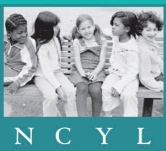


YOUTH JUSTICE IN CALIFORNIA:

**OBSTACLES TO CREATING A
PUBLIC HEALTH APPROACH**



NATIONAL CENTER FOR YOUTH LAW

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I. Introduction

Youth who become incarcerated are too often failed by California's juvenile justice system. This system has proven to be ineffective and costly – in multiple ways – for both the children in its care and society at-large. In California, many are striving to build a juvenile justice system that works to protect youth and the public. However, three recent groundbreaking efforts were undermined by people with an interest in the dysfunctional status quo.

Children and youth suffer devastating harm to their physical, emotional, and development health due to incarceration.¹ Further, Black and Brown children are disproportionately impacted at every point in the juvenile justice process.² The children and youth incarcerated in California endure long-term negative outcomes as a result of the state's system that are costly to them, their families, and their communities – and to the public.³

In addition to the heavy financial burden of keeping youth in harmful juvenile halls, the practice perpetuates a vicious cycle: A youth who becomes system-involved is more likely to reoffend as an adult.⁴ Youth advocates are pushing for a reimagining of juvenile justice that prioritizes the health and wellbeing of youth and their communities.

This brief highlights three initiatives to create systems that support youth, communities, and our state, each of which has been met with strong political opposition. They illustrate the political landscape preventing meaningful youth justice reforms in California. Each effort endeavored to create alternatives to the damaging practice of youth incarceration and strove to center juvenile justice within a public health approach that prioritizes youth development, and each was undermined by the same forces. However, these initiatives continue to hold promise for more cost-effective reforms that vastly improve outcomes.

The three reforms highlighted here include: 1) improvements to the Los Angeles County Office of Youth Diversion and Development (YDD), a division of the health services agency, to advance a comprehensive, coordinated, and expanded approach to youth diversion, with the goal of minimizing youth contact with the juvenile or criminal justice systems; 2) Senate Bill 433 (2019) to award state grants to up to five counties to establish a local YDD; and 3) thoughtful implementation of SB 823 (2020), which ended California's youth prison system and established the Office of Youth and Community Restoration within California's Health and Human Services Agency to oversee the state's juvenile justice system, with a focus on youth and community health.

These attempts at juvenile justice reform each faced significant resistance from those with entrenched and vested self-interest in the status quo - a status quo that causes immense suffering among children and youth. These naysayers, frequently led by probation entities and lobbyists, prioritize their own job security and funding while minimizing or dismissing the positive outcomes the reforms will bring to public safety, public health, and the state's coffers. Even when reforms are successfully passed by the will of the people, these opposition groups subvert the democratic process by undermining the intent of the policies or diverting streams of funding meant for healthy youth development programs back to ineffective, overly-punitive approaches that ensure they have job security and control, but neglect the young people's needs and well-being.

Many are striving to build a juvenile justice system that works to protect youth and the public, however, recent groundbreaking efforts were undermined by people with an interest in the dysfunctional status quo.

II. Barriers to the Establishment of the Office of Youth Diversion and Development (OYDD) in Los Angeles County

The cost to incarcerate a young person in a juvenile hall in Los Angeles County is roughly \$770,000 per year.⁵ To put this in perspective, \$770,000 is enough to cover the cost of sending 21 teens to UCLA for one year, including 100% of college tuition, housing, meals, transportation, and health insurance.⁶ Despite the high cost of incarcerating a young person, the quality of care is abysmal. The Los Angeles Probation Department has been the subject of investigations by both the U.S. Department of Justice⁷ and the California Attorney General's Office that centered on dangerous conditions and inadequate treatment of youth in juvenile halls and detention camps.⁸

In a reported effort to cut down on the overuse of juvenile incarceration, in 2017, L.A. County created its Office of Youth Diversion and Development (YDD) within the county's health services agency to work with local police departments and coordinate diversion programs as alternatives to formal system-involvement for youth.⁹ The YDD was purportedly established to better address the needs of youth through a health-based diversion approach, rather than a punitive one, by offering ways for youth to access support services outside of the juvenile justice system.

According to the June 14, 2021, YDD Quarterly Report,¹⁰ since the inception of the program in April 2019, 722 youth have been referred for diversion successfully, instead of becoming system involved. The demographics of the youth who have been referred to YDD - rather than incarcerated - are 56% Latinx, 32% Black, and 72% male identifying.¹¹ Despite these immediate successes and the fact that diversion is better for the wellbeing of youth than system involvement, the YDD is faced with challenges in achieving its mission of true youth justice in L.A. County. Funding for implementation is among the most critical of these challenges.

To make up for YDD funding shortfalls, the L.A. County board of supervisors placed a charter amendment, Measure J, before county voters in 2020. Measure J would have allocated at least 10% of locally generated, unrestricted funds to community investments, including youth development.¹² Although Measure J was approved by voters, several groups, including the Association of Los Angeles Deputy Sheriffs, filed a lawsuit to invalidate the measure. It was also opposed by the Association of Deputy District Attorneys,¹³ which claimed it would take away the sole discretion of district attorneys to file or decline to file charges against children and youth.¹⁴ The president of the Association of Deputy District Attorneys called Measure J "a knee-jerk reaction" to the protests sparked by the murder of George Floyd.¹⁵ Special interests opposed to Measure J also cite the loss of jail industry jobs or funding that will be diverted away from the Probation Department as the cause of their opposition.¹⁶ To secure their ongoing control and jobs, opposition groups disregarded the life-changing benefits YDD brought to children and youth.

Creating diversion and development programs will require the re-allocation of staff to the YDD. It will also require opportunities for Probation Department employees interested in the healing of youth with a diversion and development mindset to receive training and education to work effectively with adolescents in entirely different roles, and to transfer to other county agencies.

Progress has been made in the movement toward trauma-informed, culturally competent alternatives to youth incarceration. The approach has proven effective. But the full mission will not be realized until funding for health-based approaches are increased, and oppositional politics are removed.

The stakeholders in the chain of youth system involvement claim to care about the futures of the youth in their care. However, the people of Los Angeles and the L.A. County board of supervisors have been stifled in their progress toward the mission of a reimagined youth justice system. The law enforcement opposition has put their own interests of power, jobs, and money in front of the interests and wellbeing of youth and communities. Youth system involvement does not improve public safety; rather, it costs more and is detrimental to the development of youth. It is time to invest public dollars in the public good.

III. Barriers to Establishing Statewide Diversion Programs and SB 433

Following the lead of L.A. County and its innovative approach to supporting the health and development of youth outside of the juvenile justice system, the National Center for Youth Law (NCYL) introduced legislation in 2019, SB 433 (Monning).¹⁷ This legislation was designed to create pilot offices of youth diversion and development, modeled on L.A. County's YDD, in between three to five California counties. The legislation was accompanied by a \$10 million dollar budget request to be spent over a three-year period to cover primarily the costs of staff and some funding for programs and service delivery.

In advancing SB 433, NCYL aimed to build off of the successes of the Fostering Success,¹⁸ Youth Reinvestment, and Tribal Youth Diversion 2018¹⁹ and 2019²⁰ budget allocations. These policy victories resulted in nearly \$60 million going to diversion service providers across California so they could serve many of the roughly 43,000²¹ vulnerable youth²² who are arrested by law enforcement for misdemeanor and status offenses each year. The 2018 and 2019 diversion budget allocations had widespread support including that of Chief Probation Officers of California (CPOC), the political arm of probation and several individual probation chiefs. While increased funding for diversion service providers was an important win, advocates recognized that without investments in infrastructure to sustain them, these promising programs would be short-lived. Accordingly, SB 433 was bold legislation seeking to institutionalize a shift from funding punitive responses to resourcing health-based approaches to youth services.

Like the 2018 and 2019 budget allocations, SB 433 had widespread bipartisan support among legislators, advocates, and county officials. However, unlike its public support for diversion program funding, CPOC strongly opposed this infrastructure bill. Further, CPOC worked with its labor union allies behind the scenes to oppose and ultimately kill the bill. CPOC and their political allies supported the need for increased diversion services for youth, but opposed a new county office to oversee the administration of services (SB 433) – a scenario it wrongly characterized as duplicating services.²³ In fact, the new county office would not duplicate services – instead it would shift responsibility away from probation to a more appropriate agency. Therein lies the root of their opposition. The real concern was not duplication of services, but rather a shifting of authority, resources, and jobs away from the existing youth incarceration and surveillance industry toward a youth-supporting agency.

Services must be provided outside of the juvenile justice system due to the inherent conflict with asking the system that jails children, and has been shown to cause long-term harm, to also be the decision-makers about whether to divert youth from the juvenile justice system. Those in charge of and invested in running the youth incarceration system are not equipped to lead developmentally, age-appropriate youth diversion programming, nor do they have the incentive to ensure youth have access to appropriate services and supports to avoid unnecessary system involvement. For this

reason, arguments by CPOC that probation is an appropriate agency to administer diversion services are ill-founded.

Although never publicly stated, it became clear that probation and union leaders prioritized their jobs, funding, and power over their mandate to meet the needs of youth, families, and communities. The problem is vested interests, not funding. In fact, the money for these statewide reforms that support youth success and diversion exists in the state budget. We now have an opportunity to carve a different path forward, rethink some of our current structures and funding streams, and be creative in designing a system that centers youth – and works for all.

IV. Barriers to Implementing the Closure of California’s Youth Prisons Without Harm — SB 823 and California’s Office of Youth and Community Restoration (OYCR)

Until 2021, California had been one of only a few states in the nation without a state level youth-focused agency responsible for overseeing its juvenile justice system. Instead, oversight of California’s juvenile justice system is spread across numerous state agencies leading to inefficiencies and conflicting directives. These state agencies include the California Department of Corrections and Rehabilitation (CDCR) overseeing the state-level Division of Juvenile Justice (DJJ) youth prison system; the Board of State of Community Corrections (BSCC) overseeing county juvenile justice systems; and the state Department of Justice (DOJ) and the BSCC overseeing juvenile justice data collection and reporting.

As a result of this complex and inconsistent bureaucratic oversight web, children and youth suffer needlessly. The state-level Division of Juvenile Justice (DJJ) and the 58 counties run their respective juvenile justice systems in seemingly 59 different ways, with disparate local investments, practices, and youth outcomes. Caught in the middle of this morass are the incarcerated children and youth subjected to inhumane treatment. The result has been the over-incarceration and system involvement of youth²⁴ and primarily of youth of color,²⁵ the abuse and neglect of youth in confinement,²⁶ systemic corruption and legal violations,²⁷ costly litigation to correct systemic practices,²⁸ and poor outcomes and high rates of recidivism for youth exiting the system.²⁹

In January 2019, Governor Gavin Newsom announced his plan to close the state’s youth prisons and to rightfully move oversight of the state’s juvenile justice system away from CDCR to the Health and Human Services (HHS) agency. In Newsom’s words, this was sparking the “beginning of the end of juvenile imprisonment as we know it.”³⁰ Newsom cited the failure of ineffective and harmful correctional models and the promise of health-driven approaches to dealing with vulnerable youth as reasons for the move. This announcement was exciting; it meant California could become a leader in the health-based treatment of youth in conflict with the law.

Then, in May 2020, amid a global pandemic and rampant police violence against people of color nationwide, Newsom abandoned his commitment to a health-centered approach to youth justice. Instead, Newsom announced plans to immediately close DJJ and transfer the state’s responsibility for caring for imprisoned youth to the counties, specifically probation law enforcement agencies, as a part of budget rollbacks in the fiscal crisis caused by COVID-19.

Governor Newsom’s plan to close DJJ and transfer the state’s responsibility to county probation departments was overwhelmingly opposed by system³¹ and community stakeholders alike, many of whom characterized the plan as hasty, poorly conceived, and not in the health-based

vision the Governor expressed in 2019. Youth and community advocates remained committed to implementing the Governor's 2019 plans to adopt health-driven approaches to youth justice based on his acknowledgement and the widespread public recognition of the damage caused by the incarceration of children and youth.

Amid these concerns, the California legislature developed an alternative proposal in consultation with a broad network of youth justice experts, advocates, and community leaders. The Legislature's plan would delay closure of DJJ, establish a youth-focused state agency within HHS to oversee and support local practices, and require local multidisciplinary decision-making bodies to develop plans for counties to implement the reforms locally.³²

Unfortunately, the legislature's proposal faced familiar opposition, similar to that launched against the two above-described reform efforts. Probation, labor unions, and county lobbying groups were antagonistic to the legislature's plan and instead advocated for dramatically increased county funding and local control over state funds for treatment of youth in their systems, and against state oversight of local practices.³³

Ultimately, the Governor and legislature reached a compromise with the passage of Senate Bill 823.³⁴ SB 823 set in motion a gradual closure of DJJ, transferred the responsibility for treatment of DJJ-eligible youth to the counties, and committed approximately \$220 million annually to counties. SB 823 also required individual counties to assemble subcommittees of the Juvenile Justice Coordinating Councils, multidisciplinary teams that include systems and community stakeholders, to develop plans detailing how the counties intend to use state funds to provide youth with community-based, trauma-informed services in the least restrictive appropriate environments.³⁵

The state will spend more money on the oversight of horse racing than it will ensuring youth are treated humanely.

Importantly, SB 823 established the Office of Youth and Community Restoration (OYCR), a new state agency within HHS. OYCR's duties include providing meaningful oversight of a realigned juvenile justice system; offer technical assistance to counties; administer state juvenile justice funding programs; and promote best practices using research-driven, health-based approaches to youth justice.³⁶

Unfortunately, the promise and intent of SB 823 and the OYCR to transform California's juvenile justice system to a health-based model of serving youth in the justice system have yet to be realized. Among the OYCR's obstacles, it is woefully underfunded. In 2021, the Governor proposed an annual budget of \$3.1 million³⁷ for a state agency overseeing the entire juvenile justice system that serves approximately 35,000 youth on county probation supervision and more than 3,600 jailed in local juvenile halls, camps, and ranches.³⁸ The legislature knew more funding was required and, with strong support from youth advocates and community stakeholders, pushed for a \$30 million annual budget for the new state agency.³⁹ Ultimately, the OYCR received a \$7 million annual budget (with a one-time allocation of \$20 million to establish the agency).⁴⁰ By comparison, the governor's budget invested \$15.3 million in the California Horse Racing Board⁴¹ and \$20.7 million in the Board of Barbering and Cosmetology.⁴² The state will spend more money on the oversight of horse racing than it will on ensuring youth are treated humanely.

Implementation of SB 823 and the establishment and successful operation of the OYCR have continued to face strong opposition from CPOC, California State Association of Counties (CSAC), labor unions, and other special interest groups that prefer to maintain a law enforcement-driven juvenile justice system to the exclusion of health and community-based alternatives.⁴³ Their continued undermining of these reforms adopted through democratic processes have dire consequences, as they endanger children and youth and create a set up for long-term failure for which the public will be forced to pay.

Additionally, as of mid-September 2021, the state had yet to hire an OYCR director, administrative staff, or carry out OYCR’s responsibilities to support implementation of SB 823. Instead, without state leadership or guidance, county probation departments have begun implementing SB 823 reforms and developing county plans without meaningful input from community stakeholders,⁴⁴ as required by the law. And in so doing, rather than developing treatment programs in the “least restrictive appropriate environments,” as required by law, probation departments across the state have reported that they plan to imprison DJJ-eligible youth in county juvenile halls – maximum security detention facilities that are not designed for long-term confinement of youth. This is alarming for youth justice advocates who know the dangers this poses. Further, it illustrates the level of disregard that probation departments have for reform, even when that reform garners strong community support. These actions are simply wrong and could result in torturous conditions for youth.

V. Conclusion

Transforming the state’s approach to “juvenile delinquency” into an effective and successful model is achievable; we have the resources, the expertise, and the will. California policymakers, the Legislature, Governor and the public have embraced these changes as evidenced by the adoption of model policies at the state and local level. It is worth overcoming the obstacles to reform – because on the other side there is extraordinary potential and opportunity that will benefit society and improve the lives of children and youth impacted by the juvenile justice system for generations to come.

It is imperative that the state work to achieve this new vision, with the health and wellbeing of youth as the guiding light. Building a youth justice system rooted in positive youth development to improve public health and safety requires an understanding of adolescent brain development and the role societal factors, such as racism and poverty, play in the justice system. It also requires partnership with community nonprofits, public health and mental health agencies, and long-term, cross-sector commitment from an array of stakeholders to increase infrastructure and resources in order to create trauma-informed, rehabilitative, community-based youth programs in place of youth prisons and detention facilities. California’s children, youth, families, communities, and taxpayers deserve a system that they’ve said they want; it is time to focus holistically on public safety, including the health and wellbeing of youth, rather than the whims and democratically-subversive agendas of probation departments, law enforcement, and their political allies. Californians need to come together in our understanding that treating youth in a health-based approach is humane and necessary – and stand firm in that conviction.

It is time to focus holistically on public safety, including the health and wellbeing of youth, rather than on the whims and democratically-subversive agendas of probation departments, law enforcement, and their political allies.

Funding must be distributed equitably to county agencies and community-based organizations (CBOs) that provide education, health, and diversion services to youth, such as L.A. County’s Office of Youth Diversion and Development. Further, state and county budget allocations for probation departments must be reduced, commensurate with dramatic reductions in the number of youth arrested, incarcerated, and monitored by probation over the last decade. Furthermore, it is necessary to challenge probation departments to better use their resources to address higher-needs youth with more individualized supports, but also to shift their staffing practices without having to eliminate jobs. The current probation workforce should be retrained and repurposed to take on

new roles with the newly established county agencies and community nonprofits that will provide diversion and health-focused services to youth. This shift in job functions could be a point of collaboration for counties and labor unions.

The state and municipalities could also provide opportunities and resources for CBOs to unionize so that they may offer better compensation packages and focus on providing services long-term. Unions should not be an impediment to justice for youth, but should rather work in tandem with those efforts.

Legislation must also have proper controls and oversight to ensure that funding is being spent appropriately, as outlined by law. We must stop probation and other law enforcement departments from appropriating funds for services that directly counter those for which the funds were intended. The traditional approach has proven not just ineffective but actively harmful in myriad ways. This systemic failure of youth, particularly those of color, has done untold damage.

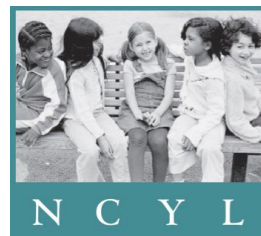
Meaningful reforms will take significant effort and commitment from stakeholders across the juvenile justice spectrum. It's time to put the health, safety, and development of young people at the forefront of a conversation that has too often brushed them aside. The status quo not only disproportionately harms Black and Brown youth, but has damaging impacts that reverberate throughout society. The U.S. continues to have the highest youth incarceration rate among developed nations,⁴⁵ and California is a significant contributor to this shameful status. It's time to prioritize youth and our collective safety over power and politics.

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National Center for Youth Law



The National Center for Youth Law works to create a world in which every child thrives and has a full and fair opportunity to achieve the future they envision for themselves. Our mission is to amplify youth power, dismantle racism and other structural inequities, and build just policies, practices, and culture in support of young people.

The National Center for Youth Law's Youth Justice Initiative (YJI) is committed to transforming our country's approach to youth justice. Our goal is to ensure that when youth come in contact with the juvenile justice system, they are met with equitable, community-driven, health-centered supports that achieve the best possible outcomes for themselves, their families, and their communities. Our mission is to lift up youth voice, public health expertise, and community-based organizations to fill the void created by the current punitive approach to juvenile justice. youthlaw.org.

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