly greater degree of freedom than is possible in juvenile halls, while engaging in rehabilitative programming and outdoor activities.

Over time, the difference between camps and juvenile halls has eroded in many parts of the state, and some “camps” are virtually indistinguishable from juvenile halls. This evolution has eviscerated the statutory limitation on use of juvenile halls for post-disposition commitment. The county practice of incarcerating youth serving post-disposition commitments in juvenile halls and juvenile hall-like camps is the primary focus of this report.

Throughout California, youth of color are vastly overrepresented in these facilities. In 2017, youth of color comprised 86 percent of youth in a court-ordered out-of-home placement, including secure halls and camps,<sup>11</sup> and were more likely to be sent to an institutional placement than white youth with the same charge level or offense.<sup>12</sup> The racial disparities among youth committed to secure county institutions brings even greater urgency to the need for reform.

California has long been concerned about the overuse of locked facilities to incarcerate youth, but inadequate oversight has prevented meaningful evaluation of previous reform efforts. Indeed, as early as 1960, a statewide commission cited “excessive and unwarranted detention of children.”<sup>13</sup> After the 2007

realignment of the juvenile justice system, which transferred many in-custody youth from state to county facilities, a state-level audit concluded that “limited information and a lack of clear goals prevent a meaningful assessment of the outcomes.”<sup>14</sup> Currently, the “long-term decline” of California’s juvenile justice data system further hinders efforts to track the practices and outcomes of the juvenile delinquency system at both the state and county level.<sup>15</sup>

## Purpose and methodology of this report

Understanding the youth incarceration facilities currently operating at the county level is essential to preparing effectively for DJJ’s closure. The realignment of DJJ youth to the counties is supposed to bring youth closer to their homes and communities and make it easier to provide them with a healthy, supportive environment that will improve their chances for success.<sup>16</sup> But relatively little is known about the local programs currently in operation, and the recent increase in jail-like juvenile hall and camp programs should be cause for concern. As California moves forward, we need a critical analysis of current practices so that we are equipped to identify problems and to develop alternatives that will better serve our young people.

To gather information on the operations and scope of locked county commitment programs, two research fellows from the Pacific Juvenile Defender Center reviewed data and documents obtained from county probation departments through Public Records Act requests in 2019 and 2020, compiled and analyzed publicly available documents, and conducted telephone interviews with county stakeholders. Because available information is limited, this report

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11 See Office of Juvenile Justice and Delinquency Prevention, Easy Access to the Census of Juveniles in Residential Placement: 1997-2017, available at: <https://www.ojjdp.gov/ojstatbb/ezacjrp/> [as of August 3, 2020].

12 See Wong & Ridolfi, Burns Institute, Unlocking Opportunity: How Race, Ethnicity, and Place Affect the Use of Institutional Placements in California (Jan. 2018) p. 12 <https://www.burnsinstitute.org/wp-content/uploads/2018/01/Unlocking-Opportunity.pdf> [as of August 3, 2020].

13 Report of the Governor’s Special Study Commission on Juvenile Justice, Part I: Recommendations for Changes in California’s Juvenile Court Law (1960) p. 12.

14 California State Auditor, Juvenile Justice Realignment, Report 2011-2129 (2012) p. v <http://www.bsa.ca.gov/pdfs/reports/2011-129.pdf> [as of July 21, 2020].

15 See California Juvenile Justice Data Working Group, Rebuilding California’s Juvenile Justice Data System, Executive Summary of the Report to the Legislature (2016) p. 1 <http://www.bscc.ca.gov/wp-content/uploads/Exec-Summary-JJDWG-FINAL-2-8-16.pdf> [as of July 24, 2020].

16 S.B. 823, *supra*, Section 1, subdivisions (a)-(d).

reflects a sampling of counties, rather than a comprehensive survey. It should be used as an initial investigation to guide and encourage further analysis.

Our research revealed that youth across California routinely serve lengthy commitment terms in locked county juvenile halls and camps. The commitment programs fail to honor longstanding statutory limitations on the use of juvenile halls for post-

disposition commitments.<sup>17</sup> They operate much like jails, relying on hardware and control measures that are antithetical to developmentally appropriate services for youth. They separate youth from the support of their families and communities and often fail to provide the very services upon which commitment is premised. They are expensive and lack oversight and accountability. To “end juvenile imprisonment as we know it,” this must change.



Perimeter of San Luis Obispo’s juvenile hall<sup>18</sup>

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17 Again, Welfare and Institutions Code section 730, subdivision (a), allows counties to commit youth to juvenile halls only “[i]f there is no county home, ranch, camp, or forestry camp within the county.” This limitation is widely evaded both directly and through the subterfuge of characterizing facilities or living units as “camps.”

18 County of San Luis Obispo, Virtual Tour of #SLOCounty Juvenile Hall <https://www.slocounty.ca.gov/Departments/Probation/Juvenile-Hall.aspx> [as of Aug. 6, 2020].

## II. Counties engage in widespread use of their local custodial facilities for locked commitment programs

Although some counties do not use juvenile hall or juvenile hall-like camp commitments at all,<sup>19</sup> some counties make frequent use of secure commitments for their youth. For instance, in 2018 and 2019, Fresno County had at least 914 commitments,<sup>20</sup> San Joaquin County had at least 335,<sup>21</sup> and Ventura had at least 332.<sup>22</sup> In March 2020, there was an average daily population of 3,259 youth confined in local county facilities,<sup>23</sup> more than four times the approximately 750 youth confined in DJJ.<sup>24</sup>

### Counties often use locked commitments for probation violations

Disturbingly, commitments are often used for youth who would be better served in a less restrictive setting or in community-based programs. For example, counties often impose locked commitments for probation violations, which are violations of probation rules, not new law violations - even though research shows that incarceration is not an effective response for a technical violation.<sup>25</sup> Indeed, the National Council of Juvenile and Family Court Judges has resolved that incarceration should “never [be] used as a sanction” for a probation violation.<sup>26</sup>



A cell door in Contra Costa County's Juvenile Hall, which houses multiple post-dispositional commitment programs<sup>27</sup>

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19 For example, Alameda, Santa Barbara, San Francisco, and Santa Clara counties generally do not utilize secure juvenile hall or juvenile hall-like commitments for youth. Some counties are even working toward closing their juvenile halls entirely. In fact, the Contra Costa County District Attorney Diane Becton recently announced the formation of a task force to focus on closing Contra Costa's juvenile hall, which currently houses multiple commitment programs. (Contra Costa District Attorney's Office, News Release: DA Diana Becton Issues Statement on Contra Costa County Juvenile Hall (Aug. 4, 2020) <https://www.contracosta.ca.gov/CivicAlerts.aspx?AID=2368> [as of Aug. 6, 2020].)

20 Letter from Chief Probation Officer Kirk Haynes on behalf of Fresno County Probation Department, Response to Public Records Act Request (PRA) by Pacific Juvenile Defender Center (PJDC) and Youth Law Center (YLC), Feb. 28, 2020, p. 1 (on file with authors).

21 PRA Request 12-30-19 Spreadsheet, Response from San Joaquin County Probation Department to Public Records Act Request by PJDC and YLC, Jan. 23, 2020 (on file with authors).

22 PIR Releases 18-19 Spreadsheet, Response from Ventura County Probation Department to Public Records Act Request by PJDC and YLC (on file with authors).

23 Board of State and Community Corrections, Juvenile Detention Profile Survey Data Portal, available at: <http://app.bscc.ca.gov/joq/jds/QuerySelection.asp> [as of July 27, 2020] [hereinafter BSCC, Juvenile Detention Profile Survey Data Portal].

24 Egelko, *Newsom proposes closing youth prisons*, *supra*.

25 Annie E. Casey Foundation, *Transforming Juvenile Probation: A Vision for Getting It Right* (2018) pp. 15-16 <https://www.aecf.org/m/resourcedoc/aecf-transformingjuvenileprobation-2018.pdf> [as of July 17, 2020].

26 National Council of Juvenile and Family Court Judges, *Resolution Regarding Juvenile Probation and Adolescent Development* (2019) p. 2 <https://www.ncjfcj.org/wp-content/uploads/2019/08/regarding-juvenile-probation-and-adolescent-development.pdf> [as of July 17, 2020] [hereinafter NCJFCJ Resolution].

27 Contra Costa County Probation Overview Powerpoint Presentation slide 9 <https://www.contracosta.ca.gov/DocumentCenter/View/8329/HR-Probation-Overview?bidId=> [as of July 17, 2020] [hereinafter Contra Costa Probation Overview].



In some counties, nonetheless, *almost all* locked commitments were for probation violations in 2018 and 2019:

- Monterey County, 132 out of 150 commitments<sup>28</sup>
- San Luis Obispo, 113 out of 139 commitments<sup>29</sup>
- El Dorado County, 13 out of 15 commitments<sup>30</sup>
- San Benito County, 15 out of 22 commitments<sup>31</sup>
- Fresno County's 63-day commitment programs are generally utilized only for probation violations<sup>32</sup>



Madera County Juvenile Detention Center<sup>33</sup>



The Fresno County Juvenile Justice Campus<sup>34</sup>

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28 PJDC PRAR Data – Court Commitments to JH Spreadsheet, Response from Monterey County Probation Department to Public Records Act Request by PJDC and YLC, Jan. 24, 2020 (on file with authors).

29 Copy of PRA Commitment Releases and snapshot Spreadsheet, Response from San Luis Obispo County Probation Department to Public Records Act Request by PJDC and YLC, Jan. 9, 2020 (on file with authors).

30 Letter from El Dorado County Probation Department, Response to Public Records Act Request by PJDC and YLC, Feb. 5, 2020, p. 1 (on file with authors).

31 Letter from Assistant Chief Probation Officer James Bucknell on behalf of San Benito County Probation Department p. 2, Response to Public Records Act Request by PJDC and YLC, Jan. 10, 2020 (on file with authors).

32 Telephone Interview with JoAnna Edwards, Deputy Public Defender, Fresno County (Jun. 1, 2020) [hereinafter Edwards Interview].

33 Madera County Probation, Parent Handbook <https://www.maderacounty.com/home/showdocument?id=244> [as of Aug. 6, 2020].

34 Fresno County Probation Department, Learn About the Justice System <https://www.co.fresno.ca.us/departments/probation/juvenile-services/learn-about-the-justice-system> [as of Aug. 6, 2020].

## Counties frequently commit youth for longer than six months in locked facilities

While state regulations define juvenile halls as “designed for the reception and temporary care of youth,”<sup>35</sup> many counties commit their youth to lengthy locked commitment programs in juvenile halls or “camps” that look and operate like juvenile halls:

- Orange County’s Youth Leadership Academy ranges in length from 60 days to multiple years,<sup>36</sup> including two youth in 2018-2019, each of whom served commitments of 364 days.<sup>37</sup>
- Tulare County’s Juvenile Hall commitment program is up to 730 days in length,<sup>38</sup> including 16 youth who served commitments of 365 days or longer in 2018 and 2019.<sup>39</sup>
- Butte County’s Camp Condor has a maximum length of stay of 462 days,<sup>40</sup> including at least two youth who served commitments of 280 days or longer in 2018 and 2019.<sup>41</sup>
- Fresno County’s New Horizons program is 365 days in length.<sup>42</sup>

- Contra Costa County’s Youthful Offender Treatment Program has 36 weeks (approximately 252 days) of programming.<sup>43</sup>
- El Dorado County’s longest commitment program is 240 days in length.<sup>44</sup>

## Length of commitment is often subject to probation’s discretion

Commitment lengths are often left up to the county’s probation department, with youth subject to extended confinement at the department’s discretion. In many locked commitment programs, the probation department largely or entirely decides whether a young person progresses to the next phase of the program and when the youth completes their commitment. In Solano County’s Challenge Academy program, for instance, youth are only eligible for release after serving 270 days in the program *and* successfully completing all program phases, as determined by probation department staff.<sup>45</sup> In Contra Costa County, the probation department convenes a team meeting to determine whether a youth progresses to the next phase, including behavioral health staff who provide input but cannot vote on a youth’s promotion.<sup>46</sup>

Many of these discretionary decisions are couched in ostensibly objective measures. In many counties, for

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35 BSCC, Title 24, *supra*, at p. 6.

36 Telephone Interview with Annie Rodriguez, Deputy Public Defender, Orange County (Jun. 17, 2020) [hereinafter Rodriguez Interview].

37 Letter from Chief Probation Officer Steven J. Sentman on behalf of Orange County Probation Department p. 1, Response to Public Records Act Request by PJDC and YLC, May 21, 2020 (on file with authors).

38 Tulare County Commitment Programs Manual (Jan. 2020) p. 7, Response from Tulare County Probation Department to Public Records Act Request by PJDC and YLC (on file with authors).

39 Tulare County Probation Department, PRA 12.19.19 – JDF Program Releases (AC) for CY18-19 and JDF Spreadsheet, Response from Tulare County Probation Department to Public Records Act Request by PJDC and YLC (on file with authors).

40 Butte County Juvenile Probation Camp Manual p. 17, Response from Butte County Probation Department to Public Records Act Request by PJDC and YLC (on file with authors) [hereinafter Butte Camp Manual].

41 Letter from Butte County Probation Department p. 1, Response to Public Records Act Request by PJDC and YLC, Jan. 17, 2020 (on file with authors).

42 Fresno County Probation Department General JJC Program Info p. 1 (on file with authors).

43 See Youthful Offender Treatment Program Youth Handbook p. 8, Response to Public Records Act Request by PJDC and YLC (on file with authors) [hereinafter YOTP Youth Handbook].

44 El Dorado County Juvenile Detention Facility Programming Flow Chart (2019) (on file with authors).

45 Solano County Juvenile Detention Facility Challenge Program Orientation Handbook (Feb. 2017) p. 7, Response from Solano County Probation Department to Public Records Act Request by PJDC and YLC (on file with authors).

46 See YOTP Youth Handbook, *supra*, pp. 2-3.

instance, probation department staff use a numerical “points” system to determine a youth’s progress through the program.<sup>47</sup>

A county’s probation department may also determine whether a youth’s time in custody will be extended by returning the youth to an earlier phase of the program or pausing a youth’s progress. In San Bernardino County’s Gateway Program, for instance, youth can be moved from Phase 2 back down to Phase 1 based on their behavior.<sup>48</sup> Until recently, the Contra Costa Probation Department could temporarily remove a youth from the Youthful Offender Treatment Program as a result of misbehavior, halting the youth’s program progress and extending his length of stay in the locked facility by a month or more.<sup>49</sup>

Probation’s enormous discretion detracts from a youth’s treatment progress and deprives them of due process. Research has established that holding young people accountable works best if they perceive their treatment as fair and if they have a meaningful opportunity to participate and be heard.<sup>50</sup> When the probation department determines the length of a custodial sentence, youth cannot challenge erroneous decisions or present their side of the issues with the assistance of an attorney, and they may experience the commitment as arbitrary and unfair. Adolescent development research suggests that this kind of negative experience with procedural justice undermines the effectiveness of the programming.<sup>51</sup>

Ultimately, the probation department’s inordinate amount of discretion in evaluating program progress and determining length of stay leaves youth and families without clarity or recourse to challenge their decisions.

## Therapeutic programming and re-entry services are often inadequate

Locked commitment programs often fail to provide adequate therapeutic programming or re-entry services to justify their expense and length. While most commitment programs purport to offer extensive rehabilitative programming, including violence prevention and mental health services, a significant amount of programming is delivered by probation correctional officers or through workbooks and packets.<sup>52</sup>

Few probation officers have the professional credentials or training to address the complex needs of youth in commitment programs. In a study of youth with mental health needs in juvenile facilities, the authors found that more than 50 percent of youth in California juvenile facilities have a diagnosable mental health disorder.<sup>53</sup> Trauma experts have found that youth in the juvenile justice system disproportionately suffer from post-traumatic stress disorder, and that many have experienced loss and bereavement, an impaired caregiver, domestic violence, emotional

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47 See, e.g., Kings County Juvenile Commitment Program p. 4, Response from Kings County Probation Department to Public Records Act Request by PJDC and YLC (on file with authors) [hereinafter Kings County JCP]; San Luis Obispo Coastal Valley Academy Youth Handbook p. 26, Response from San Luis Obispo Probation Department to Public Records Act Request by PJDC and YLC (on file with authors); Solano County Challenge Program Parent Orientation Packet p. 14, Response from Solano County Probation Department to Public Records Act Request by PJDC and YLC (on file with authors).

48 Telephone Interview with Jennie Cannady, Deputy Public Defender, San Bernardino County (Jun. 16, 2020).

49 Palomino & Tucker, *Amid historic shifts in juvenile justice, some counties lock up kids for treatment*, S.F. Chronicle (Dec. 29, 2019), <https://www.sfchronicle.com/bayarea/article/Amid-historic-shifts-in-juvenile-justice-some-14934998.php> [as of July 17, 2020] [hereinafter Palomino & Tucker, *Amid historic shifts*].

50 National Research Council, *Reforming Juvenile Justice: A Developmental Approach* (2013) p. 210, available at: <https://www.nap.edu/catalog/14685/reforming-juvenile-justice-a-developmental-approach> [as of July 17, 2020] [hereinafter National Research Council, *Reforming Juvenile Justice*].

51 *Id.* at pp. 191-192, 204.

52 See, e.g., Butte Camp Manual, *supra*, p. 3; Northern California Regional Facility Procedure Manual Subsection 700-01, Mental Health Services (revised June 25, 2019) p. 2, Response from Humboldt County Probation Department to Public Records Act Request by PJDC and YLC (on file with authors); Solano County Juvenile Justice Coordinating Council Agenda (May 19, 2020) p. 17 <https://www.solanocounty.com/civicax/filebank/blobdload.aspx?blobid=32251> [as of July 29, 2020].

53 Cohen & Pfeifer, *Costs of Incarcerating Youth with Mental Illness: Final Report*, prepared for the Chief Probation Officers of California & the California Mental Health Directors Assn. (2008) p. 10 [https://www.cpoc.org/sites/main/files/file-attachments/costs\\_of\\_incarcerating\\_youth\\_with\\_mental\\_illness.pdf?1501708751](https://www.cpoc.org/sites/main/files/file-attachments/costs_of_incarcerating_youth_with_mental_illness.pdf?1501708751) [as of August 1, 2020].

abuse/psychological maltreatment, physical maltreatment/abuse, and community violence.<sup>54</sup>

Yet probation officers may assume sole responsibility for the care of youth with only 160 hours of “core” training<sup>55</sup>—much of which focuses on other issues such as communication, maintaining security, writing, testifying in court, booking and release, and emergency procedures.<sup>56</sup> The course devotes 33 hours to defensive tactics and restraint techniques and only 3.5 hours to case planning and evidence-based practices.<sup>57</sup> Although one section of the training focuses on behavioral health issues, including substance abuse and trauma, the training focuses primarily on recognizing issues in order to alert mental health professionals and not on directly providing treatment.<sup>58</sup> The core course does not even include a module specifically directed at working with adolescents.<sup>59</sup>

Many programs have pre-determined “one-size-fits-all” components and are not tailored to the needs of individual youth. For instance, the individualized case plans for youth in the Ventura County Juvenile Facilities are strikingly similar between youth, featuring generic goals such as “maintain/achieve a passing grade in each class” and “increase participation in pro-social activities.”<sup>60</sup> Many counties also require youth to participate in generic treatment modules, such as

Aggression Replacement Training, Thinking for a Change, and the Forward Thinking journaling series, in order to progress through the program, irrespective of a youth’s individual needs.<sup>61</sup> Many of these programs focus on a youth’s deficits, rather than their strengths, and fail to align with the elements of healthy adolescent development.

Locked commitment programs also often fail to provide meaningful aftercare or re-entry services.<sup>62</sup> For instance, in El Dorado County, despite the fact that many youth enter the commitment programs as a result of family violence, in-custody programming does not emphasize aftercare and re-entry planning.<sup>63</sup> Similarly, a 2019 regional report on San Diego’s Urban Youth Camp found that nearly two-thirds of youth who completed one of the county commitment programs received a new commitment within eighteen months of release. As a result, the county recently expanded its aftercare and re-entry services. <sup>64</sup>

## Jail-like procedures and facilities are common

Locked commitment programs often operate with jail-like procedures, adhering to a strict daily schedule and rules for behavior.<sup>65</sup> As with typical juvenile hall programs, youth have little freedom of movement and

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54 Dierkhising, et al., *Trauma histories among justice-involved youth: findings from the National Child Traumatic Stress Network*, 4 European J. of Psychotraumatology (2013) 4, 6 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3714673/> [as of August 5, 2020].

55 Board of State and Community Corrections, Title 15 Minimum Standards For Juvenile Facilities § 1322 (2019) p. 22 <http://www.bscc.ca.gov/wp-content/uploads/Juvenile-Title-15-Effective-2019-1-1.pdf> [as of July 28, 2020] [hereinafter BSCC, Title 15].

56 Board of State and Community Corrections, Juvenile Corrections Officer Core Course Manual (July 2020) pp. 15-17 <http://www.bscc.ca.gov/wp-content/uploads/Juvenile-Corrections-Officer-Core-Training-Course-Manual-July-2020.pdf> [as of August 1, 2020].

57 *Id.* at pp. 44-45, 48-53.

58 *Id.* at pp. 54-55.

59 *Id.* at pp. 15-17.

60 Juvenile Facilities Case Plans 2018-2019 [identifying information redacted], Response from Ventura County Probation Agency to Public Records Act Request by PJDC and YLC (on file with authors).

61 See, e.g., Northern California Regional Facility Procedure Manual subsection 700-01, Response from Humboldt County Probation Department to Public Records Act Request by PJDC and YLC (on file with authors); Challenge Academy – Program Overview pp. 5-6, Response from Solano County Probation Department to Public Records Act Request by PJDC and YLC (on file with authors).

62 See, e.g., Telephone Interview with Peggy Huscher, Deputy Public Defender, El Dorado County (May 27, 2020) [hereinafter Huscher Interview]; Rodriguez Interview, *supra*.

63 See Huscher Interview, *supra*.

64 See SANDAG, Breaking Cycles In-Depth Analysis (May 2019) p. 12 [https://www.sandag.org/uploads/publicationid/publicationid\\_4583\\_25583.pdf](https://www.sandag.org/uploads/publicationid/publicationid_4583_25583.pdf) [as of August 3, 2020]; Telephone Interview with Frank Barone, Deputy Public Defender, San Diego County (June 18, 2020) [hereinafter Barone Interview].

65 Palomino & Tucker, *Amid historic shifts, supra*.

are locked in their rooms when they are not engaged in activities. In Butte County's commitment program, youth may put up photos and drawings only within a painted square on a single wall in their room.<sup>66</sup>



Inside a cell in Contra Costa's juvenile hall<sup>67</sup>

Reward systems providing basic necessities underline the stark reality of institutional living. In Kings County, the commitment program "token economy" offers a young person the option to earn a 10-minute phone call or personal soap and deodorant.<sup>68</sup> In Contra Costa County, the rewards available through the Behavior Management System include a personal pair of colored socks, a pillow and pillowcase, or a wash cloth.<sup>69</sup>

The physical settings in which locked commitment programs operate are also problematic. Despite a state law mandating that juvenile halls provide a "safe and

supportive homelike environment,"<sup>70</sup> the reality is that many facilities feature locked rooms with tiny windows, institutional furniture (often bolted to the floor), barbed wire fences, and limited program and visiting areas. In some facilities, youth of all educational levels go to school in a single classroom on the living unit.

These kinds of lengthy locked commitments are widely used across counties in California, with significant discretion vested in county probation departments to determine a young person's time spent in locked custody. As California moves toward sending the DJJ population back to the counties, the characteristics of the programs must be viewed against the backdrop of current knowledge about the impact of incarceration on youth, and what is needed for successful and healthy development.



Inside a cell in San Luis Obispo's juvenile hall<sup>71</sup>

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<sup>66</sup> Butte Camp Manual, *supra*, p. 11.

<sup>67</sup> Contra Costa Probation Overview, *supra*, slide 9.

<sup>68</sup> Kings County JCP, *supra*, p. 8.

<sup>69</sup> YOTP Youth Handbook, *supra*, pp. 4-5.

<sup>70</sup> Welfare and Institutions Code section 851.

<sup>71</sup> County of San Luis Obispo, Virtual Tour of #SLOCounty Juvenile Hall <https://www.slocounty.ca.gov/Departments/Probation/Juvenile-Hall.aspx> [as of Aug. 6, 2020].



### III. Incarceration is harmful to youth and contrary to scientific research about healthy youth development

Incarceration harms young people. In and of itself, it increases a young person's likelihood of future incarceration,<sup>72</sup> poor adult health outcomes,<sup>73</sup> not finishing school,<sup>74</sup> and future unemployment.<sup>75</sup> It also causes more immediate harms, including acute mental health issues, increased risk of self-harm,<sup>76</sup> and negative educational outcomes, such as losses in reading ability and math skills.<sup>77</sup>

As a dispositional option, incarceration does not provide children with an environment that promotes their success. The National Academy of Sciences has identified three critical conditions for positive youth development: "(1) the presence of a parent or parent figure who is involved with the adolescent and concerned about his or her successful development, (2) inclusion in a peer group that values and models prosocial behavior and academic success, and (3) activities that contribute to autonomous decision making and critical thinking."<sup>78</sup>

Incarceration limits the interaction between a youth and their family, often fails to provide a prosocial peer group experience, and inhibits a young person's opportunity to make their own decisions or exercise critical thinking. Indeed, the National Council of Juvenile and Family Court Judges issued a resolution recognizing the importance of family engagement, community partnerships, prosocial activities, and opportunities for youth to "prepar[e] for the exercise of rights and responsibilities that society assigns to adults."<sup>79</sup> Locked commitment programs do not offer these types of opportunities to young people.

It is therefore predictable, as the research has shown, that youth incarceration fails to promote public safety goals.<sup>80</sup> In comparison, community-based alternatives consistently show better outcomes than confinement.<sup>81</sup> Scientific research on healthy adolescent development<sup>82</sup> and best practices in the field of youth justice<sup>83</sup> both support replacing youth incarceration with community-based alternatives.

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72 See, e.g., Aizer & Doyle Jr., *Juvenile Incarceration, Human Capital, and Future Crime: Evidence from Randomly Assigned Judges* (2015) 130 *Quarterly Journal of Economics* 1, 2. After controlling for other variables, this study found that youth incarceration increases adult incarceration by 22 percent and decreases high school graduation by 13 percent.

73 See Barnert, et al., *How Does Incarcerating Young People Affect Their Adult Health Outcomes?* (2017) 139 *Pediatrics* 1 <https://pediatrics.aappublications.org/content/pediatrics/139/2/e20162624.full.pdf> [as of July 30, 2020].

74 Justice Policy Institute, *Sticker Shock 2020: The Cost of Youth Incarceration* (2020) p. 109 [http://www.justicepolicy.org/uploads/justicepolicy/documents/Sticker\\_Shock\\_2020.pdf](http://www.justicepolicy.org/uploads/justicepolicy/documents/Sticker_Shock_2020.pdf) [as of July 31, 2020] [hereinafter Justice Policy Institute, *Sticker Shock 2020*].

75 Mendel, Annie E. Casey Foundation, *No Place for Kids: The Case For Reducing Juvenile Incarceration* (2011) p. 12 <https://www.aecf.org/resources/no-place-for-kids-full-report/> [as of July 30, 2020].

76 Holman and Zidenberg, Justice Policy Institute, *The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities* (2006) p. 8-9 [http://www.justicepolicy.org/images/upload/06-11\\_rep\\_dangersofdetention\\_jj.pdf](http://www.justicepolicy.org/images/upload/06-11_rep_dangersofdetention_jj.pdf). [as of July 17, 2020].

77 Youth Law Center, *Educational Injustice: Barriers to Achievement and Higher Education for Youth in California Juvenile Court Schools* (2016) pp. 14-15 <https://ylc.org/wp-content/uploads/2019/05/educational-injustice.pdf> [as of July 17, 2020].

78 National Research Council, *Reforming Juvenile Justice*, *supra*, p. 3.

79 NCJFCJ Resolution, *supra*, at pp. 1-3.

80 Schiraldi, The Square One Project, *Can we eliminate the youth prison? And what should we replace it with?* (2020) pp. 16-17 <https://squareonejustice.org/wp-content/uploads/2020/06/CJLJ8234-Square-One-Youth-Prisons-Paper-200616-WEB.pdf> [as of August 3, 2020].

81 Justice Policy Institute, *Sticker Shock 2020*, *supra*, at p. 9.

82 Abram et al., *Sex and Racial/Ethnic Differences in Positive Outcomes in Delinquent Youth After Detention: A 12-Year Longitudinal Study* (2017) 171 *JAMA Pediatrics* 123 <http://jamanetwork.com/journals/jamapediatrics/article-abstract/2592310> [as of August 3, 2020].

83 David Muhammad, National Institute for Criminal Justice Reform, *A Positive Youth Justice System* (2019) pp. 13-14 <https://nicjr.org/wp-content/uploads/2019/01/PYJS-Report-NICJR-Feb-2019.pdf> [as of July 31, 2020].

## IV. Using locked local facilities requires massive expenditures of county resources

California counties continue to invest vast sums of money into their locked juvenile facilities, even as the number of youth in locked facilities has continually decreased over the past decade.<sup>84</sup> In 2018, the average annual cost to incarcerate a child in a county juvenile hall was \$285,700, almost double the 2011 amount, even as practically all juvenile halls are operating at less than half of their capacity.<sup>85</sup> In 2017-2018, the *average daily cost per youth* detained in juvenile hall was \$789 in El Dorado County, \$1,033 in San Bernardino County, and \$1,343 in Alameda County.<sup>86</sup> By comparison, research has shown that successful community programs working with youth who remain in their homes can cost as little as \$75 per day.<sup>87</sup>

Counties are also continuing to make costly capital investments in new facilities and renovations. For instance, Riverside County spent nearly \$33 million to build the Alan M. Crogan Youth Treatment/Educational Center (YTEC), which opened in 2017 as a 106-bed locked “camp” facility,<sup>88</sup> although its average daily population in March 2020 was 43 youth.<sup>89</sup> Despite operating its existing facilities below capacity, Riverside is currently allocating funds to rebuild another juvenile hall.<sup>90</sup>

Locked facilities operate with high fixed costs, no matter the size of the in-custody population, making them an extremely poor investment. At a time when both the state and counties will face extreme budget shortfalls, counties must look to alternatives to confinement that provide a better return on investment, with healthier youth outcomes and lower costs.



Sacramento County Youth Detention Facility<sup>91</sup>

<sup>84</sup> The average daily population in locked facilities statewide has decreased every year since 2006. (Board of State and Community Corrections, *Juvenile Detention Profile Survey* (2020) p. 2 <http://bscc.ca.gov/wp-content/uploads/JDPS-1Q2002-1Q2020.pdf> [as of July 28, 2020].)

<sup>85</sup> Tucker & Joaquin, *Juvenile hall costs skyrocket*, S.F. Chronicle (Apr. 26, 2019), [https://www.sfchronicle.com/news/article/Vanishing-Violence-Cost-of-locking-up-a-youth-in-13793488.php#:~:text=The%20annual%20cost%20of%20incarcerating,as%20serious%20juvenile%20crime%20decreases](https://www.sfchronicle.com/news/article/Vanishing-Violence-Cost-of-locking-up-a-youth-in-13793488.php#:~:text=The%20annual%20cost%20of%20incarcerating,as%20serious%20juvenile%20crime%20decreases.). [as of July 17, 2020].

<sup>86</sup> Board of State and Community Corrections, *Average Daily Cost to House Youth in Detention Facilities* (2019) pp. 4-5 [http://www.bscc.ca.gov/wp-content/uploads/FINAL\\_BSCC-Youth-Cost-Report-FY17\\_18.pdf](http://www.bscc.ca.gov/wp-content/uploads/FINAL_BSCC-Youth-Cost-Report-FY17_18.pdf) [as of July 24, 2020].

<sup>87</sup> Justice Policy Institute, *Sticker Shock* 2020, *supra*, at pp. 5-6.

<sup>88</sup> Riverside County Probation Department, *Grand Opening held for Riverside County Probation's new Alan M. Crogan Youth Treatment and Education Center*, News Release (Mar. 16, 2017) [https://probation.co.riverside.ca.us/pdf/YTEC\\_Grand\\_Opening-March\\_2017.pdf](https://probation.co.riverside.ca.us/pdf/YTEC_Grand_Opening-March_2017.pdf) [as of July 17, 2020].

<sup>89</sup> BSCC, *Juvenile Detention Profile Survey Data Portal*, *supra*.

<sup>90</sup> County of Riverside, *Fiscal Year 2019/20 Recommended Budget* (2019) pp. 113, 116 [https://countyofriverside.us/Portals/0/Government/Budget%20Information/19-20/FY%2019-20\\_Recommended\\_Budget.pdf](https://countyofriverside.us/Portals/0/Government/Budget%20Information/19-20/FY%2019-20_Recommended_Budget.pdf) [as of July 29, 2020].

<sup>91</sup> Sacramento County Probation Department, *Institutions* <https://saccoprobation.saccounty.net/Institutions/Pages/default.aspx> [as of Aug. 6, 2020].

## V. Using locked facilities cuts off other financial resources and access to supportive youth systems

County juvenile facilities are not just expensive—they come with high opportunity costs as well. By using local custodial facilities, counties cannot access federal funds to support youth services, as certain resources are unavailable during a youth's incarceration.

### Counties cannot draw down federal Medicaid or foster care funding for incarcerated youth

For example, counties cannot draw down federal Medicaid funds for health or mental health services for youth in locked county facilities. Many youth in the juvenile justice system are eligible for Medi-Cal, the California public health insurance program for low-income people that is supported by the federal Medicaid program.<sup>92</sup> Medi-Cal funded services, including mental health counseling, are cut off by incarceration because Medi-Cal cannot be billed while an individual is incarcerated.<sup>93</sup> In contrast, youth who reside outside of the home in a foster care placement are categorically eligible for the full scope of Medi-Cal services.<sup>94</sup>

Moreover, counties cannot access federal foster care funding while otherwise eligible youth are serving a locked commitment term. When counties utilize an out-of-home foster care placement, instead of incarceration, the youth's placement can be supported by federal funds through Title IV-E of the Social Security Act.<sup>95</sup> These funds are also available to cover administrative and training costs for placing agencies,

making foster care placement a much more cost-effective approach than continuing to use county funds to build and maintain locked facilities.

Utilizing foster care placement, rather than locked commitments for youth who cannot return home better aligns with research on adolescent development. Foster care placement includes an array of options and the law prioritizes placement with relatives or other kin.<sup>96</sup> As described above, positive youth development requires an active and involved parent figure, prosocial peer groups, and prosocial/developmentally-appropriate activities.<sup>97</sup> The available placement options, as well as the case planning and teaming functions of child welfare services, are much better situated to help families work toward those goals, especially as compared to incarceration. Another advantage of foster care placement over incarceration is that foster care placement allows for a wider continuum of care that ranges from placement with family to intensive therapeutic programs, so placement can be tailored to the youth's evolving needs - something difficult to do in a custodial program.<sup>98</sup>

Foster care funding can also provide long-term support to young people, even after they are no longer involved in the delinquency system. Probation-supervised youth who are subject to an out-of-home foster care placement order on their eighteenth birthday can access extended foster care up to age 21, including a monthly monetary benefit to support the youth's placement and full-scope Medi-Cal coverage.<sup>99</sup> In contrast, youth who are incarcerated when they

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92 Young Minds Advocacy, *Fulfilling Medi-Cal's Promise: Extending Home and Community-Based Mental Health Services to Juvenile Justice-Involved Youth in California* (2015) pp. 5-6 <https://www.youngmindsadvocacy.org/wp-content/uploads/2015/12/Fulfilling-Medi-Cals-Promise-DEC-2015-YMA2.pdf> [as of July 17, 2020].

93 *Id.* at p. 11.

94 *Id.* at p. 7.

95 See "Federal AFDC-FC/ Title IV-E," California Juvenile Justice Practitioners' Toolkit p.2, available at <https://www.strongnation.org/articles/557-funding-streams> [last visited August 5, 2020].

96 Welfare and Institutions Code section 706.6.

97 See Section II, above.

98 Welfare and Institutions Code section 706.6.

99 See Welfare and Institutions Code section 11401, subdivision (e); California Department of Social Services, All County Letter 11-61 (Nov. 4 2011) pp. 9-11 <https://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2011/11-61.pdf> [as of July 28, 2020].

turn 18 are not eligible for extended foster care.<sup>100</sup> Youth in foster care or extended foster care also have a right to receive Independent Living Program Services beginning at age 16 up to age 21,<sup>101</sup> and can be eligible for federal funding to support post-secondary education or technical training.<sup>102</sup>

## Youth in commitment programs are cut off from family and community

Locked commitments also deprive youth of their family and community-based support systems. While a locked county facility may be geographically closer to a young person's family as compared to a state facility or out-of-state placement, a locked and highly structured facility limits the ability of young people to see their families and access community services. Visitation procedures often follow typical juvenile hall regulations, strictly limiting who can visit, hours of visitation, and what, if anything, families can bring with them. Indeed, state regulations only require juvenile facilities to provide two hours of visitation per week.<sup>103</sup> Additionally, in Fresno County, the lack of available public transportation to the Juvenile Justice Campus constricts the ability of families to visit youth in

custody, and families often walk along the highway to access just a short window of visitation with their incarcerated children.<sup>104</sup>

Also, locked commitment programs limit a youth's access to community services. Mental health services, mentorship, or any other positive programming with which a youth is engaged in their home community typically end when a youth is incarcerated. Often, the most successful aspect of a locked commitment program is the outside community-based service providers brought into the facility to assist with community re-entry,<sup>105</sup> but these opportunities may be severely limited.

During this time of economic crisis, the state and counties must be prioritizing options that maximize federal funding support. Local locked commitment programs cannot draw down Medicaid or federal foster care funds, and they undermine a youth's connections to family and community-based supports. Keeping youth in their communities is a smarter use of limited resources.

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100 See Welfare and Institutions Code section 11400, subdivision (v), and section 11403 subdivision (b); California Department of Social Services, All County Letter 11-85 (Dec. 15, 2011) p. 6 <https://www.cdss.ca.gov/lettersnotices/entres/getinfo/acl/2011/11-85.pdf> [as of July 17, 2020].

101 California Department of Social Services, All-County Information Notice 1-39-12 (Oct. 12, 2012) p. 2 [https://www.cdss.ca.gov/lettersnotices/entres/getinfo/acin/2012/I-39\\_12.pdf](https://www.cdss.ca.gov/lettersnotices/entres/getinfo/acin/2012/I-39_12.pdf) [as of July 28, 2020].

102 California Department of Social Services, All-County Information Notice I-11-11 (March 30, 2011) p. 1 [https://www.cdss.ca.gov/lettersnotices/entres/getinfo/acin/2011/I-11\\_11.pdf](https://www.cdss.ca.gov/lettersnotices/entres/getinfo/acin/2011/I-11_11.pdf) [as of July 28, 2020].

103 BSCC, Title 15, *supra*, § 1374 at p. 42.

104 Edwards Interview, *supra*.

105 See, e.g., Rodriguez Interview, *supra* (highlighting the commitment program's partnerships with Project Kinship and Underground Grit); Barone Interview, *supra* (describing the commitment program's partnership with Second Chance Strive).

## VI. Locked county commitment programs lack transparency and accountability

The disturbing trends in cost, commitment length, and programming quality in locked commitment programs persist due to a lack of transparency and accountability. While the California Board of State and Community Corrections (BSCC) is charged with oversight of local juvenile detention facilities and promulgates regulations, the BSCC engages in no specific enforcement of state standards in commitment programs.<sup>106</sup> As a result, the commitment programs operate with complete impunity and without accountability.

### BSCC population data are extremely limited and do not track youth in locked commitment programs

Moreover, the lack of comprehensive data collection about county facilities makes it impossible for local policymakers or communities to monitor the facilities or impose accountability. The BSCC conducts monthly and quarterly population profile surveys of county Probation Departments, but does not investigate or audit the data that counties report.<sup>107</sup> One of the most alarming shortcomings of the BSCC profile surveys is that they *do not include race or ethnicity data*. Because the BSCC fails to collect any race or ethnicity data, it is impossible to track how locked commitment programs specifically impact youth of color. Producing data for this report alone required dozens of county-by-county public records requests and stakeholder interviews.

The profile surveys collect only a very limited number of data points related to the youth incarcerated in

county juvenile facilities, making them of minimal value for monitoring county juvenile incarceration practices. For example, the profile survey only collects data on the generic category of “post-disposition” youth, which can include all youth whose case outcomes have already been decided by the court, without distinguishing between youth who have been *ordered to locked commitment programs* as compared to other post-disposition populations, such as youth awaiting transport to an out-of-home foster care placement. As a result, it is impossible to know how often these commitment programs are used, the length of custody time required, or the kinds of cases that lead to commitments.

Drawing on the BSCC’s limited data, the charts below show the counties with the top ten largest post-disposition populations in their local facilities as of March 2020. Chart 1.1 ranks the counties by the size of their post-disposition average daily population. Chart 1.2 ranks the counties by the size of their post-disposition average daily population as a percentage of the county’s overall child population.

As the following charts demonstrate, in March 2020, Los Angeles County had the highest average daily population of post-disposition youth, followed by Kern, San Diego and Riverside counties. However, as compared to the overall child populations within each county, the average daily population of post-disposition youth is vastly more disproportionate to the child population in Kern County, followed by Fresno, Contra Costa, and Riverside counties.

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<sup>106</sup> Pursuant to Welfare and Institutions Code section 209, BSCC inspects facilities every two years, but the Attorney General has ruled that state juvenile facility regulations are not enforceable. 83 Ops.Cal.Atty.Gen 111 (2000). Even if that were not the case, state regulations do not specifically address commitment programs.

<sup>107</sup> See Board of State and Community Corrections, Data and Research, available at: [http://www.bscc.ca.gov/m\\_dataresearch/](http://www.bscc.ca.gov/m_dataresearch/) [last visited July 30, 2020].



Chart 1.1: Ten Counties with Largest Average Daily Population (ADP) of Post-Disposition Youth  
(March 2020)

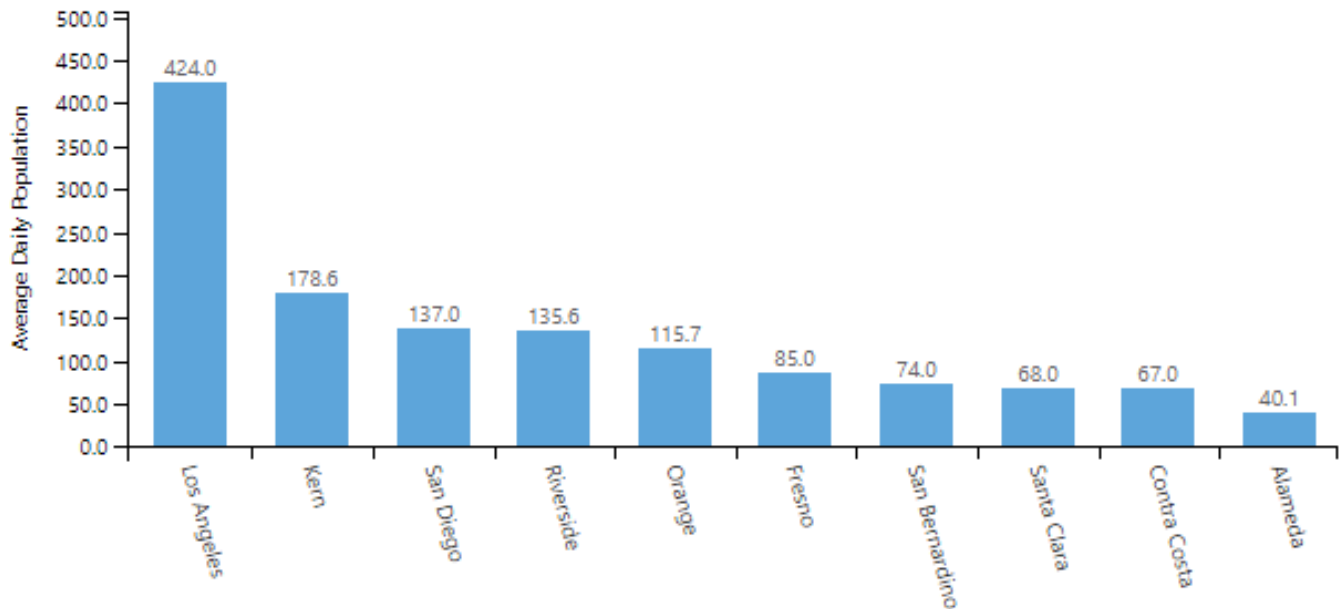
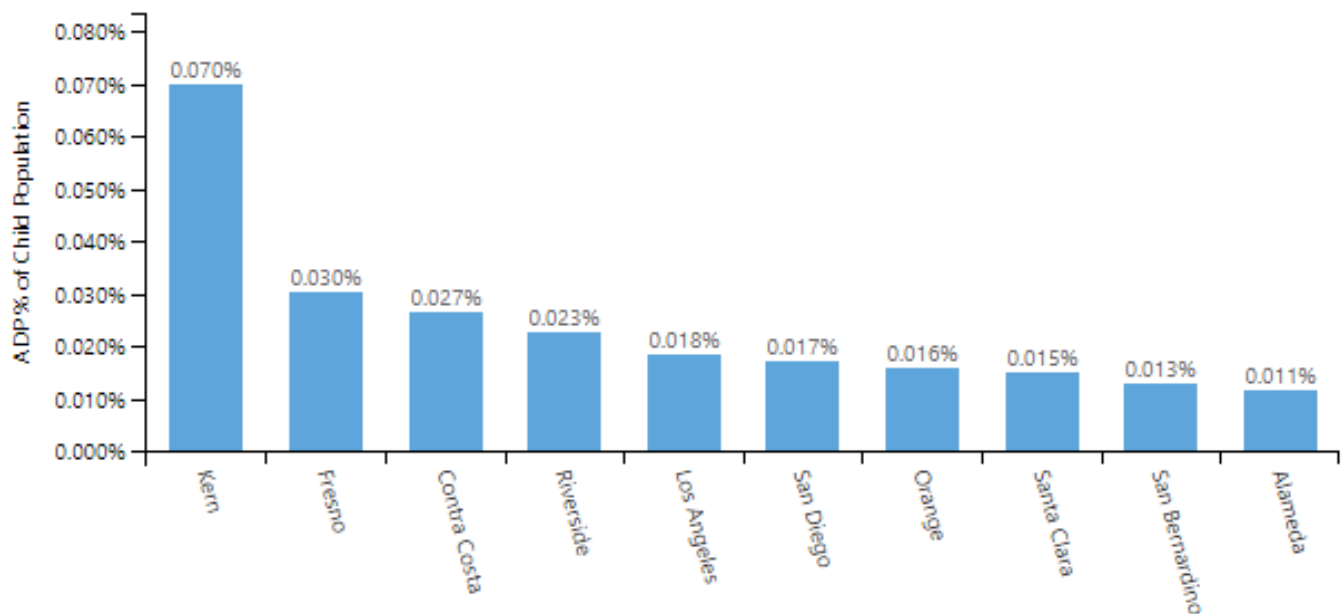


Chart 1.2: Ten Counties with Largest Average Daily Population (ADP) of Post-Disposition Youth,  
with ADP as a Percentage of County Child Population  
(March 2020)



## The BSCC allows counties to misclassify units within juvenile halls as juvenile camps

The lack of oversight over juvenile hall commitment programs is made even worse by BSCC's acquiescence in allowing juvenile "camp" facilities to be located *within* a county juvenile hall or on the juvenile hall campus. Despite statutory language showing clear distinctions between juvenile halls and camps,<sup>108</sup> many counties classify their locked commitment programs as "camps" even when the programs cannot be meaningfully differentiated from their juvenile halls. Public documents indicate that as many as sixteen BSCC-designated "camps" operate within juvenile hall facilities, and another seven operate in facilities directly adjacent to the juvenile hall.<sup>109</sup>

Because these commitment programs are classified as "camps," the BSCC's data on the populations in the various types of facilities are incomplete and

misleading. For example, the BSCC data for San Luis Obispo reports separate population counts for its juvenile hall and its camp, the Coastal Valley Academy, even though the "camp" is located within the juvenile hall facility.<sup>110</sup> Counties that locate "camps" in juvenile hall facilities or conduct commitment programs within juvenile halls contradict the BSCC's own regulation that defines juvenile halls as short-term detention facilities, not commitment facilities.<sup>111</sup>

To demonstrate the scope of this misclassification, the chart below provides the average daily population for the different types of facilities across California in March 2020. The "BSCC Category" reflects the population number reported by the BSCC for each type of facility. The "Actual Category" reflects a correction of the BSCC numbers based on our research showing that certain facilities classified by the BSCC as "camps" actually operate inside the county's juvenile hall or on the same campus as the juvenile hall.

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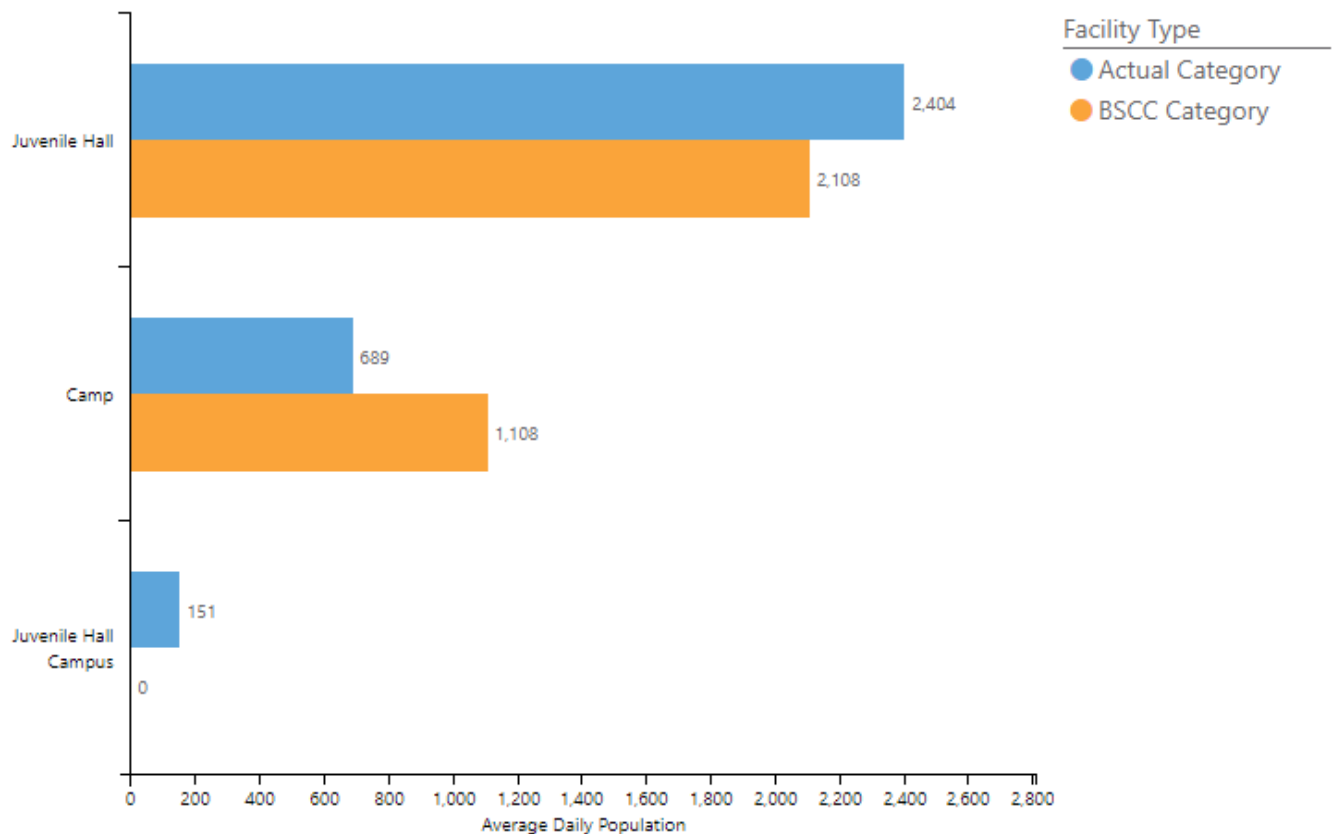
108 Juvenile halls were never intended to be used for post-disposition commitments. (See Welfare and Institutions Code section 850.) Juvenile camps, on the other hand, were established to house adjudicated wards of the juvenile court. (See Welfare and Institutions Code section 880.)

109 See, e.g., Ventura County Probation Department, Juvenile Facilities <http://venturaprobation.org/index.php/facilities/juvenile-facilities> [as of August 3, 2020]; Tulare County Probation Department, Juvenile Detention Facility <https://tularecounty.ca.gov/probation/index.cfm/departments/juvenile-detention-facility/> [as of August 3, 2020]; Solano County Grand Jury, Juvenile Detention Facility Complex (2016-2017) <https://www.solano.courts.ca.gov/materials/GrandJury/2017/050917%20JDFC%20report%20-Public%20Safety%20%20for%20Judge.pdf> [as of August 3, 2020]; Contra Costa Probation Overview, *supra*.

110 BSCC, Juvenile Detention Profile Survey Data Portal, *supra*.

111 See BSCC, Title 15, *supra*, § 1302 at p. 11 ("'Juvenile hall' means a county facility designed for the reception and care of youth detained in accordance with the provisions of this subchapter and the juvenile court law.")

Chart 2: Average Daily Population by County Facility Type, Comparing BSCC and Actual Facility Categories (March 2020)



The chart above shows that, according to the BSCC, there are 1,108 youth in camps, whereas the actual number of youth in camps is 689, meaning that the BSCC is overreporting the camp population by 60%. The BSCC is similarly underreporting the juvenile hall population. According to the BSCC, there are 2,108 youth in juvenile halls, whereas the actual number of youth in juvenile halls is 2,404, with an additional 151 youth in facilities that are on the same campus as the juvenile hall.

The practice of combining “camps” with juvenile halls is especially disturbing because it violates the clear

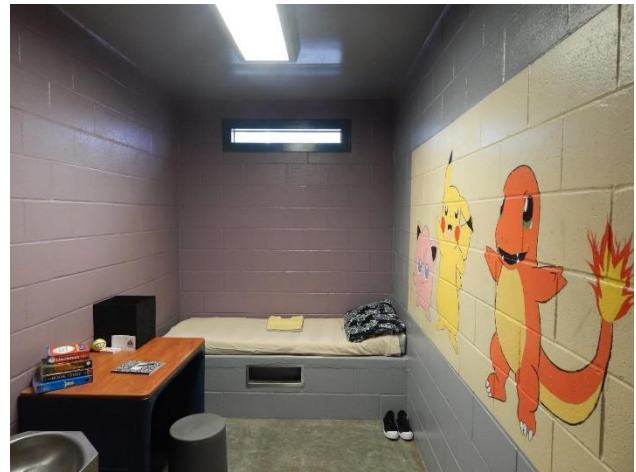
limitation on juvenile hall commitments set forth in Welfare and Institutions Code section 730, subdivision (a). That section permits the commitment of youth to juvenile halls only where the county has no other county juvenile home, ranch, camp, or forestry camp within the county. Creating locked commitment programs inside or adjacent to juvenile halls has eviscerated the distinction between juvenile halls, which were intended to be used for short-term pre-adjudication detention, and camps, which were to be used for longer-term post-disposition confinement.<sup>112</sup>

<sup>112</sup> Beyond the issues of circumventing statutory limitations on juvenile hall commitment, state regulations also allow “camps” to operate with fewer staff. While juvenile halls must have 1 staff for every 10 youth during awake hours of the day, camps need only 1 staff for every 15 youth. (BSCC, Title 15, *supra*, § 1321(h), at p. 22.) In other words, the facilities where we would expect to see intensified staffing for rehabilitative programs are allowed to operate with less.

## Use of locked commitment programs has replaced less secure options in some counties

Moreover, in some counties increased usage of locked county facilities for post-dispositional commitments has replaced non-locked facilities. In San Luis Obispo County, for example, the Probation Department created the Coastal Valley Academy commitment program within the locked Juvenile Hall to commit youth who previously would have been placed in group homes.”<sup>113</sup> In Riverside County, following the construction of the YTEC commitment facility, which is designed and operated like a detention facility, the Probation Department ceased operation of two non-locked residential camp facilities.<sup>114</sup>

These “camps” in juvenile hall settings appear to have proliferated since 2007, when the state legislature realigned an earlier population of youth from DJJ to the counties. Senate Bill 81 limited eligibility for DJJ commitment to youth who had committed specific offenses.<sup>115</sup> At that time, most juvenile camps were in rural settings and had dormitory-style living,<sup>116</sup> and counties were worried that existing county facilities would be inadequate to meet the needs of what was perceived as a higher-needs population. Subsequently, counties increased their investment in secure “camps” that look like juvenile halls.



A unit in the Yolo County Juvenile Detention Facility<sup>117</sup>

Over the last decade, the use of juvenile hall and juvenile hall-like “camp” commitments has increased with little transparency, oversight, or accountability at the state and local levels. Despite the harms and costs of incarceration, and indications that youth are held for long periods of time with inadequate therapeutic programming, counties continue to allocate massive amounts of county funds to these programs.

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113 Coastal Valley Academy Challenge Grant Application p. 1, Response from San Luis Obispo Probation Department to Public Records Act Request by PJDC and YLC (on file with authors).

114 See Board of State and Community Corrections, Rated Capacities of Juvenile Detention Facilities (Dec. 2008 – Apr. 2020; last updated May 4, 2020), available at: [http://bscc.ca.gov/s\\_fsojuveniledetentionprofile/](http://bscc.ca.gov/s_fsojuveniledetentionprofile/) [last visited July 27, 2020].

115 Nieto, California Research Bureau, County Probation Camps and Ranches for Juvenile Offenders (2008) p. 1, available at: <http://research.policyarchive.org/12357.pdf> [last visited August 3, 2020].

116 *Id.* at pp. 13-16, 26.

117 Yolo County Probation Department, Juvenile Services <<https://www.yolocounty.org/law-justice/probation/juvenile-services> [last visited August 6, 2020].

## VII. Conclusion

As California works toward closing its state juvenile facilities, it may be tempting to simply move youth who would have been incarcerated at the state level into juvenile hall and secure camp commitment programs, just as was done in the 2007 realignment. That would be an enormous mistake. It should be clear from our findings and the research that locked commitment programs are poorly situated to provide the services, programs and opportunities youth need for rehabilitation and healthy development.

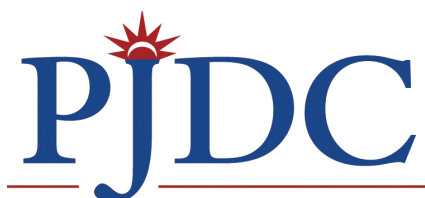
With plans for the closure of DJJ moving forward, it is critically important to examine what is currently happening in county commitment programs and assess whether public funds would be better invested in alternatives. Incarceration facilities are harmful, ineffective at promoting safety, and generally perform worse than community-based programs. As local and state budgets tighten, counties must invest in community-based alternatives that are proven to result in better outcomes and make more efficient use of limited resources. Otherwise, there is a serious risk we will simply replicate and expand youth incarceration and racial disproportionality at the county level in facilities that are inherently unable to accomplish what we want them to do.

The use of juvenile hall commitment programs and juvenile hall-like camps should end. Counties should revitalize and improve their camp programs, and, more importantly, focus on developing alternative family- and community-based programs that truly enable youth to exercise judgment, develop skills, pursue their education and vocational interests, and build the family and community relationships necessary for lifelong success.

As an urgent first step, the state must develop a system of data-driven transparency and accountability for county-level youth incarceration facilities and locked county commitment programs. A system of state-level accountability will help to reign in current harmful practices and enable ongoing reform, as we strive toward a system of healthy youth development supported by current research and conforming to best practices.

Ending juvenile imprisonment as we know it will not be accomplished solely by closing state facilities—it requires significant and sustained change at the county level, and it must begin now.





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