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April 20, 2012

Ms. Heather Halsey
Executive Director
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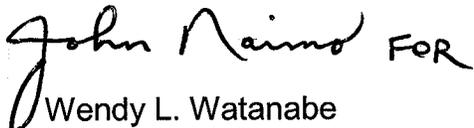
Dear Ms. Halsey:

**LOS ANGELES COUNTY'S REVIEW
COMMISSION ON STATE MANDATES DRAFT STAFF ANALYSIS
JUVENILE OFFENDER TREATMENT PROGRAM PROCEEDINGS (04-TC-02)**

The County of Los Angeles respectfully submits its review of the Commission's draft staff analysis of the County's Juvenile Offender Treatment Program Court Proceedings test claim.

If you have any questions, please contact Leonard Kaye at (213) 974-9791 or via e-mail at lkaye@auditor.lacounty.gov.

Very truly yours,


Wendy L. Watanabe
Auditor-Controller

WLW:JN:CY:lk

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Los Angeles County's Review
Commission on State Mandates Draft Staff Analysis
Juvenile Offender Treatment Program Court Proceedings (04-TC-02)

Executive Summary

This review examines the Commission on State Mandates (Commission) draft staff analysis of the Los Angeles County (County) test claim filed to recover costs incurred in providing new public defender services to juvenile offenders (wards) in camps and institutions operated by the California Youth Authority (CYA), now the Division of Juvenile Facilities (DJF) in the California Department of Corrections and Rehabilitation.

The County's claim is based on landmark legislation, Chapter 4, Statutes of 2003 (SB 459). This act shifted the focus of juvenile offender rehabilitation from punishment to treatment. To accomplish this, the Legislature amended Welfare and Institutions Code section 1720 to implement new treatment standards and procedures which require, among other things, that individual treatment planning, monitoring and progress reporting be instituted. This section also required that CYA, now DJF, provide juvenile courts with treatment reports.

In addition, SB 459 amended section 779 to require court proceedings "to change, modify, or set aside an order of commitment after a noticed hearing and upon a showing of good cause that the Youth Authority is unable to, or failing to, provide treatment". Because SB 459 created a mandate for the courts to begin overseeing the treatment of wards while in CYA, now DJF, facilities, and to intervene when those treatment needs are not being met, a new remedy and due process right for public defender clients was created. This required public defenders to implement new services designed to protect their clients' right to treatment specified in SB 459.

However, Commission staff find that SB 459 did not change a ward's treatment rights and remedies or the public defender services protecting them. So they conclude that SB 459 did not create a 'new program' requiring reimbursement of the County's costs. But the problem with this argument is that it is wrong.

Under prior law, SB 459's treatment remedy and right was not available. Juvenile courts had no "authority to set aside an order committing a ward to CYA, merely

because the court's view of the rehabilitative progress and continuing needs of the juvenile offender differ from CYA determinations” (In re Owen E. 23 Cal. 3d 398, 403). Now juvenile courts do.

Clearly, SB 459 services are new and reimbursement of public defenders’ costs in ensuring compliance with new treatment standards and procedures is required.

New Treatment

Welfare and Institutions Code section 1720 was amended by Chapter 4, Statutes of 2003 (SB 459) to implement new treatment standards and procedures for juvenile offenders (wards) in camps and institutions operated by the California Youth Authority (CYA), now the Division of Juvenile Facilities (DJF) in the California Department of Corrections and Rehabilitation. In addition, section 1720 required CYA, now DJF, to provide treatment reports to juvenile courts. This required county public defenders to implement new services designed to protect their clients’ new rights and remedies to treatment in accordance with SB 459.

To recover the costs incurred by the Los Angeles County (County) Public Defender, a test claim was filed with the Commission on State Mandates (Commission) on December 22, 2004. This claim alleged that section 1720 along with sections 779, 1731.8 and 1719 of the Welfare and Institutions Code required the County to establish a ‘new program’ which qualifies for reimbursement under Article XIII B, Section 6 of the California Constitution and 17500 et seq. of the Government Code, commonly referred to as ‘SB90’.

On February 1, 2012, the Commission issued its first (draft staff) analysis of the County’s ‘Juvenile Offender Treatment Program Court Proceedings’ test claim. The Commission staff analysis concludes with a recommendation that the Commissioners deny the County’s test claim. Staff base this recommendation on their analysis which finds that SB 459 mandated public defenders to provide the same services to wards as were required under prior law. Specifically, staff indicate that:

“The amendment to section 1720 (Stats. 2003, ch. 4) does not mandate a new program or higher level of service on county public defenders. Before the test claim statute was enacted, a ward had an existing due process right to receive copies of reviews, have counsel

review and evaluate the material in the review, and represent the ward as necessary.” (Staff Analysis, page 4)

Staff’s finding, however, is not relevant to the County’s test claim. The relevant issue is:

Were county public defenders mandated to implement new services designed to protect their clients’ rights to new treatment specified in SB 459?

The County maintains that the correct answer is yes, because section 1720, as amended by SB 459, sets higher treatment standards and reporting requirements than those found in prior law. According to Ms. Carol A. Clem, Division Chief, Special Services, Juvenile Services Division, Los Angeles County’s Public Defender Office:

“Prior to the amendment of Welfare and Institutions Code section 1720 by Chapter 4, Statutes of 2003 [SB 459], the Department of the Youth Authority (now the Division of Juvenile Justice) was not required to provide written copies of its required periodic “reviews of cases of wards” to the court and probation department of the committing county. The 2003 revision changed this by adding subdivision 1720(f):

(f) The division shall provide copies of the reviews prepared pursuant to this section to the court and the probation department of the committing county.

Chapter 4, Statutes of 2003 [SB 459] also mandated, for the first time, that the periodic reviews of cases of wards be in writing and, among other things, address specific treatment goals, needs and progress, by adding subdivision 1720(e):

(e) Reviews conducted by the division pursuant to this section shall be written and shall include, but not be limited to, the following: verification of the treatment or program goals and orders for the ward to ensure the ward is receiving treatment and programming that is narrowly

tailored to address the correctional treatment needs of the ward and is being provided in a timely manner that is designed to meet the parole consideration date set for the ward; an assessment of the ward's adjustment and responsiveness to treatment, programming, and custody; a review of the ward's disciplinary history and response to disciplinary sanctions; an updated individualized treatment plan for the ward that makes adjustments based on the review required by this subdivision; an estimated timeframe for the ward's commencement and completion of the treatment programs or services; and a review of any additional information relevant to the ward's progress. "¹

Under prior law, section 1720 as amended by Statutes of 1984, Chapter 680 did not refer to treatment or reporting requirements. Then, section 1720 only stated that:

“(a) The case of each ward shall be heard by the board immediately after the case study of the ward has been completed and at such other times as is necessary to exercise the powers or duties of the board.

“(b) The board shall periodically review the case of each ward for the purpose of determining whether existing orders and dispositions in individual cases should be modified or continued in force. These reviews shall be made as frequently as the board considers desirable and shall be made with respect to each ward at intervals not exceeding one year.

“(c) The ward shall be entitled to notice if his or her annual review hearing is delayed beyond one year after the previous annual review hearing. The ward shall be informed of the reason for the delay and of the date the review hearing is to be held.

“(d) Failure of the board to review the case of a ward within 15 months of a previous review shall not of itself entitle the ward to discharge from the control of the Youth Authority but shall entitle him or her to petition the superior court of the county from which he or she

¹ Ms. Clem's statement is also found in Exhibit 2, page 1.

was committed for an order of discharge, and the court shall discharge him or her unless the court is satisfied as to the need for further control.”

As may be readily seen, the prior version of Section 1720 contains none of the treatment requirements in the current (SB 459) version. In fact, the words ‘treatment’ and ‘report’ are not found in the prior version of section 1720.

Accordingly, the County Public Defender was required to provide new services designed to ensure that its clients received the treatment called for in SB 459 and created a ‘new program’ to do so... and met a threshold requirement for finding reimbursable ‘costs mandated by the State’ as defined in Government Code section 17514.

Ms. Clem describes the purpose and work of the County’s ‘new program’:

“Due to these State-imposed mandates, the Los Angeles County Public Defender created the CYA Unit (now DJJ Unit) in May, 2004, consisting of three experienced Deputy Public Defenders, a psychiatric social worker, and a paralegal, to monitor and advocate for the 285 Public Defender clients who were then in CYA facilities. Although caseload and staffing have since been reduced, the mandate for advocacy on behalf of those Public Defender clients still in DJJ facilities remains.”²

Ms. Clem also illustrates the kinds of services which are reasonably necessary in implementing the new SB 459 program by providing a declaration of Deputy Public Defender Shelan Y. Joseph. Specifically, Ms. Clem states that:

“ Mr. Joseph outlines the duties of an attorney in the Public Defender’s DJJ Unit. With the exception of the calculation and correction of time credits, none of the issues these duties address could have been the subject of litigation in the Los Angeles Superior Court prior to the passage of Chapter 4, Statutes of 2003 [SB 459].

² Ms. Clem’s statement is also found in Exhibit 2, page 3.

Also attached are examples of the work done by the DJJ Unit, including a 779 Motion on behalf of a boy who did not receive court-ordered neurological testing, a YAAC Parole Appeal on behalf of a boy who made excellent progress at DJJ facilities despite being diagnosed with schizoaffective disorder and very low intellectual functioning, and a memorandum to the Director of the Division of Juvenile Facilities outlining the agreement reached between a client, his Deputy Public Defender from the DJJ Unit, and his treatment staff at the facility regarding his treatment goals. Again, none of this advocacy would have been effective prior to the passage of Chapter 4, Statutes of 2003 [SB 459], as there would have been no remedy in court for a failure of treatment. (The names of the clients in these documents have been omitted in order to protect client confidences.)”³

It should be noted that prior to SB 459, CYA was not required to report the progress it was making in providing rehabilitative treatment to its wards to Juvenile courts. County public defenders as well as juvenile courts were often unaware of serious treatment deficiencies. According to California Inspector General there were many such deficiencies. In his “Review of the Intensive Treatment Program (of the) California Youth Authority” issued in November of 2002, he reported, on page 5, that:

“Individualized Treatment Plans are nonexistent. Wards may see a psychologist only once a month, if that, and – if they are on psychotropic medication -- may also see a psychiatrist periodically, usually about once a month. Treatment is poorly documented and there appears to be little communication and coordination between staff psychologists and psychiatrists or between the youth correctional counselors and the professional staff. In general treatment is substandard.”⁴

In addition, prior to SB 459, juvenile courts and county public defenders were not involved in ensuring that CYA’s treatment was of benefit to wards. Indeed,

³ Ms. Clem’s statement is also found in Exhibit 2, page 3.

⁴ The Inspector General’s remarks are found in Exhibit 3, page 2.

according to the California Performance Review of CYA, they were not even aware of what that treatment was. In this regard, the review notes, on pages 9 - 10, that:

“The California Youth Authority has not been mandated to involve local courts, judges and probation officers in the treatment and incarceration of youthful offenders. One superior court judge noted recently in correspondence to Senator Gloria Romero that local juvenile justice systems are not afforded the opportunity to oversee or be involved in decisions affecting wards committed to the California Youth Authority. In most cases, the committing court hears little about wards committed to the California Youth Authority until they are in trouble again.

At present, there is no effective partnership between the California Youth Authority, the courts and county probation departments and communication between these entities is minimal. The cost of this disconnect is the loss of valuable resources and services for youth offenders paroled from California Youth Authority institutions.”⁵

SB 459 by instituting new treatment standards, procedures and reports created the called-for partnership ... a partnership which includes county public defenders to ensure that rehabilitative treatment afforded their clients meet SB 459 standards.

Therefore, the County Public Defender established a ‘new program’ to implement SB 459 and reimbursement of the County’s costs in doing so is now required.

New Court Remedy

The County maintains that Welfare and Institutions Code section 779, as amended by SB 459, created a new treatment remedy for public defender clients and new requirements to provide public defender services in seeking that remedy. These

⁵ This review excerpt is found in Exhibit 4, pages 2-3.

services include monitoring the conditions of confinement while the ward is in DJJ custody and intervening in their behalf when there is a failure of treatment.

Commission staff disagree and contend that:

“The amendment (to section 779) is merely a clarification of existing law. Under prior law, and under the test claim statute, the court may only change, modify, or set aside an order of commitment when CYA fails to comply with the law, or abuses its discretion in the treatment of the ward. The test claim statute does not change that standard, and does not mandate a new program or higher level of service subject to article XIII B, section 6 of the California Constitution” (Staff Analysis, page 3)

However, the County finds that under law prior to SB 459’s enactment, section 779 did not include any language regarding ‘treatment’ or a showing of ‘good cause’ to change a ward’s rehabilitative treatment. Indeed, Commission staff support the County’s contention here by superimposing the language of the new section 779 on the language of the prior version, on page 14 of their analysis, as follows:

“The Legislature amended section 779 regarding court orders to modify or set a side the order committing a ward to the CYA. The 2003 amendment to the test claim statute added the underlined ... portions as follows:

The court committing a ward to the Youth Authority may thereafter change, modify, or set aside the order of commitment. Ten days' notice of the hearing of the application therefore shall be served by United States mail upon the Director of the Youth Authority. In changing, modifying, or setting aside the order of commitment, the court shall give due consideration to the effect thereof upon the discipline and parole system of the Youth Authority or of the correctional school in which the ward may have been placed by the Youth Authority. Except as in this section provided, nothing in this chapter shall be deemed to

interfere with the system of parole and discharge now or hereafter established by law, or by rule of the Youth Authority, for the parole and discharge of wards of the juvenile court committed to the Youth Authority, or with the management of any school, institution, or facility under the jurisdiction of the Youth Authority. Except as provided in this section provided, nothing in this chapter shall be deemed to does not interfere with the system of transfer between institutions and facilities under the jurisdiction of the Youth Authority. This section does not limit the authority of the court to change, modify, or set aside an order of commitment after a noticed hearing and upon a showing of good cause that the Youth Authority is unable to, or failing to, provide treatment consistent with Section 734.”

Commission staff maintain that SB 459’s amendment of section 779, to provide new ‘treatment’ language, is not really new as the section 779 amendment also references section 734 which does reference “other treatment”. Staff explain, on page 14 of their analysis, that:

Section 734, referenced in the underlined language above, has provided since 1961 that: “No ward of the juvenile court shall be committed to the Youth Authority unless the judge of the court is fully satisfied that the mental and physical condition and qualifications of the ward are such as to render it probable that he will be benefited by the reformatory educational discipline or other treatment provided by the Youth Authority.” “

However, the phrase “other treatment provided by the Youth Authority” is general and not specific. The County maintains that after SB 459 was enacted that it is not possible to evaluate whether “other treatment” is of benefit to the ward without monitoring compliance with treatment standards and procedures mandated in SB 459 and intervening to change treatment when it is deficient.

Hence, to administer the treatment provision of Section 734, juvenile courts are now required to continuously supervise and, in effect, regulate the treatment of wards --- along with CYA (now DJF). This dual regulation was not permitted under law prior to SB 459. Before SB 459 was enacted, juvenile courts had no

“authority to set aside an order committing a ward to CYA, merely because the court's view of the rehabilitative progress and continuing needs of the juvenile offender differ from CYA determinations” (In re Owen E. (1979) 23 Cal. 3d 398, 403).

Further, the *In re Allen* ((2000) 84 Cal.App. 4th 513) decision, handed down before the enactment of SB 459, held that the “... Juvenile court's imposition of discretionary conditions of probation was an impermissible attempt to regulate or supervise minor's rehabilitation, a function solely in the hands of California Youth Authority (CYA) after the minor's commitment”. The *Allen* court reasoned that:

“... Notwithstanding the juvenile court's continuing jurisdiction over a ward, “[c]ommitment to the Youth Authority in particular, brings about a drastic change in the status of the ward which not only has penal overtones, including institutional confinement with adult offenders, but also removes the ward from the *direct supervision* of the juvenile court.” (*In re Arthur N.* (1976) 16 Cal.3d 226, 237–238, 127 Cal.Rptr. 641, 545 P.2d 1345, italics added, fns. omitted.)

In *In re Owen E.* (1979) 23 Cal.3d 398, 154 Cal.Rptr. 204, 592 P.2d 720, the court had occasion to address the interplay between CYA and the juvenile court over a ward after the juvenile court committed the ward to CYA. Two years after the commitment, the ward applied for, but was denied, parole. The ward's mother then petitioned the juvenile court to vacate his commitment (§ 778). The juvenile court, concluding the ward's rehabilitative needs would best be satisfied if he were released from custody, set aside its original commitment order and placed the minor on probation. (*Id.* at pp. 400–401, 154 Cal.Rptr. 204, 592 P.2d 720.)

On appeal by the director of CYA, the California Supreme Court reversed the juvenile court's order. In doing so the court first compared the proceedings in juvenile court to those of adult court: “In the related field of *516 jurisdiction to determine the rehabilitative needs of persons convicted of crimes, we have concluded the Adult Authority had the exclusive power to determine questions of rehabilitation. ‘If ... the court were empowered ... to recall the sentence and grant probation

if the court found that the defendant had become rehabilitated after his incarceration, there manifestly would be two bodies (one judicial and one administrative) determining the matter of rehabilitation, and it is unreasonable to believe that the Legislature intended such a result.’ (Holder v. Superior Court (1970) 1 Cal.3d 779, 782, 83 Cal.Rptr. 353, 463 P.2d 705; see also Alanis v. Superior Court (1970) 1 Cal.3d 784, 786–787, 83 Cal.Rptr. 355, 463 P.2d 707.) While different statutes—even different codes—regulate the division of responsibility between the concerned administrative agency and court, it appears to be as unreasonable to assume the Legislature intended that both the juvenile court and CYA are to regulate juvenile rehabilitation as it is to assume that both the superior court and Adult Authority are to regulate criminal rehabilitation.” (In re Owen E., *supra*, 23 Cal.3d at pp. 404–405, 154 Cal.Rptr. 204, 592 P.2d 720, parallel citations omitted.)

Simply put, the imposition of probationary conditions constitutes an impermissible attempt by the juvenile court to be a secondary body governing the minor's rehabilitation. ” (In re Allen (2000) 84 Cal.App. 4th 514-515)⁶

Now, juvenile courts under SB 459’s version of section 779 do have the authority, upon a showing of good cause, to govern the minor’s rehabilitation.

Ms. Carol A. Clem, Division Chief, Special Services, Juvenile Services Division, Los Angeles County’s Public Defender Office, provides further comparisons of the juvenile court’s authority before and after enactment of SB 459 as follows:

“Prior to the revisions of Chapter 4, Statutes of 2003 [SB 459], “The Legislature ha[d] not clearly defined the circumstances under which a juvenile court may intervene in a matter concerning the rehabilitative needs of a **ward** it has committed to CYA” In re Owen E. (1979) 23 Cal. 3d 398, 403 (emphasis in original). The Owen court stated that, “section 779 does not constitute authority for a juvenile court to set aside an order committing a ward to CYA merely because the court's

⁶ Excerpted from the In re Allen decision found in Exhibit 5, pages 1-3.

view of the rehabilitative progress and continuing needs of the ward differ from CYA determinations on such matters arrived at in accordance with law.” Id. at p. 405, and held that , “a juvenile court may not act to vacate a proper commitment to CYA unless it appears CYA has failed to comply with law or has abused its discretion in dealing with a ward in its custody.” Id. at p. 406.

The Legislature addressed this issue directly in 2003, responding to the Owen court’s implied suggestion that it, “clearly defined the circumstances under which a juvenile court may intervene in a matter concerning the rehabilitative needs of a ward it has committed to CYA.” Owen, supra at p. 403 (emphasis in original). Chapter 4, Statutes of 2003 [SB 459], among other changes, added the following sentence to the first paragraph of Welfare and Institutions Code section 779 (emphasis added):

This section does not limit the authority of the court to change, modify, or set aside an order of commitment after a noticed hearing and upon a showing of good cause that the Youth Authority is unable to, or failing to, provide treatment consistent with Section 734.

Senate and Assembly Bill Analyses of SB 459, as well as analyses by their respective Public Safety, Rules and Appropriations Committees, state that this provision:

Clarifies that the court has the authority to change, modify, or set aside an order of commitment after a noticed hearing and upon a showing of good cause that the CYA is unable to, or failing to, provide treatment as required under other provisions of law.”

No longer must a court refrain from intervening unless there is an abuse of discretion by the Youth Authority. The Juvenile Court is now charged with monitoring the ward’s progress through its receipt of the

periodic reviews, as required by Welfare and Institutions Code section 1720, and with changing, modifying, or setting aside an order of commitment when there is a failure of treatment, as now authorized by Welfare and Institutions Code section 779.

Because SB 459 created a mandate for the courts to begin overseeing the treatment of wards while in CYA (now DJJ) facilities, and to intervene when those treatment needs are not being met, a remedy not formerly available to our clients, the Public Defender is also required to monitor the conditions of confinement of his clients in DJJ custody and to intervene on their behalf when there is a failure of treatment. In addition, California Rules of Court, Rule 5.663(c) (formerly Rule 1479, adopted, eff. July 1, 2004), states:

(c) Right to representation A child is entitled to have the child's interests represented by counsel at every stage of the proceedings, including post dispositional hearings. Counsel must continue to represent the child unless relieved by the court on the substitution of other counsel or for cause.”⁷

Therefore, SB 459 created a mandate for the courts to begin overseeing the treatment of wards while in CYA, now DJF, facilities, and to intervene when those treatment needs are not being met, a new remedy and due process right for public defender clients was created. This required public defenders to implement new services designed to protect their clients' right to treatment specified in SB 459. This 'new program' clearly qualifies for reimbursement as claimed herein.

Parole Consideration Dates

The county maintains that the amendments to sections 1731.8 and 1719 mandate a new program for public defenders to monitor the parole procedures described in these sections in order to further assist the ward in a possible section 779 motion asking the court to change, amend, or modify a commitment order granting parole for the ward. Because the Youth Authority's Administrative Committee, (YAAC),

⁷ Ms. Clem's statement is also found in Exhibit 2, pages 1-3.

orders the youth's treatment and programming, it is inextricably bound with his or her success or failure at CYA. Since failure would be addressed by a § 779 motion, public defenders are under an obligation to coordinate with the YAAC and participate in their meetings to the extent allowed. Under the law prior to SB 459, the court was powerless to challenge CYA's parole denials and the court was precluded from "substituting its judgment for that of CYA." (See *In re Owen E.*, supra, 23 Cal.3d 398 at 405 ...)

Accordingly, SB 459 now mandates a statutory scheme in which the court does substitute its judgment for that of the CYA, tantamount to the granting of parole; thus, the Public Defender has a new duty to monitor parole procedures and assist its clients in their attempts to gain parole.

Commission staff reject the County's conclusion because they believe that (1) "the court does not have jurisdiction when a section 779 motion is filed to "substitute its judgment for that of the CYA," (Staff Analysis, page 18.) and (2) "the plain language of sections 1731.8 and 1719 does not impose any new duties on local government" (Staff analysis, pages 18-19).

The County's reply is that (1) YAAC's treatment orders and programming are not excluded from treatment standards and procedures required under SB 459, so the juvenile court has a responsibility to review them and intervene when they are deficient and (2) the County Public Defender's clients have a new remedy to ensure that SB 459 treatment standards and procedures are applied in their case --- and this, of course, requires coordination with YAAC and participation in their meetings to the extent allowed.

Accordingly, reimbursement of the County's costs in implementing new parole consideration date services (in section 1731.8) and parole procedure services (in section 1719) is required.

Conclusion

The test claim legislation (Welfare and Institutions Code sections 779, 1731.8, 1719, and 1720 as added or amended by the Statutes of 2003, Chapter 4 (SB 459)) imposes a reimbursable state-mandated program under article XIII B, section 6 of the California Constitution and Government Code section 17514 for public defenders to perform the following duties that are 'reasonably necessary' in implementing the test claim statutes:

1. Review case and court files, mental health, school, medical, psychological and psychiatric records and familiarize themselves with treatment and service needs of the youth;
2. Review court documents to assure court has followed the mandates of SB 459;
3. Prepare and argue motions in cases where the court has not followed the mandates of SB 459 in its dispositional orders;
4. Contact, visit and interview public defender clients sentenced to the California Youth Authority (CYA);
5. Monitor the setting of parole consideration dates to assure they comply with statutory mandates;
6. Assess CYA treatment plans to assure they comply with statutory mandates, needs of the client and orders of the court;
7. Review CYA files, including education, special education, mental health, behavioral, gang and any other specialized files (all kept in separate locations);
8. Monitor the provision of treatment and other services;
9. Advocate for the provision of needed treatment and services within the CYA system, including advocacy at individual education plan [IEP], treatment plan, and similar meetings;
10. File motions in the sentencing court pursuant to Welfare and Institutions Code section 779 where the client's needs are not being adequately addressed by CYA.
11. Coordinate with the Youth Authority in order to assist our clients in preparing for parole hearings, and represent our clients at parole hearings in appropriate cases.



**COUNTY OF LOS ANGELES
DEPARTMENT OF AUDITOR-CONTROLLER**

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**LOS ANGELES COUNTY'S REVIEW
COMMISSION ON STATE MANDATES DRAFT STAFF ANALYSIS
JUVENILE OFFENDER TREATMENT PROGRAM PROCEEDINGS (04-TC-02)**

Declaration of Leonard Kaye

Leonard Kaye makes the following declaration and statement under oath:

I, Leonard Kaye, Los Angeles County's [County] representative in this matter, have prepared the attached review.

I declare that I have met and conferred with state and local officials, County Public Defender staff, County Counsel staff and experts in preparing the attached review and incorporated their statements in the review where indicated.

I am personally conversant with the foregoing facts and if so required, I could and would testify to the statements made herein.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct of my own knowledge, except as to the matters which are therein stated as information and belief, and as to those matters I believe them to be true.

4/19/12; Los Angeles, CA

Date and Place

Leonard Kaye

Signature



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RONALD L. BROWN
PUBLIC DEFENDER

Argument of the Public Defender regarding SB 90 Test Claim for Public Defender services pursuant to SB 459

1. Prior to the amendment of Welfare and Institutions Code section 1720 by Chapter 4, Statutes of 2003 [SB 459], the Department of the Youth Authority (now the Division of Juvenile Justice) was not required to provide written copies of its required periodic "reviews of cases of wards" to the court and probation department of the committing county. The 2003 revision changed this by adding subdivision 1720(f):

(f) The division shall provide copies of the reviews prepared pursuant to this section to the court and the probation department of the committing county.
2. Chapter 4, Statutes of 2003 [SB 459] also mandated, for the first time, that the periodic reviews of cases of wards be in writing and, among other things, address specific treatment goals, needs and progress, by adding subdivision 1720(e):

(e) Reviews conducted by the division pursuant to this section shall be written and shall include, but not be limited to, the following: verification of the treatment or program goals and orders for the ward to ensure the ward is receiving treatment and programming that is narrowly tailored to address the correctional treatment needs of the ward and is being provided in a timely manner that is designed to meet the parole consideration date set for the ward; an assessment of the ward's adjustment and responsiveness to treatment, programming, and custody; a review of the ward's disciplinary history and response to disciplinary sanctions; an updated individualized treatment plan for the ward that makes adjustments based on the review required by this subdivision; an estimated timeframe for the ward's commencement and completion of the treatment programs or services; and a review of any additional information relevant to the ward's progress.
3. Prior to the revisions of Chapter 4, Statutes of 2003 [SB 459], "The Legislature ha[d] not clearly defined the circumstances under which a juvenile court may intervene in a matter concerning the rehabilitative needs of a ward it has committed to CYA" In re Owen E. (1979) 23 Cal. 3d 398, 403 (emphasis in original). The Owen court stated that, "section 779 does

not constitute authority for a juvenile court to set aside an order committing a ward to CYA merely because the court's view of the rehabilitative progress and continuing needs of the ward differ from CYA determinations on such matters arrived at in accordance with law." Id. at p. 405, and held that , "a juvenile court may not act to vacate a proper commitment to CYA unless it appears CYA has failed to comply with law or has abused its discretion in dealing with a ward in its custody." Id. at p. 406.

4. The Legislature addressed this issue directly in 2003, responding to the Owen court's implied suggestion that it, "clearly defined the circumstances under which a **juvenile** court may intervene in a matter concerning the rehabilitative needs of a **ward** it has committed to CYA." Owen, supra at p. 403 (emphasis in original). Chapter 4, Statutes of 2003 [SB 459], among other changes, added the following sentence to the first paragraph of Welfare and Institutions Code section 779 (emphasis added):

This section does not limit the authority of the court to change, modify, or set aside an order of commitment after a noticed hearing and upon a showing of good cause that the Youth Authority is unable to, or failing to, provide **treatment** consistent with Section 734.

Senate and Assembly Bill Analyses of SB 459, as well as analyses by their respective Public Safety, Rules and Appropriations Committees, state that this provision:

8) Clarifies that the court has the authority to change, modify, or set aside an order of commitment after a noticed hearing and upon a showing of good cause that the CYA is unable to, or failing to, provide treatment as required under other provisions of law."

No longer must a court refrain from intervening unless there is an abuse of discretion by the Youth Authority. The Juvenile Court is now charged with monitoring the ward's progress through its receipt of the periodic reviews, as required by Welfare and Institutions Code section 1720, and with changing, modifying, or setting aside an order of commitment when there is a failure of treatment, as now authorized by Welfare and Institutions Code section 779.

5. Because SB 459 created a mandate for the courts to begin overseeing the treatment of wards while in CYA (now DJJ) facilities, and to intervene when those treatment needs are not being met, a remedy not formerly available to our clients, the Public Defender is also required to monitor the conditions of confinement of his clients in DJJ custody and to intervene on their behalf when there is a failure of treatment. In addition, California Rules of Court, Rule 5.663(c) (formerly Rule 1479, adopted, eff. July 1, 2004), states:

(c) Right to representation A child is entitled to have the child's interests represented by counsel at every stage of the proceedings, including post-dispositional hearings. Counsel must continue to represent the child unless relieved by the court on the substitution of other counsel or for cause.

Due to these State-imposed mandates, the Los Angeles County Public Defender created the CYA Unit (now DJJ Unit) in May, 2004, consisting of three experienced Deputy Public Defenders, a psychiatric social worker, and a paralegal, to monitor and advocate for the 285 Public Defender clients who were then in CYA facilities. Although caseload and staffing have since been reduced, the mandate for advocacy on behalf of those Public Defender clients still in DJJ facilities remains.

6. The attached Declaration of DPD Shelan Y. Joseph outlines the duties of an attorney in the Public Defender's DJJ Unit. With the exception of the calculation and correction of time credits, none of the issues these duties address could have been the subject of litigation in the Los Angeles Superior Court prior to the passage of Chapter 4, Statutes of 2003 [SB 459].
7. Also attached are examples of the work done by the DJJ Unit, including a 779 Motion on behalf of a boy who did not receive court-ordered neurological testing, a YAAC Parole Appeal on behalf of a boy who made excellent progress at DJJ facilities despite being diagnosed with schizoaffective disorder and very low intellectual functioning, and a memorandum to the Director of the Division of Juvenile Facilities outlining the agreement reached between a client, his Deputy Public Defender from the DJJ Unit, and his treatment staff at the facility regarding his treatment goals. Again, none of this advocacy would have been effective prior to the passage of Chapter 4, Statutes of 2003 [SB 459], as there would have been no remedy in court for a failure of treatment. (The names of the clients in these documents have been omitted in order to protect client confidences.)

Dated: 2/29/2012



Carol A. Clem
Division Chief, Special Services



LAW OFFICES
LOS ANGELES COUNTY PUBLIC DEFENDER
SPECIAL OPERATIONS
JUVENILE SERVICES DIVISION
590 Hall of Records
320 WEST TEMPLE STREET
LOS ANGELES, CALIFORNIA 90012
(213) 893-0283

RONALD L. BROWN
PUBLIC DEFENDER

COUNTY OF LOS ANGELES TEST CLAIM
JUVENILE OFFENDER TREATMENT PROGRAM COURT PROCEEDINGS
WELFARE AND INSTITUTIONS CODE SECTIONS 779, 1731.8, 1719, 1720
ADDED OR AMENDED BY CHAPTER 4, STATUTES OF 2003 [SB 459]

Declaration of Shelan Y. Joseph

I, Shelan Joseph, declare as follows:

I am an attorney licensed to practice law in the State of California, presently, and since August of 1996, employed by the Los Angeles County Public Defender's Office.

In my duties as a Public Defender from May, 2004 through August, 2012, I was assigned to the Public Defender CYA Unit (now DJJ Unit) that represents youth committed to the Division of Juvenile Facilities (DJF).

In that capacity, pursuant to both California Rule of Court 5.336 and Penal Code Section 779, I monitored conditions of confinement on behalf of Public Defender clients committed to DJF.

Monitoring conditions of confinement included the following:

Advocating on behalf of clients to ensure that they were receiving appropriate treatment, training, education and mental health services.

For clients with mental health issues, I monitored clients to ensure continuous and appropriate treatment and medication administration. I also ensured that DJF was implementing programming consistent with the client's mental health disabilities. For example, for a client who was committed to DJF for a sex offense and who was diagnosed with Pervasive Developmental Disability, I ensured that the sex offender treatment program accounted for this disability and altered their curriculum to ensure that the sex offender program offered to the client was suited to his learning capabilities.

In the area of education, I monitored school progress to ensure that clients were on track to secure their high school diplomas. For special education clients, I attended Individualized Education Planning meetings. I advocated for clients to receive appropriate special education services. In addition, I monitored the services being provided by DJF, and where appropriate, filed Compliance Complaints with the State to mandate DJF to provide services.

I monitored treatment progress outlined by DJF to ensure that clients were on track to parole. I advocated at Parole Board hearings on behalf of clients. If clients were denied parole, where appropriate, I filed appeals to the Youth Offender Parole Board.

I reviewed all DJF documentation on behalf of the client to verify that correct sentencing credits, registration requirements and treatment objectives were documented.

Where clients did not receive appropriate credits I sent correct minute orders to DJF in order to correct the inaccuracies.

Where DJF imposed inaccurate registration requirements and/or did not follow treatment objectives I filed and litigated 779 motions with the appropriate Juvenile Courts to request alternative placements for our clients. 779 Motions were filed on behalf of those clients who were not receiving appropriate care and service within DJF.

I declare under penalty of perjury the foregoing is true and correct.

Executed this 25th day of February, 2012, in Los Angeles, California.



Shelan Y. Joseph

Juvenile Parole Board
Mr. Chuck Supple, Chairman
4241 Williamsborough Dr. #223
Sacramento, California 95823

SENT VIA FEDERAL EXPRESS

Re: YAAC APPEAL FOR (OMITTED FOR CONFIDENTIALITY)

Dear Board Decision-Makers,

I am an attorney with the Los Angeles County Public Defender's Office and I currently represent the above named ward pursuant to SB459. On behalf of my client, we respectfully appeal the YAAC decision of October 17, 2007, by Mr. Nesbit, and Mr. Chabot, denying *omitted* parole.

The bases for appeal are: (1) the decision is contrary to law or policy; (2) the decision is contrary to board policy; and (3) there are extenuating circumstances that apply to *omitted* case. *omitted* appeal form is attached herein.

Factual Background:

omitted is 21 years old. He was committed to the Division of Juvenile Justice (DJJ) in October of 2001. In 2003, while at the Preston Youth Correctional Facility, *omitted* was hearing voices and experiencing visual hallucinations.

In November of 2003, *omitted* was diagnosed with schizoaffective disorder. In May, 2004, *omitted* began decompensating. He began experiencing an increase in auditory hallucinations, he lost twenty-five pounds and began to self-mutilate. *omitted* was transferred to the Intermediate Care Facility, in Norwalk, where he remained until October, 2005, when he was transferred to the Intensive Treatment Program at Heman G. Stark.

While on the Intensive Treatment Program, *omitted* has gained an understanding of his mental health issues. He has been medication compliant and has no further auditory or visual hallucinations. He has actively participated in all areas of treatment.

In addition to his mental health issues, *omitted* is also a special education student. He has conflicting reports regarding his level of cognitive functioning. Some reports have diagnosed *omitted* as mentally retarded. Other experts have diagnosed him as specific learning disabled. Despite the contradicting views on *omitted* cognitive classification, all experts agree that he is very low functioning. *omitted* last individual education plan dated March 8, 2007, found him to be emotionally disturbed. In his IEP, *omitted* tested at the second grade level in reading and in the first grade level in

written expression. *omitted* receives his educational instruction in the Special Day class setting.

Despite *omitted* challenges he has run an excellent program on the Intensive Treatment Program since 2005. He is currently Phase Level A. In the past year, *omitted* has not received any Level II or III DDMS. He has made significant progress understanding his mental health diagnosis. He is medication compliant and involved in all aspects of treatment. *omitted* has denounced his gang, is actively participating in tattoo removal, and has not had any documented gang activity on the unit.

In December, 2006, at his annual review, YAAC authorized a two month time cut for *omitted* due to his excellent progress in treatment and behavior.

In denying parole on October 9, 2007, the parole board stated that *omitted* had difficulty expressing himself. In addition, the board stated that *omitted* needs to "better understand his victim and his actions." The board also indicated that *omitted may* benefit from inpatient treatment services.

The ITP treatment team developed a solid parole plan for *omitted*. Included in his parole plan was a day treatment program at College Hospital five days a week, along with counseling, education, and mental health services.

Bases for Appeal:

1. The decision is contrary to law or policy

A. The Parole Board's decision violated *omitted* Federal and Constitutional Rights under the American Disabilities Act (ADA) and the Individual with Disabilities Education Act (IDEA)

The Parole Board's decision to deny parole was based in large part upon the fact that *omitted* could not "express" himself. In fact, Mr. Chabot stated that "*omitted* needed to work on expressing himself better."

¹ Please see attached Memorandum dated, October 16, 2007, submitted by Dr. Gilbert Turnquist, school psychologist for *omitted*.

This assertion is a violation of both the ADA as well as the IDEA. *omitted* qualifies under the ADA due to his mental impairment. As defined by the ADA, a mental impairment is, “[a]ny mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.” Clearly, *omitted* DSM-IV Tr² diagnosis of schizoaffective disorder qualifies him an individual under ADA.

Similarly, under the IDEA, “a person under 22 years of age and is defined as a person with one or more of the following limiting conditions...(5) emotional disturbance qualifies.” Due to *omitted* special education qualification of Emotional Disturbance he is also an individual described under IDEA.

Therefore, it is contrary to law discriminate against *omitted* on the basis of his mental health diagnosis or his cognitive disabilities. It is clear that the parole boards blatant disregard of *omitted* cognitive impairments is a violation of both Federal and State Law. As stated by Parole Board Commissioner English at the October 9, 2007, in her dissent, she stated that *omitted* is “limited in his cognitive skills and will need considerable external support.” *omitted* deficits clearly impact his “expression,” thereby limiting the way he communicates and articulates himself. For the parole board to document that *omitted* has “difficulty expressing himself” and use that as a factor in denying parole is a violation of Federal and State Law and a violation of *omitted* right to due process.

B. The Parole Board Decision is in violation of Penal Code Section 1719

Penal Code Section 1719, delineates the powers and duties of the DJJ Parole Board. The board is authorized to conduct hearings related to ordering parole and conditions of parole. Specifically, the Board is to make decisions pertinent to release on parole. The parole board is not authorized and/or qualified to make clinical assessments or evaluations. It is not within the purview of the parole board to make clinical determinations relative to parole.

An additional reason given by Mr. Nesbit and Mr. Chabot in denying parole was the fact that *omitted* parole plan recommended out patient services from College Hospital. The Board commissioners opined that “in-patient” services may be better for *omitted*. Specifically, the board stated that, “*omitted* may benefit from inpatient treatment services.” *omitted* was brought before the parole board based on the opinions of qualified clinical professionals. Both Nancy White, LCSW, and Dr. Lynch, Psy. D., who has been working with *omitted* for two years, evaluated *omitted* and participated in developing his parole plan.³ This plan included that *omitted* participate in an intensive out-patient program with College Hospital. The parole plan was formulated based on professional clinical evaluations coupled with compliance under Farrell, that wards be paroled to the least restrictive environment.

The Boards total disregard for the clinical opinion in support of release clearly violates the parole boards policy as they are not trained mental health professionals qualified to make clinical

² *omitted* has been diagnosed with an Axis I diagnosis of Schizoaffective Disorder under Section 295.70 of the DMS-IV TR.

³ Please see the attached Memorandum dated, October 9, 2007, submitted by Dr. Timothy Lynch, psychologist for *omitted*.

assessments related to treatment settings. The determination of which clinical setting would best serve *omitted* should rest solely with the professionals qualified to make clinical determinations.

2. The Decision is Contrary to Board Policy

omitted was not informed of his right to appeal the parole board's decision at the hearing. As of today's date he has not been advised of his right to appeal the decision.

3. There are Extenuating Circumstances Relating to *omitted* Case Which Require Board Action in the Interest of Justice

As detailed above and in his DJJ file, *omitted* has run an exemplary program while on the ITP. He has completed all board ordered programs, complied with treatment, attended group, denounced his gang, participated in tattoo removal and been medication compliant. The circumstances of his committing offense and his presentation during the board hearing need to be viewed in the larger context of his history of mental health issues and his low cognitive functioning. It is unconstitutional and contrary to public policy to incarcerate someone who has clearly progressed in treatment because they cannot present or express themselves at a level deemed suitable by members of the board who are not qualified to assess his mental health or cognitive deficits.

In conclusion, *omitted* hearing was conducted without evidence of due process of law, and the denial of parole was a violation of his constitutional rights. Contrary to the assertions at the hearing, the treatment team is clinically qualified to determine what a suitable parole plan is for *omitted*, given his conduct and good performance on the unit.

For all of the above reasons, *omitted* respectfully requests that the October 17, 2007, decision be overturned, and that he receive a new hearing where he can present, with the assistance of counsel and the treatment team why parole is appropriate at this time.

Sincerely,

Shelan Y. Joseph
Deputy Public Defender

cc: Ramon Martinez, Superintendent Heman G. Stark
Timothy Lynch, Psy. D.
Gilbert Turnquist, Psy.D.

Sincerely,

SHELAN Y. JOSEPH
Deputy Public Defender
Bar No: 180606

cc: Dr. Timothy Lynch

1 Justice, or, in the alternative, moves to change or modify the commitment order. The
2 Department of Juvenile Justice is unable to, or failing to, provide treatment consistent with
3 Welfare and Institutions Code section 734. This motion is based on the pleadings, minor's
4 history, points and authorities, exhibits, and any additional argument made at the time set for hearing
5 on the motion.

6 DATED: February 13, 2006.

7 Respectfully submitted,
8 MICHAEL P. JUDGE
PUBLIC DEFENDER

9
10 By _____
SHELAN Y. JOSEPH
Deputy Public Defender

11 **I. STATEMENT OF FACTS**

12 **MINOR'S HISTORY**

13 **A. MINOR'S JUVENILE COURT HISTORY**

14
15 A 777 motion was filed against *omitted*, on December 8, 2004, in Department 282 of
16 the Pomona Juvenile Court. Subsequent to a dispositional hearing, on April 12, 2005, the
17 court sentenced *omitted* to the Department of Juvenile Justice (DJJ).

18
19 *Omitted* juvenile history consists of two sustained petitions. On July 9, 2002,
20 subsequent to an admission the court sustained a petition alleging a misdemeanor
21 violation of Penal Code Section 243.6, the disposition ordered was Home on Probation.
22 On May 15, 2003, the court terminated *omitted* Home on Probation order and sent him to
23 Camp Community Placement (CCP). On February 19, 2004, a new petition alleging a
24 violation of Penal Code 245(a)(1) was filed. On May 6, 2004, pursuant to an admission to
25 a violation of 245(a)(1), the court ordered *omitted* to CCP. On December 8, 2004, a
26 motion was filed pursuant to Welfare and Institution Code 777 alleging several violations
27 of Camp rules. On April 12, 2005, as a result of a sustained 777 motion, the court ordered
28 *omitted* to the DJJ.

1 **B. MENTAL HEALTH HISTORY**

2 Prior to his commitment to DJJ, an Evidence Code Section 730 psychological
3 evaluation was performed on *omitted* by Dr. Douglas B. Allen, Ph.D., on March 17, 2005.
4 In his report, Dr. Allen noted that *omitted* had been in an automobile accident, which
5 resulted in a head injury. (Exhibit 1, pg. 4). In addition, Dr. Allen noted that *omitted* suffers
6 from a seizure disorder for which he is prescribed Dilantin. (Exhibit 1, pg. 3, 4). Dr. Allen
7 recommended that "*omitted* be referred to a Board Certified Neurologist for further
8 neurological study given his history of seizures, which has required medication
9 management." (Exhibit 1, pg. 6).

10 **C. CYA HISTORY**

11 The Court committed *omitted* to DJJ on April 12, 2005. The court set the maximum
12 time of confinement at three years. *Omitted* actual confinement ends in August 22, 2006.
13 His DJJ jurisdiction ends October 20, 2011.

14 *Omitted* was received at the Southern Youth Reception Center and Clinic in
15 Norwalk, California on September 26, 2005. On December 23, 2005, the Honorable Judge
16 Tia Fischer signed a court order to have DJJ perform neurological testing on *omitted*.
17 (Exhibit 2).

18 On January 5, 2006, counsel for *omitted*, faxed and mailed via United States Postal
19 Service the order for neurological testing to Mr. Tom Blay, Intake Coordinator for DJJ, in
20 Sacramento. (Exhibit 3). On January 6, 2006, pursuant to a telephone conversation with
21 Mr. Blay, wherein he requested specific information as to why the neurological testing was
22 needed, counsel sent additional correspondence addressing Mr. Blay's inquiries. (Exhibit
23 4). On January 10, 2006, counsel for *omitted* received a copy of an electronic mail
24 message from Dr. Thomas, MD, Medical Director of DJJ, stating that DJJ does not have a
25 board certified neurologist on site, and therefore, DJJ cannot comply with the court's order.
26 (Exhibit 5).

27

28

1 **II. THE CALIFORNIA YOUTH AUTHORITY HAS FAILED TO PROVIDE ADEQUATE**
2 **AND TIMELY TREATMENT**

3 Welfare and Institutions Code Section **1766 (b)** provides that within 60 days
4 of intake, the California Youth Authority shall provide the court with a treatment plan for the
5 ward, including an estimated time frame for each of the treatment programs or services
6 identified. Welfare and Institutions Code Section 1720(b) provides that the California
7 Youth Authority shall review the case to determine whether the orders and dispositions
8 should be modified or continued at intervals not exceeding one year. Subsection (e) of
9 1720 provides that, reviews shall be written and include verification of the treatment goals
10 and orders ensuring treatment is received in a timely manner, including an assessment of
11 the ward's adjustment and responsiveness to treatment, an updated individualized
12 treatment plan, an estimated timeframe for the ward's start and completion of the treatment
13 programs or services; and other information. Subsection (f) of 1720 states that the
14 department shall provide copies of the reviews prepared pursuant to this section to the
15 court.

16 The DJJ is not meeting *omitted* needs. DJJ cannot perform the neurological
17 testing ordered by this court. As a result, DJJ does not have the capacity to determine
18 what, if any neurological deficits *omitted* has. Without this knowledge, DJJ cannot
19 properly care for or treat *omitted* as required by Welfare and Institution Code Section 734.

20 **MEMORANDUM OF POINTS AND AUTHORITIES**

21 **I**

22 **WELFARE AND INSTITUTIONS CODE SECTION 779**
23 **PROVIDES THIS COURT WITH THE AUTHORITY TO CHANGE,**
24 **MODIFY, OR SET ASIDE AN ORDER OF COMMITMENT**

25 In pertinent part, Welfare and institutions Code section 779 provides: "The court
26 committing a ward to the Youth Authority may thereafter change, modify, or set aside
27

1 the order of commitment." In 2003, section 779 was amended by Senate Bill 459 to
2 include, "This section does not limit the authority of the court to change, modify, or set
3 aside an order of commitment after a noticed hearing and upon a showing of good
4 cause that the Youth Authority is unable to, or failing to, provide treatment consistent
5 with Section 734." (Welf & Inst. Code § 779.) Welfare and Institutions Code section 734
6 states, "No ward of the juvenile court shall be committed to the Youth Authority unless
7 the judge of the court is fully satisfied that the mental and physical condition and
8 qualifications of the ward are such as to render it probable that he will be benefitted by
9 the reformatory educational discipline or other treatment provided by the Youth
10 Authority." (Welf. & Inst. Code § 734.)

11 **II**

12 **THE YOUTH AUTHORITY IS FAILING TO PROVIDE**
13 **PROPER TREATMENT TO THE MINOR**

14 As stated above, the DJJ has not developed an adequate treatment plan for
15 *omitted*. The court should be dissatisfied with the inability of DJJ to comply with its order to
16 conduct neurological testing. Moreover, *omitted* neurological needs remain undetermined.
17 Without proper assessments *omitted* mental and physical conditions cannot be benefitted by a
18 commitment to DJJ. Therefore, the defense respectfully requests that the court to terminate
19 *omitted* commitment to the Division of Juvenile Justice.

20
21
22
23 **III**

24 **CONCLUSION**

25 Counsel respectfully requests that this Court consider terminating its order
26 committing *omitted* to the Department of Juvenile Justice. DJJ cannot perform the necessary
27

1 neurological testing ordered by this court to determine *omitted* needs. Therefore, DJJ cannot
2 properly determine the treatment needs of *omitted*

3 DATED: February 13, 2006.

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5

Respectfully submitted,
MICHAEL P. JUDGE
PUBLIC DEFENDER

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By

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SHELAN Y. JOSEPH

Deputy Public Defender

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OFFICE OF THE INSPECTOR GENERAL

STEVE WHITE, INSPECTOR GENERAL

• *PROMOTING INTEGRITY* •



**REVIEW OF THE
INTENSIVE TREATMENT PROGRAM**

CALIFORNIA YOUTH AUTHORITY

REPORT

NOVEMBER 2002

**NOTE: INFORMATION IN THIS REPORT HAS BEEN REDACTED
FOR REASONS OF CONFIDENTIALITY**

process of implementing a new screening mechanism, which is designed to provide a broader measure of a ward's mental health and behavior.

FINDING 3

The Office of the Inspector General found that treatment services provided to wards in the intensive treatment program are limited in scope, lacking in planning, poorly documented, and generally deficient in quality.

The treatment portrayed in the written descriptions of the intensive treatment programs bears little resemblance to the treatment actually provided to the wards. The program descriptions typically promise a range of treatment methods and an individualized treatment plan for each ward. In reality, treatment is limited for the most part to one or two hours a week of group therapy and individual counseling provided by a youth correctional counselor with little counseling expertise or training. Individualized treatment plans are nonexistent. Wards may see a psychologist only once a month, if that, and—if they are on psychotropic medication—may also see a psychiatrist periodically, usually about once a month. Treatment is poorly documented and there appears to be little communication and coordination between staff psychologists and psychiatrists or between the youth correctional counselors and the professional staff. In general, treatment is substandard.

FINDING 4

The Office of the Inspector General found serious deficiencies in the handling by mental health clinicians of suicidal wards in the intensive treatment program.

Intensive treatment wards are at high risk for suicide. Yet, the review showed that members of the intensive treatment program mental health staff consistently failed to document important information about wards referred for suicidal evaluation, failed to specify recommended treatment for wards, and failed to communicate to the custody staff how the wards should be monitored.

FINDING 5

The Office of the Inspector General found a lack of follow-up care for wards leaving the intensive treatment program.

The Office of the Inspector General found that 69 percent of the 221 wards leaving the intensive treatment program during the twelve months preceding the review were either transferred to the general population or released on parole. The statistics show that the majority of intensive treatment program wards leaving the program are likely to receive no further treatment for their mental illness at the California Youth Authority.

RECOMMENDATIONS

The Office of the Inspector General recommends that the California Youth Authority take the following actions:

California Performance Review

[Home](#) → [Review Panel](#) → [Ward Population Management](#)

Ward / Parolee Population Management

Providing education, training, and treatment to youthful offenders is central to the mission of the California Youth Authority. Forty years ago, California was the undisputed national leader in carrying out that responsibility. But in the 1980s, tougher sentencing for juveniles, subsequent overcrowding of youth correctional facilities, and a societal emphasis on custody over rehabilitation began eating away at the State's programs for helping incarcerated youths.

Today, a new set of forces is at work. In recent years, the number of youthful offenders in California correctional facilities has fallen by almost half, from 10,114 in June 1996 to 4,879 in June 2003, with the number expected to decline to 3,740 by June 2009. Most of the youths now committed to state custody are proportionately more violent and have significantly greater needs for mental health care and other program services compared to the youths of earlier years. At the same time, the state is under increasing challenge from the public, from lawmakers, and from the courts for failing to provide humane and constitutionally adequate conditions of confinement for incarcerated youths and for not providing adequate education and treatment services.

In light of those circumstances, the Corrections Independent Review Panel examined what California can do to improve its treatment, education, and parole services for the serious, chronic, and violent youthful offenders committed to its custody. As a result of that study, the panel recommends that the State institute a series of best-practices reforms in its education and treatment programs to more successfully protect society by helping youthful offenders reintegrate back into the community.

Fiscal Impact

Implementing the panel's recommendations can be expected to result in long-term savings by reducing disciplinary incidents in youth correctional institutions, helping youthful offenders earn earlier release, and reducing the number who commit new crimes and return to custody. The recommendations will also assist the new Department of Correctional Services in complying with the requirements of the consent decree anticipated in a major court action, *Farrell v. Harper*. A detailed legislative financial analysis involving key stakeholders is needed to more fully determine the fiscal impact of the recommendations.

Background

The mission of the California Youth Authority is as follows:

To protect the public from criminal activity by providing education, training, and treatment services for youthful offenders committed by the courts; directing these offenders to participate in community and victim restoration; and assisting local justice agencies with their efforts to control crime and delinquency, and encouraging the development of state and local programs to prevent crime and delinquency. [1]

The department's historical obligation to provide juvenile offenders with education, training, and treatment services was set forth when the California Youth Authority was created by the Youth Corrections Act of 1941. At the time of its enactment, the law was revolutionary in that it substituted training and treatment for youthful offenders in place of retributive punishment, which had been the national norm. In the years following, the act also made California the national model in juvenile treatment. By the mid-1960s the success of California's training and treatment model became not only accepted practice across the country, but also the formal legal policy of the United States, certified by the U.S. Supreme Court, in *Kent v. United States* (1966). Although the U.S. Supreme Court has since modified the treatment model, allowing juveniles to be tried as adults in cases involving particularly egregious offenses, it has nonetheless preserved the importance of individual assessment of the circumstances of the juvenile before sentencing, and the general policy of rehabilitation for juveniles remains sacrosanct. The U. S. Supreme Court continues to affirm the special developmental status of those under the age of 18 and the State's obligation to provide them with special protection.

Studies have shown that wards who participate in education and vocational training programs have a lower risk of recidivism. [2] Yet, despite those studies, and despite the historical mandate to provide treatment services to youths committed to the California Youth Authority, the State's commitment to providing such services has been eroding since the early 1980s. During the 1980s and 1990s, the department's budget failed to keep pace with rising ward populations resulting from "tough on crime" sentencing laws that made sanctions for juvenile crime comparable to those of adults and from stricter parole policies instituted by the Youthful Offender Parole Board that lengthened incarceration times. Largely because of Youthful Offender Parole Board policies, the average length of stay for wards increased from 21.6 months in 1991-92 to 27.6 months in 2002-03. [3] Between 1987 and 1991, the ward population in California Youth Authority facilities averaged 139 percent of bed capacity and over-crowded living conditions and double bunking became standard. [4]

With the overcrowding came increased violence in youth correctional facilities—group disturbances, suicidal behavior, escape attempts, and other acts of destructive conduct. And, in an escalating cycle, increased violence led to longer stays, still more overcrowding, and still more violence. Research by the California Youth Authority shows that before crowding began in 1987 disciplinary incidents were significantly fewer. In 1987 the disciplinary rate for serious ward misbehavior stood at 102.5 incidents per 100 wards, but as crowding increased between 1987 and 1991, the rate of disciplinary actions increased by 33 percent to 136.2 incidents per 100 wards. Under

need improvement.

Wards who have been incarcerated in California Youth Authority institutions are generally the most serious and violent offenders in the juvenile justice system. The department currently provides parole services to approximately 4,200 wards through 16 parole offices located throughout California. The parole offices are divided into two regions: the northern region, which supervises approximately 1,880 parolees, and the southern region, which supervises approximately 2,200 parolees. The northern region is comprised of seven field offices encompassing 47 counties, including the Bay Area, the Central Coast, Northern California, and the San Joaquin Valley. The southern region includes nine field offices covering 11 counties, including Los Angeles, San Luis Obispo, Santa Barbara, Ventura, San Diego, and Imperial counties. [35]

Parole agents assigned to each parole office must work closely with local law enforcement to enforce conditions of parole, protect the community, and broker community resources to promote the ward's successful integration into society. All 16 parole offices provide core parole services. A detailed description of these services and other programs offered by the California Youth Authority are listed in Appendix A.

At present, the authority to grant or revoke parole rests exclusively with the Youth Authority Board in accordance with California Code of Regulations, Title 15, Section 4966, and California Welfare and Institutions Code Section 1723. The parole hearing process, which includes setting projected parole dates, involves both the Youth Authority Board and the California Youth Authority staff. The projected parole date, also called the "projected board date," is based on the ward's committing offense. Absent from this phase of the process is the committing court and community probation resources. A more coordinated effort and partnership involving the committing courts, local community resources, and the California Youth Authority would improve case management and provide a more effective continuum of treatment services.

At present, counties do not have the option of supervising non violent wards

The California Youth Authority is presently responsible for supervising all wards released from state youth correctional facilities and returned to communities. These wards remain under the jurisdiction of the California Youth Authority rather than the counties. Instead, non violent wards could be returned to counties for probation services upon release from state youth correctional facilities. The California Youth Authority could pay counties a pre-determined "rebate" for every non-violent ward (presently designated as Categories 5, 6, and 7) for whom the county agrees to provide parole supervision and services. The change would enable the new Department of Correctional Services to re-direct resources and supervision to high-risk parolees in Categories 1, 2, 3, and 4, thereby improving the likelihood of success for these offenders (Appendix B.)

The current parole population of non violent, Category 5, 6, and 7 wards totals approximately 1,740. Field parole agents who provide parole supervision are spread out over a large geographical area, making it difficult for remote areas to be covered. With responsibility for this parole population removed, parole positions could be reduced proportionately and the additional resources could be re-directed to high-risk parolees to lower the ward-to-parole agent ratio.

Counties are not paying the true cost incurred by the state for supervising wards

The sliding fee scale outlined in California Welfare and Institutions Code Section 912.5 and in Title 15 of the California Code of Regulations does not reflect the actual cost incurred by the California Youth Authority for treatment, training, and supervision of lower level wards. The sliding fee scale designates specific percentages of a pre-determined per-capita cost incurred by the California Youth Authority to be reimbursed to the state by each county. [36] The base cost in the sliding scale fee is \$36,500 yearly and counties pay a flat fee of \$175.00/ month for all high risk commitments. Counties pay 50 percent, 75 percent, or 100 percent of the per capita cost for non-violent wards classified respectively in Categories 5, 6, and 7. (A new provision to this section, enacted on July 1, 2003, allows for annual review of actual costs incurred and subsequent adjustment of the pre-determined base amount for the sliding scale). [37]

The sliding fee scale was introduced in 1997 to encourage counties to find alternatives to California Youth Authority commitment for non-violent offenders and appears to have had that effect. An estimate of future overall youthful offender population shows a continuing decrease in the California Youth Authority population (See Appendix C, Table 1). Conversely, the more violent ward population continues to rise. That fact, coupled with the development of increased services for more troublesome wards, has increased the true cost incurred by the Youth Authority to house each ward. Current estimates of actual per capita costs range between \$66,000 estimated by the California Youth Authority [38] and \$80,000 [39] estimated by the Juvenile Justice Reform Group and Kevin Carruth, Undersecretary of Youth and Adult Corrections Agency. Both figures far exceed the current \$36,500 per capita reimbursement rate (Appendix D.)

Given these circumstances, an upward adjustment to the sliding fee scale of 25 percent to \$50,000 is warranted. This prudent adjustment will continue to encourage counties to reduce the number of non violent youthful offenders sent to the California Youth Authority without making the cost prohibitive and will encourage local program development. The option of sending the most difficult, unmanageable youth that the county cannot effectively program will remain affordable.

Judges and probation officers have no role in decisions to continue incarceration

The California Youth Authority has not been mandated to involve local courts, judges, and probation officers in the treatment and incarceration of youthful offenders. One superior court judge noted recently in correspondence to Senator Gloria Romero that local juvenile justice systems are not afforded the opportunity to oversee or be involved in decisions affecting wards committed to the California Youth Authority. [40] In most cases, the committing court hears little about wards committed to the California Youth Authority until they are in trouble again. Much to the same extent, county probation departments are also left out of the loop about wards until they receive a notification of additional charges because the ward's stay at the California Youth Authority has been extended. According to Dr. Barry Krisberg of the National Council on Crime and Delinquency in correspondence to G. Kevin Carruth, Undersecretary of Youth and Adult Corrections Agency, most judges would welcome the chance to interact with youthful offenders throughout all stages of the juvenile

justice system. [41] Furthermore, the concept of coordinating efforts and increasing community involvement seems to be the resounding theme among youthful offender advocates, employees of the California Youth Authority, and the Department of Finance.

At present, there is no effective partnership between the California Youth Authority, the courts, and county probation departments and communication between these entities is minimal. The cost of this disconnect is the loss of valuable resources and services for youthful offenders paroled from California Youth Authority institutions. The amount of additional time wards serve in California Youth Authority institutions for misbehavior varies. Many receive much more time. At present, 540 California Youth Authority wards will serve all of their available confinement time due to time extensions for disciplinary or treatment reasons. [42] Often, these time extensions are unknown to the counties until they receive a request for payment of services provided.

Partly because of these extensive time adds, Senate Bill 459, which went into effect on January 1, 2004, provided for the new Youth Authority Board to serve as the second and final review level to hear appeals regarding treatment and training and disciplinary time extensions. The Corrections Independent Review Panel has concluded that this appeal process should be retained, but that for wards in Categories 5-7, the decision of the Youth Authority Board will be reviewed by the committing court.

When wards are referred for return to the county for probation, the California Youth Authority should reimburse the county \$5,000 annually for aftercare services provided to each ward. [43] A caveat to this recommendation is that probation officers not be granted the authority to revoke probation and refer wards directly to the California Youth Authority for revocation, but instead may refer the case to the court for review and recommendation. The presiding judge may hold the commitment to the California Youth Authority in abeyance, conditional on successful completion of probation.

Recognizing that some counties are not equipped to provide these services, and that the needs of some wards may be greater than the capacity of county probation services to provide, the state should encourage counties to develop "joint use facility agreements" with adjoining counties to provide aftercare services. Counties also should be allowed to contract with the California Youth Authority for parole services in accordance with a "needs assessment" conducted for the ward.

The California Youth Authority has lost valuable parole resources to budget cuts

In the past four years, the California Youth Authority has lost a number of parole resources as a result of budget cuts. Programs such as the "Transitional Residential Program" and "Fouts Springs" offered pre-release planning and other options in lieu of re-institutionalizing for parolees who violate technical conditions of parole. The programs were similar to the traditional half way houses but offered stronger treatment, educational, counseling and job assistance components. [44] The Transitional Residential Program, established in 1982 in Los Angeles County, provided pre-parole placement in a residential center operated by Volunteers of America, Inc. The program provided employment development services, job referrals, counseling services, and 24-hour supervision for up to 34 wards. Participants were required to seek full-time employment and, upon obtaining employment, were responsible for their transportation costs. After a ward successfully completed the program, the parole agent made a recommendation for parole consideration to the Youth Authority Board. Although the Transitional Residential Program did not formally track participants, the former administrator estimated that 75-80 percent of program graduates had not re-offended within a year of completing the program. Anecdotal evidence indicates that most participants maintained employment and often were promoted to jobs earning a higher wage. [45] The program was discontinued because of budget cuts.

Fouts Springs was developed in 1987 to fulfill a need for drug treatment options for northern California parolees having a substance abuse history. The program offered 90-day drug treatment in a partnership between the California Youth Authority and Fouts Springs Youth Correctional Facility. The program was operated by Solano and Colusa counties as a relapse option in lieu of parole revocation. The cost benefits of this short-term program were significant when compared with the cost of re-incarcerating wards for a period of 6 to 12 months for technical parole violations involving substance abuse. For wards, a return to custody counts as a parole failure, whereas the Fouts Springs program was in lieu of revocation. This program was also discontinued due to budget constraints.

The California Youth Authority needs more specialized Parole Agent IIs

The California Youth Authority presently does not have enough specialized Parole Agent IIs to adequately supervise sex offenders and mentally ill wards on parole. Providing treatment, supervision, and critical services to sex offenders paroling from California Youth Authority institutions is critical to the parolee's re-integration into the community, and only Parole Agent IIs receive specialized training for that purpose. Inside the institutions, sex offenders receive treatment and training designed to address the urge to offend. Aftercare treatment, provided to parolees by Parole Agent IIs, who have been trained in the sex offender curriculum, is designed to reinforce the concepts, therapeutic issues, and relapse prevention techniques. As of April 5, 2004, there were 381 sex offenders in the department's parolee population, yet eight parole offices have no specialized Parole Agent IIs to provide sex offender services, thus breaking the continuum of treatment. [46] It is critical this group of offenders be afforded highly individualized parole services and that treatment services be continued.

Recommendations

The panel recommends that the state take the actions listed below to improve the ability of the California Youth Authority Parole Branch to meet the specialized treatment and mental health needs of the wards under its supervision. The recommendations are intended to create a more effective partnership with county probation and court services to enable wards released from California Youth Authority institutions to be better served in their local communities.

- ❖ Adjust the sliding fee scale used to determine how much a county pays the state for housing non-violent wards in the California Youth Authority from \$36,500 to \$50,000 to more accurately reflect the actual cost of those services.
- ❖ Grant committing courts sole authority and final review for revoking parole or probation or for extending length of stay at the California Youth Authority for wards in Categories 5, 6, and 7.

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(Cite as: 84 Cal.App.4th 513, 100 Cal.Rptr.2d 902)

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Court of Appeal, Third District, California.
In re ALLEN N., a Person Coming Under the Juvenile Court Law.
The People, Plaintiff and Respondent,
v.
Allen N., Defendant and Appellant.

No. C032402.
Oct. 30, 2000.

Following a contested jurisdictional hearing, the Superior Court, Sacramento County, No. JV 98681, Harold Craig Manson, J., found that juvenile committed felony assault and great bodily injury during the commission of that offense and committed him to the California Youth Authority (CYA). Juvenile appealed imposition of conditions of probation. The Court of Appeal, Raye, J., held that imposition of discretionary conditions of probation was an impermissible attempt to regulate or supervise juvenile's rehabilitation.

Affirmed as modified.

West Headnotes

[1] Infants 211 ↪ 2682

211 Infants
211XV Juvenile Justice
211XV(G) Disposition
211XV(G)2 Particular Dispositions
211k2681 Correctional or Punitive Order or Disposition
211k2682 k. In general. Most Cited Cases
(Formerly 211k230.1)

Infants 211 ↪ 2714

211 Infants
211XV Juvenile Justice
211XV(G) Disposition

211XV(G)3 Disposition Proceedings
211k2714 k. Judgment or order; conclusiveness, operation, and effect. Most Cited Cases
(Formerly 211k230.1)

Notwithstanding the juvenile court's continuing jurisdiction over a ward, commitment to the Youth Authority removes the ward from the direct supervision of the juvenile court.

[2] Infants 211 ↪ 2692(1)

211 Infants
211XV Juvenile Justice
211XV(G) Disposition
211XV(G)2 Particular Dispositions
211k2688 Probation or Suspension of Sentence
211k2692 Conditions
211k2692(1) k. In general. Most Cited Cases
(Formerly 211k225)

Juvenile court's imposition of discretionary conditions of probation was an impermissible attempt to regulate or supervise minor's rehabilitation, a function solely in the hands of California Youth Authority (CYA) after the minor's commitment.

****903 *514 Brendon Ishikawa**, under appointment by the Court of Appeal, for Defendant and Appellant.

Bill Lockyer, Attorney General, David P. Druliner, Chief Assistant Attorney General, Robert R. Anderson, Senior Assistant Attorney General, Harry Joseph Colombo, Supervising Deputy Attorney General, Charles Fennessey, Deputy Attorney General, for Plaintiff and Respondent.

RAYE, J.

Following a contested jurisdictional hearing, the juvenile court found that Allen N., a minor and ward of the court based upon previously sustained petitions, committed felony assault (Pen.Code, § 245, subd. (a)(1)) and great bodily injury during the commission of that offense (Pen.Code, § 12022.7).^{FNI}

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FN1. The minor had the following previously sustained petitions: April 3, 1997—unlawful taking of a vehicle (Veh.Code, § 10851, subd. (a)), threatening a public officer (Pen.Code, § 71); July 18, 1997—unlawful taking of a vehicle (Veh.Code, § 10851, subd. (a)); June 26, 1998—falsely identifying himself to a peace officer (Pen.Code, § 148.9, subd. (a)); and December 11, 1998—assault by means of force likely to produce great bodily injury (Pen.Code, § 245, subd. (a)(1)).

The minor was committed to the California Youth Authority (CYA) for a maximum confinement period of 8 years and 10 months. The juvenile court then imposed the following probationary conditions: “You are not to have any contact or communication with Ronnie Obey, or Shawna Williams, or their families. ¶ And the prior orders of the Court, including your non-association with Augustine Ribota, your requirement that you participate in anger control management counseling, and that you not associate with individuals known to be members of gangs, and that you not wear or display *515 any gang-related clothing, or emblems, or paraphernalia, those orders remain in effect.” FN2

FN2. The juvenile court also imposed a restitution fine and restitution to the victim in an amount to be determined. The minor is not challenging these statutorily required orders. (See Welf. & Inst.Code, § 730.6.)

On appeal, the minor contends the juvenile court erred in imposing the conditions of probation because it had committed him to CYA. The People urge that the probationary conditions were proper since the juvenile court does not lose jurisdiction over the minor after the commitment and that the conditions were in the minor's best interest. In so arguing, the People fail to recognize the distinction between the juvenile court's jurisdiction and its supervisory power. We shall strike the challenged conditions.

“Under section 602 any person who is under the age of 18 when he or she commits a criminal offense is within the jurisdiction of the juvenile court. Once an individual is adjudged a ward of the juvenile court that court may retain jurisdiction over the ward until he or she attains the age of 21 or 25 depending upon

the nature of the offense. ([Welfare & Inst. Code] § 607.)” FN3 (Joey W. v. Superior Court (1992) 7 Cal.App.4th 1167, 1172, 9 Cal.Rptr.2d 486.) Sections 778 and 779 permit the juvenile court to change, modify or set aside a commitment to the Youth Authority.

FN3. All further undesignated section references are to the Welfare and Institutions Code.

[1] Notwithstanding the juvenile court's continuing jurisdiction over a ward, “[c]ommitment to the Youth Authority in particular, brings about a drastic change in the status of the ward which not only has penal overtones, including institutional confinement with adult offenders, but also removes the ward from the *direct supervision**904* of the juvenile court.” (In re Arthur N. (1976) 16 Cal.3d 226, 237–238, 127 Cal.Rptr. 641, 545 P.2d 1345, italics added, fns. omitted.)

In In re Owen E. (1979) 23 Cal.3d 398, 154 Cal.Rptr. 204, 592 P.2d 720, the court had occasion to address the interplay between CYA and the juvenile court over a ward after the juvenile court committed the ward to CYA. Two years after the commitment, the ward applied for, but was denied, parole. The ward's mother then petitioned the juvenile court to vacate his commitment (§ 778). The juvenile court, concluding the ward's rehabilitative needs would best be satisfied if he were released from custody, set aside its original commitment order and placed the minor on probation. (Id. at pp. 400–401, 154 Cal.Rptr. 204, 592 P.2d 720.)

On appeal by the director of CYA, the California Supreme Court reversed the juvenile court's order. In doing so the court first compared the proceedings in juvenile court to those of adult court: “In the related field of *516 jurisdiction to determine the rehabilitative needs of persons convicted of crimes, we have concluded the Adult Authority had the exclusive power to determine questions of rehabilitation. ‘If ... the court were empowered ... to recall the sentence and grant probation if the court found that the defendant had become rehabilitated after his incarceration, there manifestly would be two bodies (one judicial and one administrative) determining the matter of rehabilitation, and it is unreasonable to believe that the Legislature intended such a result.’ (Holder v.

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Superior Court (1970) 1 Cal.3d 779, 782, 83 Cal.Rptr. 353, 463 P.2d 705; see also *Alanis v. Superior Court* (1970) 1 Cal.3d 784, 786-787, 83 Cal.Rptr. 355, 463 P.2d 707.) While different statutes—even different codes—regulate the division of responsibility between the concerned administrative agency and court, it appears to be as unreasonable to assume the Legislature intended that both the juvenile court and CYA are to regulate juvenile rehabilitation as it is to assume that both the superior court and Adult Authority are to regulate criminal rehabilitation.” (*In re Owen E.*, *supra*, 23 Cal.3d at pp. 404-405, 154 Cal.Rptr. 204, 592 P.2d 720, parallel citations omitted.)^{FN4}

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^{FN4}. *In re Owen E.* went on to hold that while the juvenile court retained jurisdiction over a ward to change, modify, or set aside any of its previous orders, the court was authorized to intervene only where it appeared that “CYA has failed to comply with law or has abused its discretion in dealing with a ward in its custody.” (23 Cal.3d at p. 406, 154 Cal.Rptr. 204, 592 P.2d 720.)

[2] Here, the juvenile court's imposition of discretionary conditions of probation constitutes an attempt to regulate or supervise the minor's rehabilitation, a function solely in the hands of CYA after the minor's commitment. Nor is it of any import, as suggested by the People, that similar parole conditions may be imposed by CYA or that there is not yet a conflict between the conditions imposed by the court and CYA. Simply put, the imposition of probationary conditions constitutes an impermissible attempt by the juvenile court to be a secondary body governing the minor's rehabilitation.

DISPOSITION

The conditions of probation imposed by the court and set forth herein in the second paragraph of this opinion are stricken. In all other respects, the judgment (order committing the minor to CYA) is affirmed. The juvenile court is to amend its records accordingly and to forward copies of all such pertinent documents to the Director of CYA.

SIMS, Acting P.J., and MORRISON, J., concur.

Cal.App. 3 Dist., 2000.
In re Allen N.