

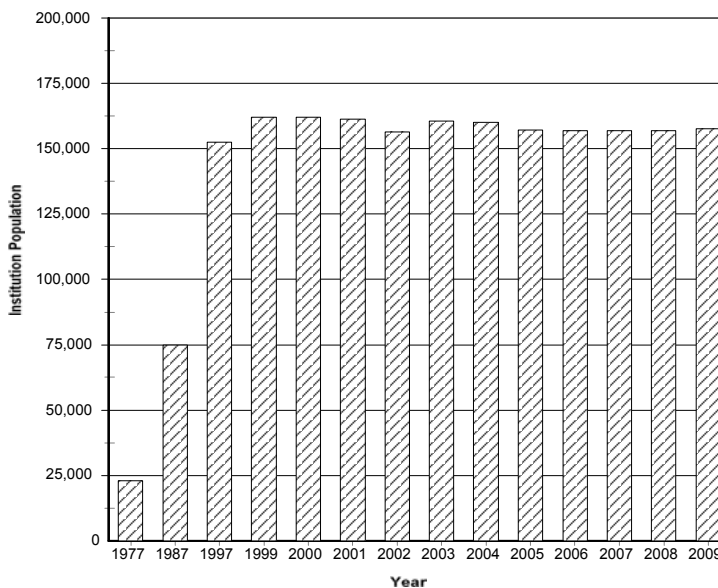
Chapter 9

# JUVENILE JUSTICE

## I. CONDITION INDICATORS

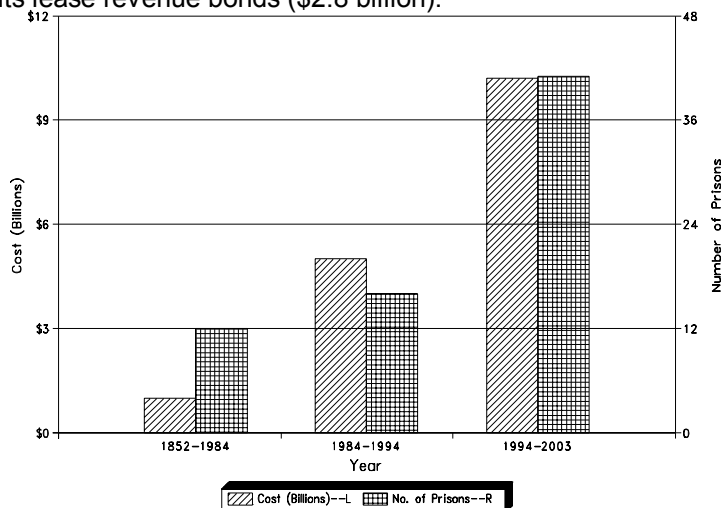
### A. Adult Incarceration Rates and Costs

California’s prisoner population has risen from 19,000 in 1977 to 161,785 in December 2003.<sup>1</sup> The California Department of Corrections projects that this population will drop to 157,623 by 2009, primarily because of budget reductions programs recently set in place (*see infra*).<sup>2</sup> Although the rate of growth has slowed in the late 1990s, the 750% increase in imprisoned adults over a single 26-year generation is momentous. This growth is a condition indicator of the preventive and rehabilitative performance of the juvenile justice system—which most adult prisoners experienced. California has 452 inmates per 100,000 population, compared to a nationwide rate of 476, ranking it fifteenth among the fifty states; among the ten most populous states, only Michigan, Georgia and Texas have higher incarceration rates.<sup>3</sup>



**FIGURE 9-A. Incarcerated Adult Population, Actual and Projected, 1977–2009**

The direct public operating cost for each adult inmate is currently estimated by DOC at \$30,929 annually; for each parolee, the annual cost is \$3,364.<sup>4</sup> Budgeted DOC operating costs have increased from \$2.7 billion in fiscal year 1994–95 to \$5.3 billion as proposed for 2004–05.<sup>5</sup> In addition to operating costs, capital costs of incarceration are substantial. Figure 9-B tracks increasing capital investment in adult prison construction. These costs are borne substantially through public bond financing. The state is expending 14.6% of its general obligation bond indebtedness on youth and adult corrections (\$2.3 billion) and 41% of its lease revenue bonds (\$2.8 billion).<sup>6</sup>



**FIGURE 9-B. Capital Costs of Adult Incarceration**

**B. National Juvenile Crime Trends**

According to the Federal Bureau of Investigation, juveniles accounted for 17% of all arrests and 15% of all violent crime arrests in 2001, the most recently reported year.<sup>7</sup> Nationally, between 1994 and 2001, the juvenile arrest rate for Violent Crime Index offenses fell 44%; as a result, the juvenile Violent Crime Index arrest rate in 2001 was the lowest since 1983.<sup>8</sup> Further, in 2001, the juvenile arrest rate for Property Crime Index offenses reached its lowest level since at least the 1960s.<sup>9</sup>

It is a common misconception that most violent crimes are committed by youths 15–19 years of age. A not untypical headline in the April 26, 1998 issue of *Parade Magazine*, one of the nation’s most-read publications because of its widespread Sunday newspaper insert distribution, read: “Young people between 14 and 19 account for most violent crime, say experts.”<sup>10</sup> As indicated above, the vast brunt of violent crime is committed by adults, and children are many times more likely to be the victims of child abuse and violence than they are likely to be perpetrators.<sup>11</sup>

The rate of juvenile arrests for murder and aggravated assaults increased somewhat in the 1990s. However, there has been a consistently sharp decline in the juvenile murder arrest rate from 1993 through 2001; in 2001, the number of juvenile arrests for murder was about one-third of that in 1993,<sup>12</sup> negating all of the increases that stimulated so many changes in juvenile justice policy in the 1990s. Juveniles do not account for most violent crime. In fact, arson is the *only* such crime where juveniles are the majority of arrestees.

In terms of murder and other major violent crimes, juveniles are not markedly overrepresented in relation to their percentage of the general population (e.g., in California, 14% of the population is comprised of youth aged 10–19). Their arrest rate (arrests/population) is higher for property crimes, especially car theft, burglary, and theft than for other age groups. Table 9-A illustrates the most recent

national data on juvenile arrests as percentages of all arrests (by type of crime).

Type of Crime	Juvenile % of all arrests				
	1997	1998	1999	2000	2001
Arson	50%	52%	54%	53%	49%
Vandalism	43%	42%	42%	41%	39%
Car Theft	40%	36%	35%	34%	33%
Burglary	37%	35%	33%	33%	31%
Theft (Larceny)	34%	32%	31%	31%	30%
Robbery	30%	27%	25%	25%	24%
Receiving Stolen Property	25%	25%	23%	23%	22%
Disorderly Conduct	27%	26%	27%	26%	28%
Liquor Laws Violations	25%	25%	24%	23%	23%
Weapons	24%	24%	24%	24%	23%
Sex Offenses	18%	17%	18%	19%	20%
Forcible Rape	17%	17%	17%	16%	17%
Simple Assault	17%	18%	18%	18%	18%
Aggravated Assault	14%	14%	14%	14%	14%
Drug Abuse	14%	13%	13%	13%	13%
Murder	14%	12%	9%	9%	10%
Vagrancy	11%	10%	na	na	na
Offenses Against the Family	7%	7%	7%	na	na
Drunkenness	3%	3%	3%	3%	3%
Prostitution	1%	1%	4%	2%	2%
DUI	1%	1%	1%	1%	1%

**TABLE 9-A. Juvenile Percentage of All Arrests Nationally<sup>13</sup>**

Since youths tend to be arrested in groups more often than adults, more accurate numbers require correction of the above data by using Federal Bureau of Investigation (FBI) “clearance data” rates to remove pre-charge releases, producing the following more accurate rates:

Type of Crime	Juvenile % of all arrests, reduced by FBI clearance data rates			
	1997	1998	1999	2001
Arson	46%	45%	49%	46%
Aggravated Assaults	12%	12%	12%	12%
Forcible Rape	11%	11%	12%	12%
Robbery	17%	16%	15%	14%
Burglary	20%	20%	19%	19%
Larceny/Theft	24%	22%	23%	22%
Motor Vehicle Thefts	21%	18%	19%	19%
Murder	8%	6%	6%	5%

**TABLE 9-B. Juvenile Percentage of All Crimes Nationally, Reduced by FBI Clearance Data Rates<sup>14</sup>**

The major area of increase nationally in the last decade has been in arrests for status offenses. For example, juvenile arrests for curfew and loitering violations increased 34% between 1992–2001; however, the runaway arrest rate in 2001 was 25% lower than in 1992.<sup>15</sup>

**C. California Juvenile Crime Arrest Rates**

Historical California juvenile arrest data indicate very low rates of arrest from 1960–66, followed by a sudden and extraordinary doubling by the early 1970s, with growth extending to 1981. Hence, 3.7 per 1,000 youth (aged 10–17) were arrested in 1965; that rate jumped to 5.5 by 1970 and 8.7 (its historical high) in 1979. The more serious felony arrest rate also rose from 1.7 in 1965 to 3.3 in 1970. It then reached its historical high of 4.2 in 1974, and in 1979 remained at a lower but still high 3.3.

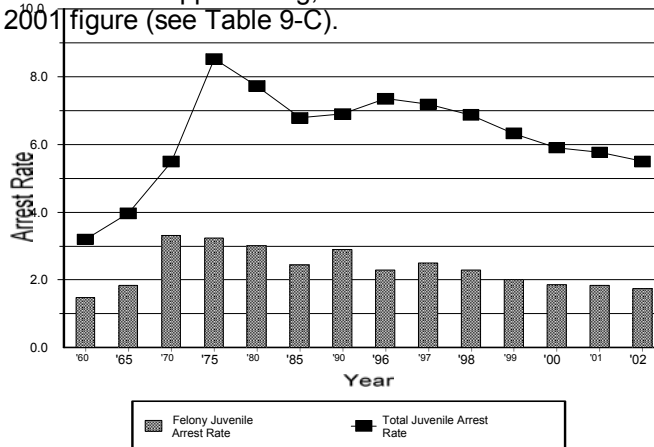
The historical trend for juvenile status offense detentions has been very different. From 1961–70, the rate was extremely high, from 5.3 to 7.6 per 1,000. Status offense detentions almost halved to 3.3 in 1974, falling steadily to 1.0 in 1980—coextensive with the rise in juvenile criminal arrests. The inverse relationship between these two trends is remarkable. Status offense interventions in 1960 declined steadily to 1980 to one-sixth their historical levels—as criminal arrest rates almost tripled.

From 1980 to the present, and contrary to common perception, juvenile arrest rates have leveled. Although not returning to the low rates of the 1960s, they are more than 30% lower than the rates extant from 1972–1980. Most encouraging, felony arrest rates from 1990 per 10,000 total population track as follows: 1990—2.9; 1991—2.9; 1992—2.9; 1993—2.9; 1994—2.86; 1995—2.74; 1996—2.65; 1997—2.51; 1998—2.27; 1999—2.01; 2000—1.85; 2001—1.84; 2002—1.74.<sup>16</sup>

	1980	1986	1990	1996	1997	1998	1999	2000	2001	2002
<b>Total Arrests</b>	252,130	210,603	218,916	274,195	276,520	269,959	258,125	243,090	240,486	229,634
<b>Arrest Rate</b>	8.28	6.78	6.95	8.46	8.39	8.06	7.58	7.05	6.92	6.51
<b>Felony Arrests</b>	97,376	76,192	91,373	85,640	82,748	76,104	68,503	63,889	63,993	61,539
<b>Felony Rate</b>	3.20	2.45	2.90	2.65	2.51	2.27	2.01	1.85	1.84	1.74
<b>Misdemeanor Arrests</b>	154,754	134,411	127,543	151,462	154,137	154,048	146,883	139,669	136,480	132,475
<b>Misdemeanor Rate</b>	5.08	4.33	4.05	4.67	4.67	4.6	4.32	4.05	3.93	3.75
<b>Status Offenses</b>	30,396	25,277	23,611	37,093	39,635	39,807	42,739	39,532	40,013	35,620
<b>Status Offenses Rate</b>	.998	.814	.749	1.15	1.20	1.19	1.26	1.15	1.15	1.01

**TABLE 9-C: California Juvenile Arrests and Arrest Rates 1980–2002<sup>17</sup>**

As arrest rate increases have stopped rising, status offense detentions leveled and then dropped 11% in 2002 over the 2001 figure (see Table 9-C).



**FIGURE 9-C: Total California Juvenile Arrest**

**Rate and Juvenile Felony Arrest Rate**

Consistent with national trends, the violent crime rate among juveniles increased in California more sharply through the late 1980s than did overall crime. The state ranked eighth nationally among the fifty states in the 2000 juvenile violent crime index; Delaware, Illinois, Florida, Maryland, Pennsylvania, Massachusetts, and Louisiana each rank higher.<sup>18</sup>

As Table 9-D indicates, juvenile violent crime—even given the state’s relatively high rate—is close to the population percentage which juveniles represent. California juveniles account for from 10%–13% of all homicide, rape, and assault arrests. Even with slight increases in 2001 and 2002, homicides in particular have declined substantially since 1991, contrary to the media-generated impression.<sup>19</sup> The raw numbers of juvenile homicide arrests (not adjusting for population increase) fell from 696 in 1991 to 308 in 1998 and to a record low of 160 in 2000. The numbers are starkly disparate from public perception of growing school/youth deadly violence.

	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Juv. Felony Arrests	21,158	21,549	21,590	22,601	22,494	22,099	21,143	19,791	19,013	16,739	17,567	15,865
Juvenile % of total	14.5%	14.3%	14.4%	14.7%	14.3%	14.6%	13.6%	13.7%	14.0%	12.7%	12.9%	12.0%
Juv. Homicide Arrests	696	645	618	542	521	389	353	308	182	160	194	215
Juvenile % of total	18.7%	19%	18.9%	18.3%	18.5%	15.3%	16.0%	14.5%	10.3%	9.8%	11.1%	11.5%
Juv. Forcible Rape Arrests	665	566	532	459	427	483	445	412	396	347	344	342
Juvenile % of total	15.1%	14%	14.9%	13.9%	13.3%	15.1%	14.3%	13.6%	13.7%	12.8%	12.6%	13.4%
Juv. Robbery Arrests	7,960	8,151	8,243	8,947	9,186	8,730	7,984	6,821	5,712	4,965	4,747	4,500
Juvenile % of total	25.4%	26.2%	27.9%	32%	33.2%	33.6%	33.5%	31.7%	30.5%	28.9%	27.7%	26.5%
Juv. Assault Arrests	11,695	12,005	12,009	12,481	12,200	12,360	12,220	12,105	12,582	11,138	12,182	10,670
Juvenile % of total	11.2%	10.9%	10.8%	10.6%	10.1%	10.5%	9.8%	10.4%	11.3%	10.2%	10.8%	9.8%

**TABLE 9-D: California Juvenile Violent Crime Arrest Rates 1991–2002<sup>20</sup>**

The areas where a higher incidence of juvenile crime are occurring are clear from the data—robberies and certain property crimes. As to the latter, Table 9-E presents those most involving juveniles.

	1991	1994	1996	1998	1999	2000	2001	2002
Burglary	24,884 31.9%	22,135 31.9%	22,420 35.9%	19,899 35.8%	17,131 34.7%	15,953 33.9%	14,826 30.7%	14,125 29.2%
Motor Vehicle Theft	16,857 38.1%	13,913 35.0%	10,700 36.1%	8,067 33.2%	6,528 33.1%	6,562 30.0%	6,789 26.8%	6,558 24.2%
Arson	978 54.9%	1,299 58.8%	1,128 57.2%	887 56.1%	909 59.1%	911 57.2%	990 58.6%	874 55.4%
Marijuana	1,378 9.8%	2,176 14.8%	2,488 16.2%	2,204 15.4%	2,327 16.4%	2,070 15.8%	1,995 16.6%	2,050 16.2%
Narcotics	4,973 6.2%	4,495 6.2%	3,609 5.5%	3,155 5.0%	2,514 4.2%	2,198 4.1%	1,905 4.0%	1,707 3.5%

**TABLE 9-E: Number and Percentage of California Juvenile Arrests for Major Non-Violent Crimes<sup>21</sup>**

The data reveal that arson is the *only* crime with a majority of juvenile arrests. Auto theft and burglary are two other felony property crimes of juvenile focus—but the juvenile arrest rates for both crimes is declining.<sup>22</sup> Similarly, drug offense arrests are predominantly of adults, including 96.5% of narcotics-related arrests in 2002; the juvenile percentage of narcotics-related arrests fell from 6.2% in 1991 to 3.5% in 2002.

The state and national fervor to punish juveniles—including California voters’ March 2000 passage of Proposition 21, the application of the “three strikes” law, trial as adults, integration of youth into adult

prisons, etc. (all sold on the perception of a “juvenile crime wave”)—contradicts the empirical data.

One popular perception the data support is the concentration of arrests among urban, low-income males between the ages of 15–17. Of the 61,539 juvenile felony arrests in California in 2002, over 68% involved youths aged 15–17 and 83% involved males.<sup>23</sup> The distribution of arrests suggests that between 30% and 40% of boys living in urban settings will be arrested before their 18th birthday.<sup>24</sup> These are not status offense detentions which dominated in the 1970s and 1980s, but are criminal offenses, particularly non-violent criminal misdemeanors. Moreover, all arrest data (as to juveniles and adults) understate the incidence of actual crime: Three-fourths of all crimes reported do not result in an arrest, and most crimes are not reported.<sup>25</sup>

The second number from the data of special concern is juvenile recidivism. While 59% of juveniles having a single contact with juvenile court do not offend again as a minor,<sup>26</sup> once a youth has committed sufficient offenses to warrant incarceration, rehabilitation is rare. One expert summarized the relevant data: “[E]ach subsequent time a juvenile is referred to court, the odds that the court can successfully intervene decline. While 41% of all juveniles with one referral will have a second referral to court, 59% of these second-timers will return for a third referral, and 67% of those will have a fourth referral.”<sup>27</sup> Over 70% of those with four referrals will have a fifth. On average nationally, approximately 90% of those subject to incarceration as juveniles (usually after four or more “referrals”) will be re-arrested within two to three years for a similar or worse crime; in California, 91% of youth offenders released from CYA will re-offend within three years.<sup>28</sup>

These indicators suggest weak prevention, little early intervention, and rehabilitation failure. Contact with the juvenile justice system correlates highly with violative behavior—as if its purpose were to reinforce and stimulate career criminality.

The age breakdown for recidivism is instructive: For 10- through 12-year-olds with one contact, 60% will have a second, but only 45% of 15-year-olds and 33% of 16-year-olds will return to court again.<sup>29</sup> Recidivism is consistently the highest in the 10- to 14-year-old group. Some of this decline is the result of fewer years as a juvenile within which such referrals can occur as youth approach 18. But the high rates for supposedly impressionable younger children indicate that the rehabilitation function of juvenile court involvement does not make much of an impression as currently constituted, or that many children are locked into an anti-social mindset at an early age.

#### **D. Child Victim Incidence**

In terms of national data, juveniles are twice as likely as adults to be victims of serious violent crime and three times as likely to be victims of simple assault.<sup>30</sup> In 2000, homicide was the fourth leading cause of death for children ages 1–14, and second for young people aged 15–24.<sup>31</sup> Of all persons murdered in 1997, 11% were under the age of 18.<sup>32</sup> Most juvenile victims are killed by adults, with juvenile offenders killing only 6% of murder victims under 5 years of age, 38% of those aged 12–14, and 22% of those aged 15–17. Most young child murder victims were beaten to death by family members, most older juvenile murder victims were killed with guns by an acquaintance or stranger.<sup>33</sup>

These rates may understate the proportion of child violence victims *vis-a-vis* adults because of different reporting rates. While 48% of violent crimes against adults are reported, the report rate applicable where children are victims is 28%.<sup>34</sup>

Where youth crime does occur—particularly involving violence—its victims are most often other youth. Figure 9-D shows the trend in child homicide deaths by gun. Three-quarters of all child homicide victims aged 12–17 die from gunshot wounds. The number increased more steeply than did population to 1991. However, following the national trend, gun violence is declining among California youth. In 2000, there were 642 gun-related injuries to youth under age 18, compared to 1,327 in 1995.<sup>35</sup> In 2000, 202 children age 0-17 died from gun violence, compared to 465 in 1995.<sup>36</sup>

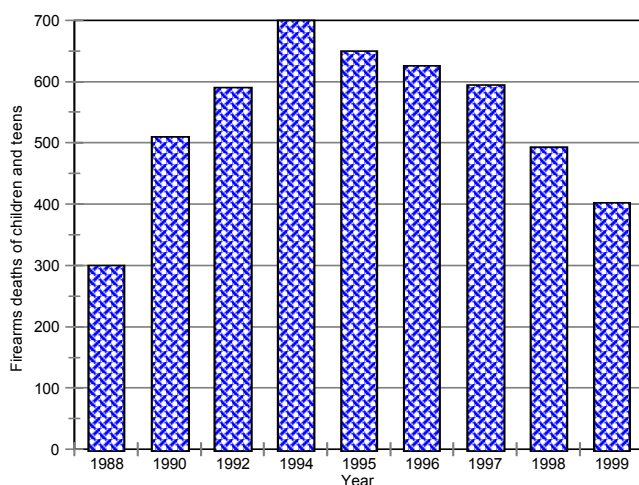


FIGURE 9-D. Child Homicide Deaths From Guns<sup>37</sup>

Exposure to violence at a young age, whether as a victim or a witness, often has long-term effects on children. One study found that at least 80% of children who commit homicides between the ages of 12–17 had witnessed domestic violence or had been abused themselves.<sup>38</sup>

### E. Juvenile Arrest Disposition

Police authorities encountering crime, whether adult or juvenile, operate primarily from local county and city jurisdictions.<sup>39</sup> An arrested youngster is subject to multiple tracks. Of the 191,579 law enforcement dispositions reported for juveniles in 2002, 78% of the juveniles were referred to county probation departments, and 21% were counseled and released by law enforcement.<sup>40</sup> In 48,486 of the cases referred to probation for further action, a formal petition was filed to make the child a “ward of the court” by a deputy district attorney assigned to the juvenile court. The arrests which are “referred” to probation but do not result in a petition (“charges”) generally involve erroneous arrests, consolidated cases, lack of evidence, or diversion—a process of referral to probation for services or agreed-upon compliance by a juvenile, in return for not filing a petition.

Formal petition cases subject to disposition invoke some due process rights based on the leading constitutional case of *In Re Gault*,<sup>41</sup> including hearing, counsel, testimony under oath, the right to cross-examine, and the right not to testify. However, there is no right to jury trial and proceedings have historically been confidential to enhance the traditional rehabilitative purpose of juvenile court. Most petitions result in documented consequences, with time ordered for probation, foster care, county camps, or California Youth Authority (CYA) facilities.

Of petitions filed in 2002, 12% were dismissed, 5% were placed in a diversion, deferred entry of judgment program, or transferred to another jurisdiction, 4% received informal probation; 4% received non-ward probation, and 0.6% resulted in the juvenile being remanded to the adult court.<sup>42</sup> Of the 48,486 juveniles made a ward of the court in 2002,

- 55.2% were allowed to go home;
- 27.5% were committed to a secure county facility;
- 8.2% were sent to a non-secure county facility;



- 7.4% were sent to other public or private facilities; and
- 1.7% were committed to the California Youth Authority.<sup>43</sup>

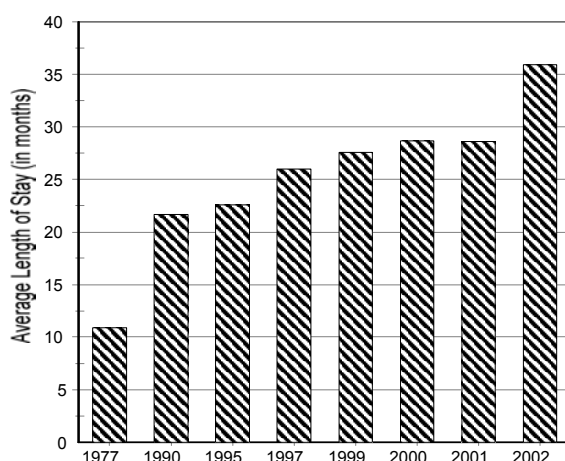
**F. Juvenile Incarceration/Recidivism**

The number of juveniles in CYA custody increased to 9,361 in 1994–95, but has since declined with a decline in arrests, and the imposition of a new “sliding fee scale” which charges counties somewhat more to send juveniles to CYA for relatively minor offenses. The population as of February 2004 was 4,351, down from 7,725 in January 1999<sup>44</sup>; the number of parolees in February 2004 was 4,165.<sup>45</sup> A one-day count in 2001 found another 6,982 juveniles held in county juvenile halls, and 5,121 held in county probation camps.<sup>46</sup>

First-time CYA-incarcerated youth are predominately males, 17 years of age; the top five referring counties are Los Angeles, Fresno, San Bernardino, Sacramento, and San Diego.<sup>47</sup> In 1975, 59% of CYA first commitments were minority youth; by 2002, the percentage had grown to 84%.<sup>48</sup> From 1985 to 2002, the number of white wards declined from 29% to 17%, African-American wards declined from 37% to 29%, Hispanic wards increased from 31% to 49%, and Asian wards increased from 1% to 3%.<sup>49</sup> Approximately one-third 36% of CYA wards typically have formally identified gang affiliations.<sup>50</sup>

In 1985–86, violent crimes were implicated in 34% of CYA first commitments; in 2002, 60% of those incarcerated were charged with violent offenses; 28% were incarcerated for property offenses, 5% were incarcerated for drug offenses, and the remainder for various other offenses.<sup>51</sup>

As Figure 9-E indicates, the average length of stay was 10.9 months for those released in 1977, 21.7 months in 1990, 22.6 months in 1995, 26 months in 1997, increasing to 35.9 months in 2002.<sup>52</sup>

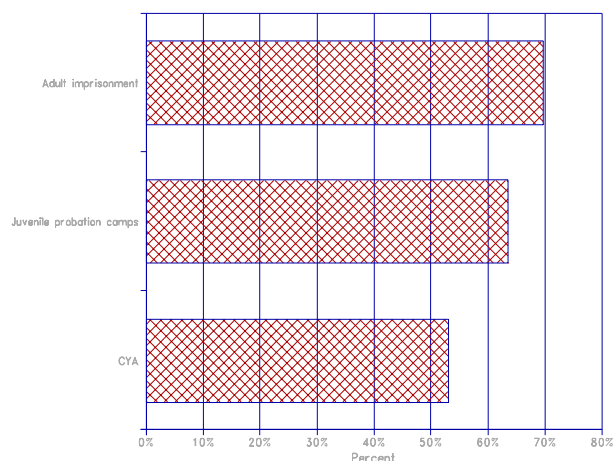


**FIGURE 9-E. CYA Youth Incarceration—Average Length of Stay**

Figure 9-F presents data on recidivism, representing those who are rearrested for a criminal offense after commitment to a county probation camp, or CYA, respectively, and as compared to the adult incarceration recidivist rate. The CYA number may be slightly depressed due to the removal of more youths into the adult category as noted above.

A CYA study of county probation camps with the lowest recidivist rates identified the following general characteristics predictive of success: smaller living units in rural settings, low occupancy rate, longer stays, emphasis on academic training and work with substantial use of volunteers, uniformity in camp program assignments, youths present at case reviews, and a high staff-to-youth ratio.<sup>53</sup>

All told, California has 12% of the nation’s youth population, but holds 19% of the nation’s incarcerated juveniles.<sup>54</sup> The United States has the highest youth incarceration rate in the developed world.<sup>55</sup>



Sources: Little Hoover Commission, *Putting Violence Behind Bars: Redefining the Role of California's Prisons* (1994) at 68; Little Hoover Commission, *Boot Camps: An Evolving Alternative to Traditional Prisons* (1995) at 19.

**FIGURE 9-F. California Comparative Recidivism Rates**

CYA, juvenile hall, and county camp numbers relied upon for calculating California's incarcerated delinquents will understate the total population under 18 who are in public facilities as statutory changes lead to more and younger youth "tried as adults" on the front end. Also, proposals to lower the CYA age jurisdiction would also contribute to the understatement of the delinquent population (see discussion of recent incarceration legislation below).

One issue of increasing concern is the correlation between police aggressiveness, incarceration rates, and length of sentence, based on ethnic factors. Two studies released in April 2000 found that minority youth are more likely to be investigated, arrested, incarcerated, and given longer sentences than are white youth involving similar alleged violations. Both studies focus on Los Angeles police and court practices.<sup>56</sup> One of the studies, sponsored by five foundations and the Justice Department, released data indicating that for those charged with a drug offense, black youths are 48 times more likely than whites to be sentenced to juvenile prison. Similarly, white youth charged with violent offenses are incarcerated an average of 193 days, blacks an average of 254 days, and Hispanics an average of 305 days.<sup>57</sup>

## G. Condition Indicators Relating to Causes

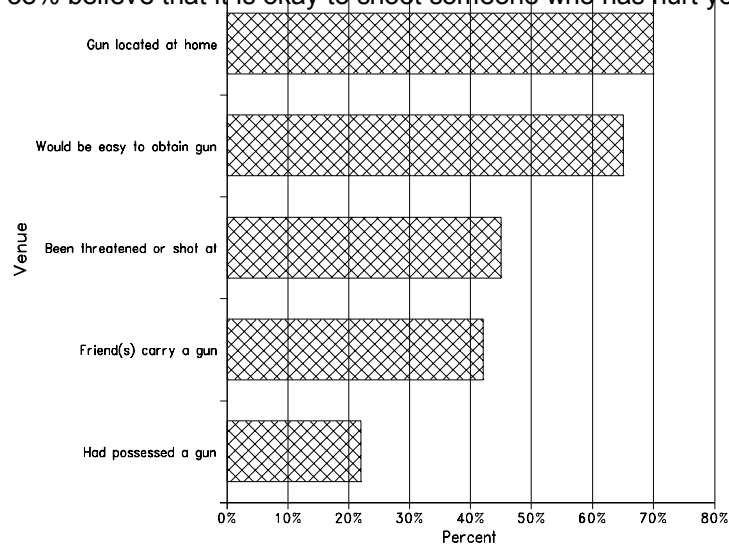
### 1. Firearm Availability

Youths are able to find lethal weapons easily. As indicated by Figure 9-G, a survey of inner-city high school students in four states, including California, found that 22% of the students surveyed had possessed guns. Only 35% of the students surveyed said it would be very difficult to obtain one.<sup>58</sup> There was a gun at home for 70% of respondents, 42% had friends who carried guns, and 45% had been threatened with a gun or shot at on the way to and from school.<sup>59</sup> A survey of youth inmates at correctional institutions in the same states found that 84% of them had possessed guns, and only 13% said it would be difficult to obtain one.<sup>60</sup>

A more recent survey of 4,000 arrestees in eleven cities nationally (including Los Angeles and San Diego) found that:

- 40% of arrested juvenile males personally possessed a firearm in the past;
- over 33% carried one within the previous month;
- 22% reported carrying a gun all or most of the time;

- 55% had been threatened with a gun;
- 50% had a gun fired at them;
- 11% had been injured by gunshot; and
- 38% believe that it is okay to shoot someone who has hurt you.<sup>61</sup>



Source: Joseph F. Sheley, Ph.D., and James D. Wright, Ph.D., *Gun Acquisition in Selected Juvenile Samples*, NAT’L. INST. OF JUSTICE RESEARCH IN BRIEF (1993)

**FIGURE 9-G. National Gun Access Survey of Inner-City High Schools**

A survey using answers by computer entry produced apparently more candid answers because of perceived confidentiality and anonymity. Most experts view the new results as more accurate. The 1998 study surveyed a national sample of 1,672 boys between 15–19 years of age. Among the answers scoring significantly higher with the more accurate procedure are the following:

- 12.4% admitted that they had carried a gun within the past 30 days;
- 27.1% carried a knife within the past 30 days;
- 34.4% had been threatened by another within the past year;
- 26.1% threatened to hurt someone else within the past year;
- 21.2% had a gun or knife pulled on them; and
- 8.9% pulled a gun or knife on someone else.<sup>62</sup>

These results are particularly troubling in light of the fact that 50% of the respondents were 15–16 years of age.

**2. Schools and Safety Generally**

The special issue of weapons in schools has been highlighted by recent school shootings, capped by the tragedies at Colorado’s Columbine High School in 1999 and at San Diego County’s Santana High

School in 2001. Weapons at school can be a particularly invidious cause of juvenile violence because once there is a perception that weapon use is widespread among youth, the tendency is to arm for self-defense.

National Center for Education Statistics data indicates that school is, in fact, the safest place for youth to be. Nationally, there were 32 school-associated violent deaths in the United States during the 1999–2000 school year, down from 55 in 1992–93; of the 32 deaths, 24 were homicides and 8 were suicides.<sup>63</sup> Combined, this translates into less than one homicide or suicide of a school-aged youth at school per million students enrolled during the 1999–2000 school year.<sup>64</sup> Away from school, during roughly the same time period, there were 2,124 homicides and 1,922 suicides of youth ages 5–19.<sup>65</sup> In addition, deaths and serious injury from adult abuse and accident number in the thousands, but are relatively rare in schools, where 50 million children spend most of the waking day 180 to 200 days a year.<sup>66</sup>

A recent survey on the subject involved a 1996 data sampling of 10<sup>th</sup> and 11<sup>th</sup> grade males from 53 high schools nationwide. This broad sample (beyond the juvenile justice system) surveyed a larger population (beyond the inner cities or arrestees) but focused on school safety. It found that 29% of the males possessed at least one firearm, but that only 6% had carried it outside the home within the last twelve months. The majority of gun use was related to hunting and recreational use—usually involving parental supervision—particularly in rural schools. Carrying a firearm in public was rare and carrying one to school was extremely rare.

However, as in the surveys above, 50% of respondents felt that they could obtain a firearm “relatively easily.” The survey indicated that the source of firearms is most often family or friends; few had ever asked anyone else to purchase a gun for them (legally or illegally). Most respondents cited “self protection” as the motivation for carrying firearms. The survey also included the principals of the schools, with only 2% contending that guns on school grounds was a “serious problem.”<sup>67</sup>

These surveys cumulatively infer that firearms are not often carried publicly or outside of recreational use and that they are extremely rare in school settings. However, it also supports the conclusion that guns are ubiquitously available, and that those youth who are steeped in the macho bravado gang culture and involved in delinquency are able to obtain a firearm easily, and disproportionately carry them for possible use against persons.<sup>68</sup>

Of greatest concern, 12% of California male respondents, and 3% of female respondents carried a weapon (usually a knife or club) on school grounds within 30 days of their interview.<sup>69</sup> The national percentage bringing such weapons is slightly higher (10% overall, 14% of males), and the weapons as defined in this survey are usually not firearms (e.g., club, knife, brass knuckles, mace), but the findings are nevertheless disturbing.<sup>70</sup> The fear and threat incidence is cited as a justification by almost all who carry.<sup>71</sup> Contributing to the fear is a national and California 7% incidence of high school students reporting they were “threatened or injured with a weapon on school property in the past year” (almost all involving a perceived threat).<sup>72</sup>

The data indicate that weapons are not often used, but are carried out of fear, or in order to “impress” a peer. The combination of cultural preoccupation with violence and notions of “manliness” (discussed below), media publicity of school violence, and the insecurity/immaturity of adolescence all coalesce to induce fear and to rationalize carrying weapons.

Apart from weapons, a substantial rate of physical fights and confrontations occur which contributes to fear and the perceived need to defend. The CDC’s 1997 Youth Risk Behavior Surveillance system found that nationally 37% of high school students (46% of males) had been in one or more physical fights in high school. Actual injuries are uncommon, with only 4% requiring treatment by a doctor or nurse. The percentage of students who are sometimes afraid to go to high school out of fear of personal harm is not insignificant, and is substantially higher than the statistical risk might warrant. In a recent study, 7% of California high school students felt “too unsafe to go to school at least once in the past 30 days.” The national percentage of high school students expressing the same fear was 4% in 1999.<sup>73</sup>

### **3. Media and Culture**

On February 7, 1996, a group of researchers released "The National Television Violence Study," commissioned by the National Cable Television Association and conducted by experts at three universities, including the University of California at Santa Barbara. The study monitored 2,693 shows on 23 channels and concluded that "violence predominates on television," and that the channels surveyed carried substantial violent themes in 44%–85% of their programming (HBO and Showtime at 85%, followed by basic cable channels at 59% and broadcast television at 44%). The study also noted that 73% of the perpetrators of violence were not punished in the same scene; by the end of the program, 38% of the "bad characters" received no punishment for their violent acts; 62% of the "bad characters" received some punishment. Only 15% of the "good characters" were punished or otherwise indicated regret or concern over their violent acts; and 47% of the television violence showed no harm to the victims and 58% showed no pain (where both would have occurred with the act involved).<sup>74</sup>

Protests by the nation's leading child advocates, including Children Now and the Center for Media Education, have been pressed during 1996–99 in direct meetings with media executives. On April 16, 1998, an updated study of television violence—again commissioned by the National Cable Television Association—was released by the same consortium of universities. The update compared previous findings with 6,000 hours of television on 23 channels from October 1994 to June 1997, finding that violence remained steady overall at 61%. The study found that the 38% of the bad characters who received no punishment throughout the show has climbed to 45%. And, again, the real impact and consequences of violence were avoided. Contrary to broadcaster protests that the count failed to consider the violence "in context," the researchers counted programs which included an antiviolence theme (4% of the programs surveyed). The overall steady orientation toward violence was sustained consistently, during daytime television, early evening, and weekends. Over 40% of the violence was initiated by the "good characters." One expert involved in the study concluded that children are taught "that violence is desirable, necessary, and painless."<sup>75</sup>

While in elementary school, the average child views 100,000 violent acts (including 8,000 murders) on television.<sup>76</sup> Media critics contend that the problem is not any particular show, but the drumbeat of violence without consequence, and the cartoon-like characters—exaggerating good and evil with physical aggressiveness and fighting skill often determining the winner.

On January 10, 1992, the *Journal of the American Medical Association* (JAMA) published a summary of the existing literature on television and violence as an influence on children, concluding that there is "a broad consensus in the scientific literature that exposure to television violence increases children's physical aggressiveness."<sup>77</sup> Does it correlate with later violence? The author noted that as of 1990, the average American child was watching over 27 hours of television per week, and that children through ages 3–4 view television as depictions of factual reality; they learn better as they grow older, but does that early experience have an impact nevertheless? Even when aware of its often fictional nature, does later immersion have an effect?

The JAMA presentation concludes: "Not all laboratory experiments and short-term field studies demonstrate an effect of media violence on children's behavior, but most do."<sup>78</sup> Moreover, the evidence from longer-range studies is more compelling: "All Canadian and U.S. studies of the effect of prolonged childhood exposure to television (two years or more) demonstrate a positive relationship between earlier exposure and later aggressiveness, although not all studies reach statistical significance."<sup>79</sup> Studies suggest that the most critical period is pre-adolescent childhood. One famous study involved an analysis of a small Canadian town called Notel, which acquired television for the first time in 1973 due to previous signal reception problems. Two years after introduction, tests of physical aggression among children revealed a 160% increase. Two similar control group towns nearby—still without television—showed no change.<sup>80</sup> Another 22-year prospective study of a semi-rural United States county correlated the television viewing of a group of 8-year-old boys and found that it "significantly predicted" serious crime incidence by age 30.<sup>81</sup>

The study also conducted its own survey, comparing United States, Canadian, and white South African television ownership and homicide rates (South Africa did not permit television until 1975).

Following the introduction of television into the United States, the annual white homicide rate increased by 93% between 1945–74; similarly, the homicide rate in Canada increased by 92%. For both countries, there was a lag of 10–15 years before homicide rates doubled, consistent with the developmental influence theory. Examining South Africa’s white population, the author analyzed an array of possibly confounding variables (age, income, urbanization, alcohol consumption, capital punishment, civil unrest, and firearm availability), and concluded that none explained the 130% increase in the white homicide rate between 1974–87 (U.S. and Canadian homicide rates did not increase markedly over the same period). The author concluded that roughly one-half of violent crime may be attributed to the influence of television and its portrayal of violence and its consequences, noting that the national cost of such an influence involves 10,000 additional homicides, 70,000 rapes, and 700,000 injurious assaults annually.<sup>82</sup>

This research follows a Surgeon General report from 1972 finding strong correlation between media violence and societal violence. A 1998 review of almost 1,000 studies presented to the American College of Forensic Psychiatry found that all but eighteen demonstrated a correlation between screen violence and human behavior; twelve of those eighteen finding no correlation were funded by the television industry.<sup>83</sup>

In June 1999, the House of Representatives rejected—by a vote of 282 to 146—proposed legislation which would have prohibited the sale and rental to children under the age of 17 of films, recordings, video games, books, and other media containing “explicit violent material.” Opponents to the measure contended that it was an unconstitutional effort to replace parental supervision and control with federal authority. Similar objections have been lodged to a current and continuing investigation by the Federal Trade Commission into media marketing of violence to children. Among the leads being pursued:

- media focus group research and marketing strategies to reach young children with movies, music and videos which the industry itself has rated for mature audiences;
- access given to children to violent products in record stores, theaters, and movie rental outlets;
- marketing of action figures to very young children (5–12 years of age) from PG-13 rated shows; and
- previews of R-rated movies shown before G-rated films.

A 1999 national survey of parents by the Kaiser Family Foundation found strong support for content based ratings for violence and sexual themes, and for V-Chip technology to allow parental control of messages which might influence their children.<sup>84</sup> The same Foundation issued a report in November of 2000 tracking how much time American children spent consuming media, mostly without adult supervision. The survey found that “media”, defined as television, video games, recreational reading and listening to music, consumed 38 hours a week of non-school time. Surprisingly, very little was spent on the Internet (an average of 8 minutes a day), but most of the five hours, 29 minutes per day on passive media reception is spent watching television, with an average time expended of 2 hours and 46 minutes a day. Moreover, the study found that children 8 and over spent only 5% of their television watching with a parent. The time spent subjected to cultural media influence increases for children over 8 years of age to an average of 6 hours 43 minutes a day, and with non-whites spending nearly one hour more per day passively absorbing media than white children do. Tapes and radio occupied an average of 1 hour and 27 minutes a day, higher than most adults would estimate, while computer use stood at a lower than expected 34 minutes (only 21 minutes non-school related).<sup>85</sup>

In October 2001, Children Now released a substantial report on the content and nature of video games—which are widely used beyond home computers, particularly in arcades and malls. In addition, advances in technology have led to greater game attraction and possible enhanced home computer use during 2001–02. The Survey found that 89% of the top-selling video games contain violent content, about half of which was serious in nature. It found that killing was not only seen as justified, but that acts of violence are typically rewarded—with victims appearing to be unaffected by their injuries and with no

consequences attending massive destruction of those designated for mayhem. More than 75% of games designated as “E”—for everyone—contained violent content. Females were commonly stereotyped, with males more likely to engage in physical aggression, but with rising numbers of females also employing lethal aggression—although with sexual implications (scanty dress, showing of cleavage, flirtatious mannerisms). There were no Latina or Native American figures in any of the games.<sup>86</sup> However, given the nature of these exercises, it is unclear if the absence of a minority group warrant criticism. Certainly most children understand that games are analogous to cartoons and the characters are not real persons. But the steady drumbeat of current video game psychology, in combination with movies, television and other entertainment, affects the child's view of what adults do, how they confront problems and conflict, what they admire in each other. Perhaps most important, it tends to disconnect the pulling of a trigger, the hitting of a “target” and the actual consequences of such an act in reality.

#### 4. Poverty and Hopelessness

There is a strong correlation between juvenile crime and a sense of personal failure or hopelessness. As Chapter 2 indicates, 2.6 million of California's children live in poverty. Child support collection from absent fathers distributed across most single-parent families averages \$46 per month per child, \$12 of which goes to government as welfare recompense.<sup>87</sup> Youth unemployment remains three times the adult level. High school drop-out rates remain substantially higher than state education leaders have claimed (see Chapter 7) and are particularly high for minorities and impoverished youth.

The sense of hopelessness is underlined by the geographical concentration of the poor and language barriers which further isolate them. Lacking the informal “friends of friends and relatives” connections of the middle class, and without mentors, these youth naturally gravitate toward those who have power within their own milieu.

The impact of poverty itself will become critical under the welfare reform changes now being implemented. Required work by TANF parents does not necessarily portend greater juvenile crime; recent studies indicate that high-quality child care buttressed by focused parenting after work can produce stable, productive, and happy children. But, as Chapter 2 discusses, private jobs at or above minimum wage for TANF parent recipients are not available given the number of new jobs and the extent of the competition for them. The research indicates that “high quality” child care is the exception, with child care workers among the lowest paid occupation in the economy. Child experts agree that, all other things being equal, the focused attention of a parent is superior to child care by third parties.

The result of CalWORKs-required workfare imposed on most TANF parents will be the reduction of parental attention for between 500,000 and 750,000 children. The workfare option counties are initially choosing would yield as family income only the TANF grant and reduced food stamps. Together, this safety net for children has been reduced for the benchmark family of three from close to the poverty line in the 1980s, to 89% of the line in 1989, to 73% currently. These low levels (including both TANF and food stamps) will not allow payment of rent, utilities, and adequate nutrition for children of TANF families.

Those parents who do not accede to workfare, or who otherwise do not comply with CalWORKs, are to be sanctioned through loss of “the parent's share” of aid, allegedly preserving protection of involved children. Although the voucher provision of CalWORKs may provide a temporary respite for the first sixty months of aid, it is not effective after the sixty-month mark. At that point, counties no longer have to provide work and can simply impose the “parent's share” reduction as CalWORKs provides currently. At this point, total TANF and food stamp aid falls to below 50% of the poverty line for most affected children.

For those unable to obtain charity or family help, the results are eviction and undernutrition. Where desperation ensues, increases in both adult and juvenile crime may be predicted, including particularly theft, robbery, welfare fraud, drug sale offenses, and prostitution, including in particular child prostitution.

#### 5. Child Abuse and Domestic Violence



There is a strong correlation between child abuse/family violence and later violence by juvenile victims or witnesses.<sup>88</sup> As Chapter 8 indicates, mandated child abuse reports have increased markedly over the past decade and now stand at over 707,000 per year. Witnessing or being a victim of violence at a very early age can have a demonstrable long-term effect on a child's decision to use physical force.<sup>89</sup> One recent prospective study that followed a group of abused and neglected children revealed that being abused or neglected in childhood increased the likelihood that a youth would run away from home, which, in turn, increased the risk for juvenile arrest.<sup>90</sup>

Foster children or those with abused backgrounds are highly overrepresented among those who later become delinquents. Often a child will be in both categories at the same time: in juvenile court as part of both a dependency proceeding and also involved in a separate delinquency matter.<sup>91</sup> The correlation between child abuse and concurrent or later criminal acts by the victim is the subject of ongoing longitudinal studies by the National Institute of Justice and others. They are examining the lives of 1,575 child abuse/neglect victims from court cases dating from 1967–71. By 1994 almost half of the victims had been arrested for a nontraffic offense, 18% for a violent crime.<sup>92</sup> By way of comparison, the national rate of arrest for any felony is 1.4%.<sup>93</sup> An important finding is that the arrest rate is as high in the neglect cases (defined as failure to give adequate food, clothing, shelter, and medical attention) as it is for the victims of beatings and gross physical abuse.<sup>94</sup>

## **6. Alcohol and Drugs**

Alcohol and drugs are compounding factors in delinquency. Alcohol drinking by male adolescents is associated with “macho” toughness; positive association with alcohol, particularly beer, is stimulated by \$2 billion in annual alcohol industry advertising and promotion. Alcohol is involved in about half of the hospital-reported firearm injuries in North America.<sup>95</sup> Illegal drugs have similar consequences and serve as a source of income in an underground economy associated with violence.

Research indicates that most adult drug abuse begins in the early teen years. In 1993, the National Center for Education Statistics interviewed a nationally representative sample of students attending sixth through twelfth grades. Even a sample starting at the sixth grade level found 26% reporting “easy access” to beer/wine or marijuana at school, and 22% reporting that it was easy to get “other drugs” at school.<sup>96</sup> Students reporting easy access to alcohol and drugs were more likely than others to know of violence at school, and to report incidents of physical attack.<sup>97</sup>

A 1999 survey of 322 San Diego juveniles who were arrested found that 56.8% of arrested males and 47.7% of arrested females tested positive for drugs.<sup>98</sup> Of special concern, surveys of self-reported teen drug use had declined steadily from 1985 to 1992 nationally—from 13.2% to 5.3%. But surveys since 1992 show a strong rebound, with steady increases in 1993 and 1994, and a 1995 level of almost 11%.<sup>99</sup> The most recent surveys continue the alarming trend. In 1997, Columbia University's National Center on Addiction and Substance Abuse commissioned a poll of youths aged 12–17 and found 56% who knew someone using cocaine, heroin, or LSD, an increase from 39% in 1996. The increase was the greatest among 12-year-olds, from 10.6% to 23.5% in one year. Citing other studies, the report noted that heroin use among eighth-graders doubled between 1991 and 1996 (to 2.4%), and that methamphetamine use has increased markedly among California's teens.<sup>100</sup>

The 1997 national survey of boys 15–19 years of age which likely obtained more candid results in computer-recorded responses found that 34.8% were high (or their partner was on drugs or alcohol) during their last heterosexual intercourse; 69.2% drank alcohol within the last year; 5.2% had taken street drugs with a needle; and 6.0% had used crack cocaine within the last year.<sup>101</sup>

The 1998 Monitoring the Future survey of high school students published percentages of seniors who had used alcohol, cigarettes, and various illicit drugs within their lifetime, within the past year, month, or daily. Within the last year 74% had used alcohol and 52% had “been drunk.” Over 37% had used marijuana or hashish, 10% stimulants, 6% inhalants, 7.6% LSD, 5.7% cocaine (not crack), 5.5% tranquilizers, 3.6% ecstasy, 2.5% crack cocaine, 2.1% PCP, 1.7% steroids, and 1% heroin. Except for marijuana, the illicit drug rate halves with admitted use within the last month, and reduces to below 0.3%

for any particular substance as used daily. However, alcohol use “within the past month” is at 52% with 33% confessing to being drunk, 35% have smoked cigarettes within the last month, and 22.8% marijuana or hashish. In terms of use at a daily rate, marijuana at 5.6% has passed alcohol at 3.9%. Cigarettes have by far the highest daily rate of use, at 22.4%.<sup>102</sup> Although use during the school day of alcohol or drug is rare, offering or selling illicit drugs at school is common, with 32% nationally reporting such an offer or transaction within the year. Significantly, the California rate of illicit drug offer or sale was at 37%, and at 46% for the state’s high school males.<sup>103</sup> This level is of particular concern given the exclusion from the sample of the Los Angeles Unified School District where the problem is most serious, and the sample’s coverage of ninth through twelfth grades (with half of the respondents 9<sup>th</sup> or 10<sup>th</sup> graders).

Another survey of children and parents released in 1998 found that the latter were generally unaware of the extent of drug use of their own children, including in particular availability to very young children. Among children 9–12 years of age, 28% had been offered illegal drugs in 1997 (up from 19% in 1993); 14% had close friends using marijuana (up from 7% in 1993); and 44% had tried marijuana (while only 21% of the parents thought it possible their children had done so). The study was the largest survey of its kind in the nation, including 1,922 preteens, 6,975 teenagers, and 815 parents.<sup>104</sup>

Another survey of California youth (using 1999 data) indicated some decline in drug and alcohol use among students. The 8<sup>th</sup> Biennial Student Survey, found that use of marijuana, methamphetamines, inhalants and alcohol declines among 7<sup>th</sup>, 9<sup>th</sup>, and 11<sup>th</sup> graders surveyed compared to earlier results. For example, alcohol use among 11<sup>th</sup> graders decreased from 78% in 1991–92 to 68% in 1999. Alcohol indicates a 10% drop across all grades. However, amidst the positive findings was a dire new threat: smokable heroin. The percentage of 11<sup>th</sup> graders who had used heroin in the previous six months in 1997 was 1.7%, but in 1999 was up to 5.2%. Only 14% of 11<sup>th</sup> graders surveyed said it was “very likely” that students wishing to end an addiction could find help at school.<sup>105</sup>

### **7. Paternal Abandonment; Family Disintegration; Gangs; Truancy**

As Chapter 2 describes, the absence of secure biological fathers in the home has become a growing phenomenon, and is now the case for two-thirds of the African-American children currently being born. Single-parent incidence for other ethnic groups is lower, but is increasing markedly.<sup>106</sup> The statistics on minority children indicate a strong possibility of them being born to an unwed mother, having little relationship with a biological father, living below the poverty line, and either dropping out of high school or being held back.

Research and correlations on the relationship between the presence or absence of fathers and sons’ incarceration confirm what is intuitive. The most recent extensive longitudinal study by researchers from the University of Pennsylvania and Princeton was presented in 1998 and isolates poverty flowing from single parenthood and other variables.<sup>107</sup> The research concluded that intact families (both mother and father present) have one-half the incidence of criminal incarceration as do any other family type, e.g., single parents, relatives, foster parent, orphanage. Interestingly, there was one exception. Youth in father-only (single parent) families equal the lower incidence of two parent intact families. Every other combination (those lacking an involved father) consistently suffer a statistically significant 200% enhanced incarceration incidence. The marked results hold up when controlled for other factors, including: poverty, parental education, age of teen mother, race, and regional residence.<sup>108</sup> In social science research, an influencing factor (independent variable correlation) of such a magnitude is extraordinary.

Psychologists opine that one of the results of paternal absence is a lack of an involved male role model as an alternative to the action figures presented by popular culture. Youth can become hyper macho as they prematurely try to play the male leader of the family using the models available. Where such a role is frustrated by the existing family, normal adolescent peer pressures create a “gang” family as a substitute. However simplistic, consistent with this analysis is the connection and correlative growth between single mother families among impoverished youth and the growth of gangs. A 1989 survey of

students aged 12–19 found 15% reporting “street gangs” in school. In 1993, a similar survey of a national sample of students in sixth through twelfth grades found 35% of students reporting “fighting” gangs in school; by race, 51% of surveyed Latino students, 42% of African-American students, and 31% of white students reported the existence of gangs in school.<sup>109</sup> A National Youth Gang Survey conducted for the federal Office of Juvenile Justice and Delinquency Prevention found gangs increasing in number to an estimated 31,000 with 846,000 members in 4,800 U.S. cities. Violent crime by youth correlates closely with gang activity, as the proportion of “multiple offender” arrests for robbery, aggravated assault, and other serious violence attests (from 50% to 70% of such violations). The surveys in the late 1990s indicates increases in white gang membership, and the expansion of gangs into schools, suburbs and even rural settings.<sup>110</sup>

Truancy and runaway rates reflect continuing family disintegration. Currently an estimated 20,000–25,000 youth runaways in California are homeless on any given night.<sup>111</sup> As recently as 1990, a national study of children living away from home concluded that 450,700 were runaways, and another 127,100 were “throwaways”—rejected or abandoned by their parents.<sup>112</sup> In 1995, the U.S. Department of Health and Human Services released a 1992–93 survey of youths aged 12–17 living at home, and a sample of youths aged 12–21 living in shelters or on the streets. The survey estimated that 15% of the American youth population—or 2.8 million children—had some runaway experience in the one-year period before the survey. The study concluded that about one-half of those living apart from their families were runaways, and the other half were throwaways. Families using drugs correlated highly with the parental abandonment experienced by the throwaways.<sup>113</sup> Conversely, research indicates that positive early experiences, either from parents or teachers, and high-quality early preschool programs, correlate with lower delinquency rates.<sup>114</sup>

## **8. Summary**

One expert summarized the predictors of future delinquency as follows: “[P]ast involvement in delinquency,...drug or alcohol use, problems at school, truancy, early sexual experience,...and association with delinquent peers. Youths from impoverished homes, homes with only one parent or guardian, homes in which one or both parents exhibit some kind of problem behavior such as substance abuse, alcoholism, or mental illness, or homes in which the parents exhibit poor parenting practices are more likely to become delinquent.”<sup>115</sup> Another source cites survey data of youths currently on probation, finding: “(1) most are more than three years below their grade level in reading and math skills, (2) 40 percent are not attending school, (3) 60 to 80 percent are abusing drugs or alcohol or both, (4) 60 percent are victims of abuse and neglect, and (5) 50 percent are from single parent homes.”<sup>116</sup>

Of greatest concern is the underlying growth of an underclass of impoverished children and youth as discussed in Chapter 2. With an uncertain safety net, continuing adult reproductive irresponsibility, little parenting education in schools, a culture which glorifies violence, and disinvestment in K–12 and especially in the higher education investment needed for the promise of upward mobility, the declining rate of juvenile crime is remarkable. As Chapter 7 suggests, youth and especially minority youth, are trying in larger numbers to get on track for college opportunity. The current generation of adults, whose parents’ education was financed largely by the GI bill of rights, have arranged property tax relief universal medical coverage for seniors, assured Social Security and subsidy of private pensions, while failing to invest in and work for future opportunity for their children. In any society, it is not statements of intent, but the example elders set which most influences children. Child advocates contend that the current generation of adults is violating generations of giving to children, breaking a long chain to take for themselves rather than to give to those who follow. That example, when it takes root among the young, will be the most intractable and lethal force driving juvenile delinquency.

## **II. BACKGROUND OF JUVENILE JUSTICE PROGRAMS**

### **A. The Purpose of the Juvenile Justice System**

The juvenile justice system was created to separate out children for special treatment where they have gone wrong. The state does not “charge” or “convict” a youth; instead, it petitions to make him or

her a “ward” of the juvenile court. The child is not “found guilty”; rather, the “petition is sustained.” And the youth is not “sentenced,” but “receives a disposition.” The paternalistic function of the court is to take children who have erred and impose possibly stern but constructive rehabilitation. The child is not to be mixed with adult prisoners. And the proceedings are confidential to allow the reputation of the child following correction to remain untarnished.

Relative to adult inmates, juvenile rehabilitation emphasis is justified by the more malleable, less formed nature of a young person's character and habits, and by the additional years of life beyond prescribed terms of confinement during which he or she will either contribute to society or impose additional costs.

The evolution in juvenile crime, indicated by the condition indicators above, combined with a series of court decisions moderating the informal *in loco parentis* nature of juvenile proceedings and importing adult court formalisms, have led to increasing convergence with adult criminal proceedings. For example, the Third District Court of Appeal held in 2004 that when a ward of the juvenile court who is 19 years of age or older violates probation, the juvenile delinquency laws allow the ward to be detained in, and ultimately confined in, an adult detention facility as punishment for the violation of probation.<sup>117</sup>

Heavy media reporting of juvenile crime, public anger, and political response have led to a series of recent legislative and budget policy changes, and to additional proposals to move children further yet in the direction of the adult system—for example, trying more youths at younger ages as adults, mandating predetermined minimum sentences, imposing longer incarceration, offering less confidentiality, increasing transfers to adult prisons, and housing youths with adult defendants. The stated bases for these trends have been the need for accountability, the recognition of larger numbers of youths behaving violently at earlier ages, and the public interest in removal of dangerous youths and deterrence to others.

### **1. The Case for Rehabilitation Investment**

The removal and/or deterrence justification of an incarceration response to crime may have some merit for both youth and adult violators, but juveniles are distinguishable: Removal occurs in the context of a likely return to society involving a substantial number of years out-of-custody and commending a larger rehabilitation effort, and deterrence may be limited by the less rational calculations and lack of life experience of many adolescents.

Even as to adult populations, Professor Franklin Zimring of the University of California has noted: “The almost quadrupling of prison capacity seemed to make little difference when it came to curbing the rate of violent crime.”<sup>118</sup> The reason for the failure is counterintuitive. Our culture teaches that people are either good or bad, and the bad understand primarily power and punishment. Hence, if we remove the “criminals,” they will be incapacitated and fewer crimes will result through their removal and from the deterrent message imparted to others. As discussed above, the incapacitation of offenders while confined clearly has some impact on crime which would otherwise result, but the most exhaustive study of the subject concluded that imprisonment prevents just 10–15% of potential violent crimes.

### **2. Paternalistic Help Versus Due Process Assurance**

The contradictory mix of substantive goals (removal/retribution/deterrence, based on notions of accountability and public safety, and rehabilitation, and recognizing the precious investment our children represent) have combined into a similarly curious hybrid procedure. The original “progressive” vision of saving children through paternalistic guidance has given way, through the *In re Gault* line of decisions to a federally-mandated importation of adult due process. These standards were imposed because state practices were arbitrary, and were unreliable in determining what happened. Further, they often led to long punitive sentences for trivial offenses. Seeing the state as a punitive and neglectful father, the Supreme Court opted to at least assure that judgments of culpability be made fairly in an adversary process with a record of truth ascertainment. The price paid for this choice, as it has been implemented,

is momentous: A child charged with a crime cannot be compelled to testify, and receives his or her own counsel who excuses, explains, defends, and attacks the credibility of others. Arguably, the message communicated by this procedure is that the proceedings are a kind of game. The truth does not matter—only evidence matters.

Some child advocates now argue that there is little room in such a system for what may be most effective—a demand for an explanation (requiring a child to explain himself or herself is not the equivalent of medieval torture to elicit false confessions). Such a confrontation may be part of a balanced and fair hearing—with all sides heard from. But where a child is found to have committed a serious crime and injured others, or is on the track to ruin, he or she could be confronted not with “that judge who has it in for me,” but with “we all agree that you were wrong. Apologize. We all condemn it. Do not do it again.” Child advocates increasingly ask, can an adversarial process produce such a result? Can such a result be produced without the arbitrariness and cruelty which gave rise to the imposition of adult due process safeguards? Have we forsaken an optimum approach to prevent the worst possible approach—albeit one we have historically inflicted?

### **3. Remedies and Recidivism: What Works?**

Currently, common sentencing options in California include foster care, probation, group home assignment, county-run juvenile probation camps, out-of-state private programs, locally-run boot camps, CYA-run boot camps, CYA conservation or work camps, and CYA mainline incarceration.

Each existing option has limitations. Foster care is not practical for older, serious violators and depends upon extraordinarily dedicated and skilled foster care providers currently paid small stipends. Straight probation is granted in the context of understaffed local probation departments and is viewed by many as a message of state apathy or impotence. Group home assignments are expensive and “counties have been placing convicted juveniles in six-person group homes that were originally designed for youth with family, physical or social—but not criminal—problems.”<sup>119</sup> Juvenile probation camps are underfunded and crowded. Early results from the lauded “boot camps” do not indicate substantially improved recidivism rates, particularly when considering that their current membership are volunteers.<sup>120</sup> Out-of-state placements are extremely expensive and the recidivist gains are uncertain. Finally, CYA mainline incarceration yields high recidivism rates and is reserved for the most dangerous youths.<sup>121</sup>

Whatever their respective drawbacks, most of the alternatives listed above also have respective advantages for particular types of offenders. Research suggests that many of them have potential to reduce substantially recidivism rates, depending upon the nature of the youths involved and the details of the programs. Recidivism rates are estimated at 63.5% for the county juvenile probation camps across the state.<sup>122</sup> The adult recidivism rate is a daunting 69.7%.<sup>123</sup> The CYA reports a 53% rate, but that figure excludes those committed to the adult prison system.<sup>124</sup> As discussed above, novel approaches sometimes show better results: the Twin Pines Boys Ranch in Riverside (partial boot camp format), Santa Clara County’s boot camp for female substance abusers, CYA’s Fouts Springs Boys Ranch, and the nonprofit Rite of Passage in Nevada all report 30% return rates.<sup>125</sup> Although most of the more successful programs have a voluntary character—resulting in the possible self-selection of more promising candidates—there is enough of a difference to warrant investment in the answer to the question: What works for which type of offender?

As discussed above, a CYA study of county probation camps with the lowest recidivism rates identified the following general characteristics predictive of success: single, smaller living units in rural settings, low occupancy rate, longer stays, emphasis on academic training and work with substantial use of volunteers, uniform in-camp program assignments, youths present at case reviews, and a high staff-to-youth ratio.<sup>126</sup> The most promising answer may be from New York where the Vera Institute of Justice focuses on job placement and skills training services for its boot camp graduates. Since the program began in 1989, it has placed about two-thirds of its participants into full-time, non-subsidized employment within two months of graduation. This group shows an 8% rate of return.<sup>127</sup>

Peter Greenwood, director of the criminal justice program of the RAND Corporation, concedes the difficulty in evaluating rehabilitation methods given the lack of control group comparability in most studies. The weight of the evidence does show that rehabilitation is difficult, and that a 20% reduction in recidivism (e.g., from 50% down to 40%) is a significant accomplishment. The variables in programs

which correlate with such a reduction include: (1) structured training in new skills and behaviors (rather than “counseling”); (2) intensity and duration of treatment; and (3) researcher (proponent) involvement in direct management.<sup>128</sup>

Although studies in the 1970s concluded that rehabilitation programs generally did not work on either delinquents or adult offenders, there is growing acceptance by experts in the field that some investments produce measurable results—at least to the 20% reduction range.<sup>129</sup>

Meanwhile, early intervention—although less subject to double-blind testing—has greater promise. As described below, the Orange County “8% Solution” appears to be cutting recidivism in half—a spectacular result if maintained over the next several years. Other types of early intervention have yielded more mixed results.<sup>130</sup>

Related to the profiling and intervention of troublesome children in the Orange County 8% approach is a broader appeal made by experts correlating positive, high quality early child care with reduced arrest rates later in life. On June 7, 2000 a consortium of experts released a report so concluding and highly critical of the level of investment made in children federally and within states.<sup>131</sup> (See discussion of Stage 3 child care coverage withdrawal in 2001–02, the lack of child care availability for working poor parents, evidence of increasing latchkey abandonment of children, and the quality problems arising from the low pay and lack of priority accorded to child care providers.

All experts agree that the area of greatest impact remains prevention—attacking the single-parent family structure, the absence of fathers, poverty, and drug and alcohol abuse underpinnings of delinquency.<sup>132</sup> Although some of these factors turn on private decisions by individuals and cultural values, public accounts can stimulate, educate, and reward preventive private decisions. Some of the accounts in Chapters 2–8 can play such a role, and direct child protection accounts can be funded or created to further those ends.

**B. Juvenile Law Procedure and Background**

The formal proceedings which determine the fate of juveniles violating state law take place in juvenile courts organized at the county level, divisions of the superior courts of the state. If not “diverted” from formal adjudication in juvenile court, a ward may be (1) placed in a foster care home, (2) placed in or with a county-administered and funded camp or institution; or (3) placed in a CYA state institution, camp, or program (see below).

CYA’s costs are a part of the state budget. However, virtually all of the costs of local jails, honor camps, probation departments, district attorneys’ offices, and sheriff and police operations are locally financed at the county level. Estimates of these annual local costs, which are outside of the identifiable *California Children’s Budget* state accounts, are allocated to juvenile justice as follows:

Program	Cost
Local law enforcement responding to juvenile crime	\$1.1 billion
Juvenile cases prosecution and defense	\$176 million
California juvenile courts	\$532 million
County juvenile-related probation costs	\$145 million

**TABLE 9-F. Local Costs of the Juvenile Justice System**<sup>133</sup>

**1. Juvenile Court Funding and Caseload**

The juvenile courts are part of the state’s superior court system. These court costs have been

shared between state and county sources—with special state legislation sponsored by counties delineating court positions and salaries on a county-by-county basis.<sup>134</sup>

State delinquency filings grew from just above 80,000 in 1988 to above 100,000 per annum by 1995, but have since fallen to 84,153 as of 2002.<sup>135</sup> This number does not reflect the full caseload due to the shift of more trials to regular superior courts as youth are tried as adults at earlier ages and for more types of violations (see below for a discussion of recent legislation). Of the 84,153 filings in 2002, 54,699 were original delinquency filings, 27,363 were subsequent delinquency filings, 2,038 were original status-offense filings, and 53 were subsequent status-offense filings. The 2002 total original filings of 56,737 represent an 11% drop in caseload since 1993.<sup>136</sup>

## **2. Options in Juvenile Case Disposition**

### **a. County Options**

Group home foster care placement, county probation, programs such as special education, counseling and mental health help, drug rehabilitation, and parenting classes may involve substantial county funding. The county probation camp option for moderately serious offenders has a promisingly low recidivist rate (see discussion above). These programs are generally short-term, lasting three or six months. They provide educational services, counseling, vocational training, work experience, and recreational programs. Some counties contract with other counties for juvenile camp placements. Los Angeles County has over half of the county camp capacity in the state, with 19 camps and an average stay of six months. On a typical day, there are 9,500 juveniles in CYA facilities, 6,000 in county juvenile halls awaiting hearing or disposition, and 3,600 in county-run camps and ranches.

### **b. Financing County Options: The County Justice Subvention System Program**

Apart from juvenile population or crime rate increases leading to more wards for CYA, its population is also dependent upon referrals from local courts based on unsatisfactory local alternatives for treatment or confinement. The number of CYA commitments increased historically partly due to major cuts in the funding (beginning in 1990) of the County Justice Subvention System Program (CJSSP). CJSSP provides funds to counties for support of local alternatives to the Youth Authority and state prisons.

The cost of placements in county facilities is primarily borne by the counties, assisted by some funding from the state to the CJSSP. However, the state has historically supported Youth Authority commitments, receiving only a token \$25 to \$100 per month per youth.<sup>137</sup> Statutory change in 1996 increased this charge to \$150 per month as of January 1997.<sup>138</sup> More important, the new law also established an alternative sliding scale fee for less serious offenders to discourage their state-subsidized incarceration in lieu of local alternatives. For example, a county is charged \$150 per month for offenses involving murder, manslaughter, kidnaping, rape, car-jacking, armed robbery, arson or drug selling. But those charged with commercial burglary (*e.g.*, shop lifting), carrying a concealed firearm, or battery will result in charges of \$1,300 to \$1,950, and where the violation is of a misdemeanor offense, the CYA charge to counties is \$2,600 per month. These changes have reduced the number of CYA referrals for incarceration from counties and courts, and have changed the mix of CYA inmates to one with a high concentration of serious, violent offenders.

### **c. Private Options**

Additional alternatives to CYA exist, including placements with private entities operating rehabilitative “camps” or programs. A number of youths are put into such private programs, *e.g.*, the Arizona Boys Ranch, the Rites of Passage in Nevada, and Glen Mills School in Pennsylvania. These programs operate outside of California allegedly because of group home regulation limitations in-state. Each of these programs is operated by nonprofit providers and advertises positive reinforcement and after-care attention.

### 3. Schools and Juvenile Justice

#### a. Truancy

Most experts now agree that truancy is a clear early warning signal and is strongly predictive of future juvenile justice involvement. To deal with school attendance failure (truancy), California established School Attendance Review Boards (SARBs) in 1974. These SARBs include parents, school administrators, and local mental health and law enforcement representatives. Where a family fails to follow a SARB directive, the matter may be referred to the district attorney for possible status offense petition *vis-a-vis* the minor, or criminal prosecution against a parent where “willful neglect” has occurred. This latter option, available under Penal Code §§ 270–72, has been rarely used in California.

Prior to 1994, a California student technically was considered truant after a third unexcused absence. After the fifth such absence, the principal can ask the parent to meet with the child’s teacher (or counselor) to discuss the absences. If this effort fails, the matter would be submitted to the district’s SARB, which would draw up a “contract” with the parents to require child attendance. If that step fails, the matter could be referred to the district attorney’s office. As noted above, such cases have been rarely prosecuted. Further, not sending a child to school does not qualify as “neglect” in practice warranting the termination of parental rights by dependency courts.

In 1994, a new truancy statute specified a four-step response: the first truancy triggers a written warning; the second truancy mandates attendance in a weekend program; the third truancy requires attendance at the SARB mediation program; and the fourth truancy results in possible designation as a ward of the court under Welfare and Institutions Code § 601, or a fine applied to the juvenile or to his parent, or other penalty—including loss of driving privileges.<sup>139</sup>

As of January 1, 1995, new amendments strengthen possible police enforcement of truancy. The practice had been to pick up youth during school hours and return them to school, perhaps notifying their parents. Current law now allows local jurisdictions to adopt loitering or curfew ordinances directed at youth during school hours, and authorizes police to issue “notices to appear” in juvenile court. This in turn invokes court jurisdiction, and allows court orders across a panoply of remedies, including fines, possible driver’s license suspension, required community work, or even dependency court jurisdiction and foster care placement if warranted by additional facts.<sup>140</sup> Los Angeles, Monrovia, and several small towns in San Bernardino County have adopted ordinances under this authority. The controversial Monrovia plan imposes what is essentially a school day curfew.

A 1996 investigative report by the *Sacramento Bee* indicated that the state is still not tracking elementary or middle school truants; most county offices of education do not either, and some school districts do not.<sup>141</sup> That report, as well as research on point, counter-intuitively finds that the vast majority of truancy is occurring in elementary and middle schools, not in high schools.

Many schools deal with truancy through automatic phone calling systems where parents are notified by electronic voice that their child is absent. One does not have to replicate “Ferris Buehler’s Day Off” to circumvent such a system. In contrast, the Los Angeles District Attorney has initiated an aggressive program of parental notification, followed by personal service if necessary, with warnings (in groups) of the consequences of repeated truancy to the children and the parents. Such an approach carries with it difficulties where parents who are unable to control their children are the subject of criminal prosecution. However, such a posture may give parents leverage with their children (as well as motivation) to stimulate school attendance.

In 1998, a coalition of federal agencies initiated the Truancy Reduction Demonstration Program, with the goal of encouraging communities to develop comprehensive approaches to identifying and tracking truant youth and reducing truancy. One of the seven Demonstration Programs was implemented in Contra Costa County, where two school-based programs are targeted at identifying students with chronic truancy patterns. Results from 2001–02 were promising, with six of the thirty identified youth making



honor roll status and 90% of the families involved were in compliance with SARB recommendations.

### **b. School Expulsion**

“Continuation schools” have traditionally been operated by school districts for students who are not attending regular classes due to illness, employment, parenting obligations, or discipline problems. They serve about 70,000 such students annually. Related to this effort is a small education account for “opportunity programs” for students in grades seven through nine who are truant or difficult.

In contrast, “community schools” are operated by county offices of education for 18,000 students in grades 7–12 who have failed in regular school or who have broken the law. In addition, county offices of education are required to have educational programs to serve juvenile detention facilities, and may choose to offer education for group home- and residential facility-assigned juveniles, termed “juvenile court schools.”

All of these programs (and several others<sup>142</sup>) deal substantially with a population called “Type C pupils”—those who have been expelled from regular classes, or who are referred by county probation after violating the law. Each such pupil costs about 30% more than a regular student.<sup>143</sup> The Legislative Analyst contends that counties are subject to fiscal incentives which do not lead to optimum placements, that too few services are available for early intervention (which is likely more cost-effective), and that wide and unjustified variations in funding levels for these programs exist.<sup>144</sup>

In particular, the premium received by county offices of education for Type C student enrollment in “community schools” has led to a doubling of enrollment since 1988–89, while funding for continuation schools has increased very little. At the same time, the community school students are in school for only four hours per day, rather than the six hours of regular schools. In other words, Type C students in community schools require more intensive intervention than do regular pupils, but get less attention for a 30% higher cost. However, the Analyst also found that the district-operated continuation schools were commonly ineffective, do not provide attention to students, and often do not provide alternative placement programs at all.<sup>145</sup>

As of January 1996, students must be immediately suspended and subsequently expelled from school when they possess, sell, or furnish a firearm, brandish a knife at another person, or unlawfully sell a controlled substance at a school function. The principal must recommend expulsion for causing serious injury to another (except in self-defense), possessing a knife or other dangerous object of no reasonable use to the student, unlawful possession of drugs (except for a first offense of under one gram of marijuana), or robbery or extortion. School districts must ensure that there is an educational program for all expelled students. This required alternative school option must have low student-teacher ratios, individualized instruction if needed, assessment, and collaboration with school district resources.

### **c. Police Interrogation of Children at School**

Existing law requires any school official who releases a minor pupil to a peace officer for the purpose of removing the pupil from the school premises to take immediate steps to notify the parent, guardian, or responsible relative of the minor regarding the release of the minor to the officer. The school official also is required to inform the parent about the place to which the minor is reportedly being taken.

However, a bill currently being considered by the 2004 Legislature—AB 1012 (Steinberg)—would require an elementary school principal to take immediate steps to obtain the consent of a parent or guardian of a pupil before making that pupil available to a peace officer for questioning. Also, the bill would require that, before making a high school pupil under age 18 years available to a peace officer for the purpose of questioning by the peace officer, the secondary school principal or his/her designee inform the pupil that the pupil has the right to request that his/her parent or other adult selected by the pupil be present during the questioning, as specified. According to AB 1012’s supporters, police are questioning school children at school often without the knowledge of parents. Contrary to what many parents believe, they currently possess no statutory or constitutional right to be present with their child

during questioning at school.<sup>146</sup> However, the California Supreme Court has held that if a student asks to speak with a parent, this is the same as invoking the right to counsel, and police must cease questioning.<sup>147</sup>

### 4. Special Treatment Requirements

#### a. Special Needs: Wards

CYA operates several treatment programs for wards which address a variety of illnesses and special conditions (e.g., physical disabilities), including Intensive Treatment Programs, Specialized Counseling Programs, Substance Abuse Programs, and Sex Offender Programs. CYA documents indicate that the special needs of the wards in several of these program areas exceed available bed capacity.

As is discussed in more detail below, however, a September 2003 report<sup>148</sup> on CYA's sex offender programs revealed that they do not meet currently recognized standards of practice in the field. The programs are missing critical components, such as a comprehensive assessment, evaluation, and treatment planning policy and procedure. Further, programs and staff are constantly cut because of budget problems; staff members are not regularly trained in intervening or behavior management with sexually abusive youth; and the overall culture of the programs is institutional and punitive rather than rehabilitative.

One area of special needs was enforced by a consent decree on December 7, 2000 in federal district court. Los Angeles juvenile hall youth who have hearing problems are at a rehabilitation disadvantage and in 1999 public interest attorneys filed an action on their behalf, objecting to the failure to treat or mitigate their physical problems and to a pattern of discrimination against them *vis-a-vis* non-disabled youth.<sup>149</sup> The suit contended that the state had invoked punitive measures for the violation of rules not communicated to the children, and that the state routinely excluded hearing impaired youth from educational programs and medical treatment. The suit contended that approximately 10% of the 18,000 youth detained in Los Angeles County have hearing problems in varying degree, and that those beyond a disability threshold must be screened and treated pursuant to Medi-Cal and other legal requirement. And the suit invoked the Americans with Disabilities Act preclusion of discrimination against the disabled. The consent decree obtained requires the Los Angeles County Office of Education to end an alleged "pattern and practice" of not treating hearing disabled youth, of isolating them, detaining them for longer periods, and otherwise discriminating against them.

#### b. Special Education

Special education is relevant to juvenile protection because of the high percentage of arrested delinquents who have special needs—including learning disabilities. Early intervention and investment in these children can create a life-long contributing stakeholder, rather than a rebellious drop-out. Accordingly, federal law (not changed by the welfare reform legislation) requires screening for child disability, and the development of an "Individual Education Plan" (IEP) to meet the needs of individual students. Those needs must be met with individualized instruction if necessary. One goal is the mainstreaming of such children in regular class rooms to avoid stigma and to allow more efficient instruction overall (see discussion of special needs children in Chapter 5).

Beyond school provision for the special needs of some children, the juvenile justice system has a separate opportunity to screen, detect, and develop IEPs for qualified youth—and its own legal obligation to do so. In 1989, the Youth Law Center (YLC) filed *Nick O. v. Terhune*, a class action on behalf of Nick O., a 15-year-old youth confined at CYA's Northern Regional Center-Clinic, and all others similarly situated. Nick O. had a long history of placement in special education programs prior to his confinement. He had been classified as severely emotionally disturbed since he was eight years old. CYA failed to provide Nick with any special education or related services designed to meet his needs. As a result of the lawsuit, YLC and CYA entered into a stipulated agreement under which the Department agreed to provide the federally-required services. Moreover, the Legislature subsequently approved additional

funding for special education.<sup>150</sup>

As part of the stipulated judgment, CYA was monitored by two experts to assure compliance with the court's order. Subsequent reports contended that the Department remained substantially out of compliance with federal law. The monitors found that the services are not equivalent in quantity or quality to those available to students in public schools; there is an insufficient number of qualified staff to provide services; students in need are not identified, located, and evaluated within prescribed timelines; IEPs do not contain specific instructional objectives that are measurable and within the student's capabilities; and students do not receive the amount or type of classroom instruction specified in their IEPs.<sup>151</sup>

CYA's Division of Education Services has since increased special education funding and by 1993 contended that it met IEP requirements; in May 1993, CYA obtained an amended order in the *Nick O.* case. Although increased funding and greater attention to IEP compliance has occurred, and increased numbers of wards are being graduated, the screening and identification of wards eligible for special education remains problematical. The CYA population represents a group with a disproportionately high share of special education-eligible juveniles; its available resources still limit seriously the numbers it is able to include (see discussion of CYA Division of Education Services below).

As is explained below, however, a December 2003 report<sup>152</sup> on educational programs in CYA facilities concluded that CYA does not have the ability to adequately monitor IEP compliance at each site and take corrective measures when a site fails to meet expectations. Further, CYA lacks uniformity in the identification and assessment of wards who have not previously received special education services or been identified as eligible for those services prior to their incarceration.

### **c. Mental Health**

Mental health problems occur disproportionately among delinquent youth. The National Mental Health Association summarizes the literature as follows: "Studies have consistently found the rate of mental disorders to be higher among the juvenile justice population...In fact, federal studies suggest that as many as 60–75 percent of incarcerated youth have a mental health disorder and 20 percent have a severe disorder. As many as half have substance abuse problems, with conduct disorder, depression ADHD, developmental disabilities, and post-traumatic stress disorder among common problems."<sup>153</sup>

In December 2000, a study funded by the U.S. Justice Department was released finding that early detection and intervention is rare and is actually diminishing, and that resources increasingly focus on youth incarceration costs ("warehousing") post arrest. The Report finds that segregation and deterrence rather than prevention or rehabilitation receive the brunt of public investment.<sup>154</sup> Former "Seriously Emotionally Disturbed" (SED) children, those abused (as discussed above) and those with a wide range of pathologies dominate the delinquent population. But assured treatment prior to offenses is problematical. Pilot projects, as discussed above, cover only a small fraction of the population needing early intervention and treatment.

Over the past several years, the failure to treat delinquents post arrest and incarceration has been documented in various reports. On November 21, 2000, the state's Little Hoover Commission issued a report charging that the state's failure to provide mental health treatment is making criminals out of the ill. The Report praised programs such as the AB 34 integrated program for the homeless (see Chapters 2 and 5 above), but decried the scant resources devoted to them or other strategies.

In April 2003, the Justice Department announced the findings of its two-year investigation into the treatment of juveniles in Los Angeles County, looking particularly at mental health-related issues. The investigation revealed conditions so severe they violate the inmates' constitutional protections.<sup>155</sup> For example, the report indicated that teenagers at risk of suicide were kept in rooms without supervision or with live electrical outlets and objects from which they could hang themselves; personnel failed to identify juveniles with mental retardation; mental health assessments were not routinely performed; and appropriate mental health treatment was not provided.<sup>156</sup>

Further, as is noted below, a December 2003 report<sup>157</sup> on mental health care and substance abuse programs in CYA facilities concluded—among other things—that the mental health care provided by the CYA is not adequate and does not conform to community standards or to professional standards as identified in the report. Evidence of clinicians utilizing evidence-based treatments is rare. Family involvement in treatment interventions is very much the exception in all facilities visited by the researchers. The report also revealed that there is a wide variation in the quality of care and treatment provided to youths receiving mental health services; much of this variation is a consequence of a history of limited central direction of behavioral health care services.

The lack of mental health treatment is particularly disappointing in the juvenile justice system, where the stated intent has been rehabilitation, and where the young age and promise of youth makes treatment most appropriate. The state's failures have run afoul of various statutory minimums and raise due process issues. They have been the subject of developing litigation. On December 2, 2000, San Francisco superior court judge Ronald Quidachay issued a court order in a lawsuit filed by the Youth Law Center against CYA, requiring the state's 11 youth prisons to improve medical and psychiatric clinics for their 7,500 prisoners within the next two years. The order was issued a year after the California Inspector General's Office found evidence of excessive force at the largest youth prison (the Stark Youth Correctional Facility in Chino). The case was brought under existing law which purports to mandate adequate in-patient health services, including staffing and training requirements.

In an unrelated case, on April 4, 2001, a federal district judge ordered the state to begin providing new forms of treatment to mentally troubled children in their homes and communities. Judge Howard Matz permanently enjoined the state in a three-year-old class action filed on behalf of institutionalized, mentally ill children to require treatment outside of confinement. Protection and Advocacy Inc. led by Melinda Bird, Western Center on Law and Poverty, Mental Health Advocacy Services and Public Counsel filed the class action in 1998 on behalf of 24,000 mentally ill children statewide.<sup>158</sup> Therapeutic behavioral services are provided under Medi-Cal, but are not provided to these troubled youth, seemingly the population deserving of highest priority for treatment. The short term therapy ordered by the court enables a trained professional to work one-on-one with a child in his home or community. Matz's decision notes the current alternative cost of \$100,000 per year to maintain a child in a state mental hospital removes the resource issue. The state may not choose the more expensive option which violates Medi-Cal entitlements and state assurances of treatment. The state must notify the families of children eligible for Medi-Cal about the new services and if those services are requested and denied, the state must explain and document its decision.

In yet another proceeding involving the mental health rights of wards, in February 2004 the Fifth District Court of Appeal considered the constitutionality of Welfare and Institutions Code section 1800 *et seq.* Among other things, section 1800 permits the filing of a petition for the continued commitment of a juvenile—beyond the maximum confinement period as determined by the sentencing court—when the Youthful Offender Parole Board concludes that it would be physically dangerous to the public to release the potential committee because of the person's mental or physical deficiency, disorder, or abnormality. In this proceeding, The court noted that the Constitution permits civil commitment only if it is proven that the potential committee has a mental illness or abnormality that makes him or her dangerous because the mental illness or abnormality causes him or her to have serious difficulty controlling his/her behavior resulting in a serious and well-founded risk of reoffense. Because section 1800 does not require the factfinder to determine whether a youth's mental illness or abnormality causes the potential committee to have serious difficulty controlling his/her behavior and whether this loss of control results in a serious and well-founded risk of reoffense, the court struck down section 1800 as unconstitutional.<sup>159</sup>

In 2003, the National Council on Crime and Delinquency (NCCD) conducted a study of California's county probation departments and mental health departments, in order to determine how those departments identify, assess, and provide care to youth in the delinquency system who have mental health issues.<sup>160</sup> The study's finding regarding the prevalence of mental illness among youth in the delinquency system are presented in Table 9-F(2) below.

According to NCCD, in-depth psychological assessments are performed on approximately 14% of youth in an average month (9% in small counties, 12% in medium counties, and 24% in large counties).<sup>161</sup> Over one-third of counties reported to NCCD that non-mental health professional staff who work directly with youth receive little, if any, additional training in mental health issues, beyond what is provided by the Board of Corrections-mandated training—“which only minimally addresses mental health issues.”<sup>162</sup> Almost two-thirds of probation departments and most mental health directors reported not having enough staff for handling the number and severity of mental health issues their systems see.<sup>163</sup>

	Youth in Detention	Youth in Placement	Youth Under Field Supervision
Percentage of youth who have a mental health issue serious enough to require treatment or services	42%	59%	33%
Percentage of youth who have been prescribed psychotropic medication	23%	32%	18%
Percentage of youth who have an actual diagnosis of a major mental health issues	29%	44%	18%
Percentage of youth who have some other indication or severe mental illness	24%	28%	16%

Source: National Council on Crime and Delinquency (September 2003)

**TABLE 9-F(2). Percentage of Youth with Mental Health Problems in the California Juvenile Justice System**

**5. Delinquency Prevention Programs**

The costs of juvenile offender rehabilitation, and the greater costs of adult crime and incarceration, underline the importance of juvenile crime prevention. In September 1994, the Little Hoover Commission released a report entitled *The Juvenile Crime Challenge: Making Prevention a Priority*,<sup>164</sup> which acknowledged the difficult challenge of prevention, but concluded that “prevention works better and is cheaper than treatment.”<sup>165</sup> Some experts contend that once serious juvenile crime begins, only 10% are predictably amenable to rehabilitation.<sup>166</sup>

Beyond the important impact of truancy and drop-out prevention efforts (discussed above), a number of preventive measures are authorized by existing law, and have direct budgetary implications:

- With funding provided by the County Correctional Facility Capital Expenditure and Youth Facility Bond Act of 1988, CYA provides grant funds to local youth centers and shelters, in order to bring together children ages 6–17 for programs and activities, such as recreation, counseling, youth leadership, and employment training. Shelters provide a variety of services to runaway or homeless minors, and abused/neglected children to assist them with their immediate survival needs and help reunite them with their families or find another suitable home. Through four allocations, CYA funded 41 youth centers and 28 youth shelters. Because these are grants of public funds, the law requires continuous monitoring of these programs for up to 20 years, depending on the amount of the grant award and the nature of the project. Thus, the Department continues to be involved with many of these programs even though the initial funding was provided 12 years ago.
- The Juvenile and Gang Violence Prevention, Detention, and Public Protection Act of 1998 made available \$25 million for allocation by CYA to nonprofit agencies to acquire, renovate and construct youth centers. These youth centers bring together children and youth ages 6–21 for services and activities including recreation, health and fitness, citizenship and leadership development, job training, anti-gang programs, teen pregnancy prevention programs, and counseling for problems such as drug and alcohol abuse.

- CYA's Gang Violence Reduction Project (GVRP) in East Los Angeles provides conflict mediation, as well as services in the areas of community-based education and alternative activities for at-risk youth. There are four grant-funded GVRP programs, all established on a competitive basis and administered through CYA's Office of Prevention and Victims Services. The core elements of each GVRP project are gang/conflict mediation, information sharing between various agencies including law enforcement, services for victims of gang violence, alternative activities to gang involvement for at-risk youth, and community service. Other program elements may include literacy development, parenting classes, family strengths programs, cultural awareness events, sports programs, and leadership training.
- In 1997, funds were allocated to CYA to award grants to local agencies to implement Young Men As Fathers Parenting/Mentoring Programs (YMAF) in their juvenile detention facilities and alternative schools. Currently, the CYA provides financial support and technical assistance to 15 counties that operate YMAF programs. The program consists of classroom instruction; family activities; and mentoring.
- CYA's Tattoo Removal Programs were designed to enhance employment and educational opportunities for at-risk youth. In exchange for removing offensive or gang related tattoos free of charge, participants were required to be involved in constructive activities such as school, employment, vocational training and/or community service activities. Removing gang related/offensive tattoos and facilitating pro-social activities are long proven to be cornerstones of productive citizens and public safety is enhanced. Program eligibility required youth to be under the age of twenty-five. For males, tattoos were removed from the lower arm, hand, neck, and head areas. For females, tattoos were required to be visible in a professional work environment. Moreover, the location of the tattoo must be deemed to present either a threat to the personal safety of, or an obstacle to employment. Priority for program participation was given to youth who had a job offer that was contingent upon removal of the tattoo. In 2003, CYA formally transferred ownership of the laser tattoo removal machines to five community programs that had been using them since 1998; however, CYA will continue to make referrals to those programs, as appropriate.
- **The "8% Solution."** A program in Orange County focuses on first time offenders, and uses a profile to predict who may later become serious delinquents, targeting them for intensive early intervention. This approach draws upon findings that 8% of juveniles are chronic repeat offenders and account for about 50% of all juvenile arrests and associated costs. Can they be identified and focused upon early? Orange County selected 41 candidates based on home instability, early drug use, truancy, and susceptibility to gang pressure. The caseloads of probation officers assigned to these youth are reduced from over 100 to 20, so they may include the family of the youth in the intervention. Other treatment includes community service employment, an emergency cash fund to help families pay rent or pay utility bills, and assignments to work with the disabled and elderly.

Because the problems faced by "8%" youth and their families are broad-based and deep-rooted, it took time to see tangible and positive results from the intensive intervention. There were modest, positive gains from the experimental group compared to the control group in the first year, but those results are more pronounced after 18 months. Specifically, after 18 months compared with the control group, the experimental group (those in the 8% Early Intervention Program) had fewer youth with two or more court petitions filed alleging new crimes committed or probation violations (55% to 70%); a lower average number of days spent in custody for offenses or probation violations (155 days vs. 221 days); and about one-fourth of the youth in each group had no further allegations of new crimes committed or probation violations.<sup>167</sup> Among the repeat offenders, the research demonstrates that the youth in the 8% program committed fewer offenses than their control group counterparts. Specifically, they had fewer allegations filed regarding new crimes or probation violations per minor overall (3.3 vs. 4.1 on average) and fewer new crimes alleged per minor (1.0 vs. 1.5

on average).<sup>168</sup> According to the Orange County Probation Department, the 8% Early Intervention Program is demonstrating success in reducing chronic repeat offending by high-risk youth.<sup>169</sup>

The Orange County 8% Solution pilot led to the High Risk Youth Education and Public Safety Program, designed to serve two youth populations who are on probation—the First-time Offender and the Transitioning High-risk Youth. The First-time Offender program serves youth who are on probation for the first time and are under the age of 16. The Transitioning High-risk Youth program serves youth who have been sentenced to a detention facility for at least six months and has served at least 90 days. In fiscal year 2003–04, the California Department of Education awarded \$11 million in program grants

In March 2001, the U.S. Surgeon General released a report on youth violence, examining the evidence of prevention efficacy, and concluding that youth violence programs have been successful where targeting specific populations of young persons, build individual skills among youth, involve parenting (effectiveness) training, and encourage changes in peer group involvement.<sup>170</sup> The report examines independent evaluations, particularly those involving control group comparison, and concludes that effective programs tend to involve certain positively correlating factors, including: parent training (see Chapter 7), skills training of youth, community based programs, compensatory education (bringing up youth who are behind), behavioral and skill development, programs to improve moral reasoning, and wrap around services. Those factors where evidence of efficacy is lacking include (unsurprisingly) firearm training and mandatory gun ownership laws, boot camps, residential programs, waivers to adult court, social casework combining psychotherapy with close supervision, individual counseling, and shock programs (such as “scared straight”).

The Little Hoover Commission’s 2001 Report on Juvenile Justice analyzed prevention programs throughout the state. It reaffirmed its finding that “prevention works” and is cost effective, presenting data showing crime reduction associated with such investment nationally—particularly where funded to scale. In California, it found 50 programs scattered through 17 agencies, generally fragmented and unconnected. The Report noted that most money was distributed locally based on competitive grants, which tended to reward skillful grant writers. Moreover, the common pattern of small grants by competitive bidding often cancels the additive effect of monies since ten applicants may seek a \$50,000 grant and spend \$8,000 each in creating a proposal—thus accomplishing a net loss in public spending for the purposes intended. The Commission found that outcomes were not measured, spending was not to scale where a successful method was indicated, and recommended both additional spending, outcome measurement, and the reorganization of state government to coordinate the effort. The Commission recommended creating a Youth Violence Prevention Institute to monitor recent research on youth and behavior, track what works and what does not, educate and facilitate collaboration. It also recommended the creation of a Youth Violence Prevention Council, and a Secretary for Youth Development and Violence Prevention to oversee the disparate prevention activities within the disparate agencies as discussed above.<sup>171</sup>

### 6. State Incarceration-Related Statutes with Budgetary Impact

The state has experimented with a number of programs to rehabilitate juvenile offenders on a pilot basis, but most resources are committed to police and punishment options, with incarceration the increasingly common outcome. The origins of juvenile law come from a policy of differentiation and separation from adults; recent reforms have moved in the direction of undifferentiated treatment and punishment of increasingly younger violators. Many raise constitutional concerns yet to be tested,<sup>172</sup> but these changes have proceeded apace, and have moved from rehabilitation to removal/deterrence.<sup>173</sup>

- **14-Year-Olds Tried as Adults.** Effective January 1, 1995, the age at which a juvenile may be tried as an adult was lowered from 16 to 14 years of age.<sup>174</sup> Moreover, where a 16- or 17-year-old minor commits a serious crime,<sup>175</sup> he or she is “presumed unfit” for juvenile court. Upon motion of the district attorney for transfer to adult court, the minor has the burden of proof to remain in juvenile court. This reversal of burden represents a substantial change from

the state's traditional protection of juveniles and rehabilitation focus. Now such juveniles are presumed to be treated as adults, and may be placed in close contact with serious adult offenders.<sup>176</sup>

A 14- or 15-year-old charged with first- or second-degree murder is similarly presumed unfit for juvenile court. Finally, 14- or 15-year-olds charged with a substantial list of crimes, including some property and drug offenses, may be transferred to adult court, with the burden on the prosecution to demonstrate unlikely rehabilitation.<sup>177</sup>

The California Supreme Court upheld the reversal of a trial court who found that two 15-year-olds who killed a store clerk during a robbery could be tried as juveniles, based on the five factors available to rebut the presumption. Although the findings of a trial court who hears the witnesses personally are entitled to great weight, and will only be reversed where they are "not supported by substantial evidence," the Court held that such substantial evidence was not present as to two of the elements, including "degree of criminal sophistication."<sup>178</sup>

The reversal of factual findings made after uphill showings on behalf of the involved youth indicates the extent to which adult institutions have shifted in their approach to youth corrections. From a rehabilitation focus and absolute separation from adult criminals, the law now allows trial as an adult where prosecutors make an extraordinary showing, and has even swung so far as to permit trial as an adult for a range of offenses—even at an early age—unless the child can make an extraordinary showing. And even that is subject to reversal unless each of five elements is "supported with substantial evidence."

- **Perpetrators Convicted of Serious Crimes May Go to State Prison Regardless of Age.** Effective November 30, 1994, minors (including 14- and 15-year-olds) convicted in adult court of a list of specified crimes may not be sentenced exclusively to the California Youth Authority. The Department of Corrections may use CYA facilities until the juvenile is 25 years of age, after which transfer to adult facilities is required.<sup>179</sup>
- **Department of Corrections, Not Judges, Decides Where Confined.** Those from 18–21 years of age, previously sentenced to CYA where considered by the court too immature or vulnerable for adult incarceration, must be sentenced to the Department of Corrections. The decision as to confinement of such prisoners in CYA or state prison is not made by the court, but is an administrative decision made by corrections officials.<sup>180</sup>
- **Confinement with Adults Permitted for Dangerous Youth.** A judge may find that a juvenile awaiting trial in juvenile hall is dangerous and order his or her confinement in an adult jail without separation from adult inmates.<sup>181</sup>
- **Credit for Time Served Limited.** Where convicted of a violent offense, sentence reduction (for "good time") is limited to 15%.<sup>182</sup>
- **Juvenile Identity Not Protected Where Charged with Serious Crime.** The police may release the name of a minor over the age of 14 charged with specified serious offenses to "any interested person"; a court may not close the proceedings to protect the minor, witnesses, or the public, as is currently permitted for juveniles charged with other types of crimes.<sup>183</sup>
- **Juvenile Expungement Limited; Convictions of Youth over Age 16 Count.** A record of conviction in adult court of a serious crime at age 16 or older may be entered into evidence in a subsequent juvenile or criminal proceeding.<sup>184</sup> This measure reverses the language in current law that no disability shall attach after the honorable discharge of a juvenile from CYA.<sup>185</sup> Juvenile priors now may count as priors for purposes of "three strikes" sentencing.
- **Three Strikes Legislation.** AB 971 (Jones), signed into law on March 7, 1994, provides that



where there is one prior violent or serious felony conviction, a subsequent felony is punished with double the prison sentence (the second strike). The existence of two prior (violent or serious) felony convictions yields a 25-year to life sentence upon conviction for any felony offense (the third strike). The measure also provides that at least 80% of the prescribed term must be served, and it precludes plea bargaining. In November 1994, the voters approved the somewhat duplicative “three strikes, you’re out” initiative, effective January 1, 1995. The measure locks the above terms into law, requiring a two-thirds vote of the Legislature to alter. Both of the above measures count juvenile court convictions for purposes of calculating prior convictions.

Juveniles may suffer their first and second strikes where they commit offenses at age 16 or older.<sup>186</sup> Qualifying crimes include most offenses involving firearms and “serious” violations, including assault. Upon conviction of any subsequent felony, including a minor drug offense, or petty theft with a prior, they may be subject to a doubling of the sentence (with one prior strike) or to a sentence of 25 years (with two prior strikes).

As a result of this liability, some defense counsel for accused juveniles are requesting jury trials. Most are taking matters to trial which might otherwise plea bargain because of the liability now attaching to a conviction. At the same time, more juveniles are being shifted into adult court and the penalty jurisdiction of the Department of Corrections, as discussed above. Some juvenile courts have expressed the view that if adult liability attaches, adult procedural safeguards must as well.<sup>187</sup> Even without the expense of jury trials, juvenile courts are seeing a substantial increase in contested jurisdictional hearings due to the sentencing implications and plea bargain prohibition. The number of contested proceedings in one jurisdiction appears to be doubling as a result of the change.<sup>188</sup> These costs do not appear to be reflected in juvenile court budgets, or in the accounts discussed below.

The Legislative Analyst estimates that initially 105 fewer inmates will be sent to CYA because they will be handled by adult corrections in state prison or other facilities. Another 175 annual admissions will be sent to CYA, but as referrals from adult corrections (termed “M-cases”) and subject to adult rules regarding release.<sup>189</sup>

Introduced in 2004, SB 1223 (Kuehl) would permit courts to review the sentence of a prisoner convicted as a minor in adult criminal court after the person has served ten years of his/her sentence or once the person has reached 25 years of age. Upon petition and notice to the prosecution, the sentencing court would be allowed to reconsider the original sentence. For the purposes of this evaluation, a court may consider the prisoner’s disciplinary records; participation in education and other programs; testimony of character witnesses and expert witnesses; and any other evidence that the court considers relevant. After the review, the judge may suspend the sentence, reduce the sentence to any sentence that could lawfully have been ordered at the time of the original judgement, or both reduce and suspend the sentence. To the extent that these prisoners’ sentences are either suspended or reduced, the Department of Corrections estimates significant savings, as per-prisoner incarceration costs range from \$28,000–\$35,000 annually. At this writing, SB 1223 is pending in the Senate Appropriations Committee.

Also introduced in 2004, SB 1151 (Kuehl) would clarify the “circumstances and gravity of the offense” criterion evaluated by courts to determine a minor’s fitness for trial in juvenile court. Under current law, courts have the discretion to evaluate a minor’s fitness for trial in juvenile court based on five specific criteria, including “the circumstances and gravity of the offenses.” In *People v. Superior Court (Jones)*,<sup>190</sup> the California Supreme Court found that, in conjunction with the circumstances and gravity of the offense, courts should also weigh the alleged behavior of the minor, the minor’s degree of involvement in the crime, the level of harm caused by the minor and other matters which may affect the circumstances and gravity of the offenses. SB 1151 would codify this finding. Although it is unknown what impact SB 1151 would have on courts’ fitness findings, if the measure resulted in only three more cases per year being tried in juvenile court, given the significantly higher incarceration costs at the California Youth Authority, annual costs of SB 1151 are estimated to exceed \$150,000.<sup>191</sup>

### 7. Proposition 21

In 1999, the Legislature enacted SB 334 (Alpert), a measure intended to enact some of the more popular provisions of Proposition 21, an initiative then scheduled for the ballot. The original version of SB 334 included a balance of punitive and preventive programs. However, Governor Davis required its amendment to eliminate all of the prevention oriented programs (and the \$150 million included for that purpose) to win his signature.<sup>192</sup> Some supporters of the bill contended that it was necessary in order to undercut Proposition 21, an even harsher and more punitive initiative coming before the electorate. Child advocates protested an apparently misleading ballot description which, following sophisticated polling and focus groups, used the word “gang” repeatedly, although the measure affects the law substantially beyond gang related measures. Labeled as a “Prevention Act,” it includes no prevention programs except for the prevention which may occur from lengthy incarceration. The Attorney General declined to demand correction of ballot description material.<sup>193</sup> It was later learned that focus groups indicated that if the measures actual provisions were understood, it would not win enactment. However, it passed by a comfortable margin in the March 2000 election.

The Proposition provides:

- Where specified violent crimes are alleged, youths 14 years of age or older can be tried as adults as the prosecutor decides (rather than allowing court discretion).
- Juveniles over 13 years of age are tried as adults in all “special circumstance” murders, and in all “one strike” sexual offenses.
- All gang-related felonies are “strikes” for purposes of the state’s three-strike mandatory life sentence statute.
- Juveniles on probation could be revoked and remanded to custody based on “reliable hearsay,” with only a preponderance of the evidence requiring revocation.
- The sealing of records are prohibited for all juveniles over 13 years of age found to commit a violent offense (currently, records may be sealed after six years to provide a rehabilitation incentive).
- Judicial ability to close hearings are limited, and law enforcement officials may disclose the names of juveniles arrested for serious crimes even before charges are filed by the district attorney, and allows the release of the names of juvenile suspects where it would “protect the public” in police judgment, without obtaining court assent (as was required).
- Local police are required to “register” all gang members convicted of any felony.
- Defines individual “gang” members as conspirators as a matter of law in any felony committed by other members of the gang, whether or not those persons participated in it, agreed to assist, or otherwise meet the normal criteria for criminal liability.
- Imposes sentences requiring incarceration for a substantial number of offenses if found to be “gang related,” for example, even a misdemeanor offense requires a minimum six months of custody if found to be gang related.
- Allows wider use of wiretaps if gang activity is suspected.
- Expands the list of offenses for which a juvenile must be detained in custody pending a hearing.
- Eliminates the option of informal probation for youth over the age of 13 who are charged with any felony.

- Requires offenders of certain crimes to be sentenced to be incarcerated in a secure facility.
- Expands the circumstances further where juveniles over 15 years of age who are convicted in adult court may be sent to state prison rather than CYA (even if under 25, 21, or 18 years of age).
- Provides for indeterminate life sentences for robberies in the homes of others, car jacking, witness intimidation and drive-by shootings.
- Creates a new crime of “recruiting” for gang activities.

The Legislative Analyst estimates the direct cost of the Proposition at \$330 million per year, with one-time costs of another \$750 million. Local government costs could include \$20 million to \$100 million, with one time costs of \$200 million to \$300 million.<sup>194</sup> Los Angeles county estimated a 25% increase in juvenile filings in adult court.<sup>195</sup>

The statute raises the concern that although recidivism is high in the juvenile justice system, it is much higher in the adult correctional system—where more juveniles may be sent (see evidence discussed above). Child advocates also object to the shift from rehabilitation to punishment, particularly given the findings of numerous studies that such punitive measures do not deter the often hormonal and peer pressure motivations of youth, and that studies have demonstrated the lack of deterrent benefit from Proposition 21’s approach.<sup>196</sup> Other critics bemoan the transfer of authority from courts which may consider whether a child may be rehabilitated, to prosecutors who have a narrower immediate public protection mission and who are normally subject to judicial check in making such determinative decisions. Still other critics are concerned about the vagueness of what “gang related” may mean, since all youth have friends they associate with, and the discretion given to police in such a setting. This concern is magnified by a pattern in some jurisdictions of police abuses, particularly in the gang units of major urban police forces (e.g., the Ramparts scandal in Los Angeles, and problems in the tactics of anti-gang units in San Diego).

Child advocates contend that the approach of the initiative is to disallow refinement based on specific circumstances, but rather to treat persons under broad, categorical outcomes. The substantial range of culpability, involvement, harm caused, specific intent to violate the law, and a host of other factors is not factored into punishment/remedy even where all agree the facts in an individual case may so warrant. The end result of a forced, mechanical, outcome, with those charged with making decisions to both protect the public and apply justice fairly limited in discretion within a narrow range of punitive mandates. A system which compels the same outcome under different circumstances can be as unjust as a system which mandates very different outcomes for the exact same acts under identical circumstances.

During May 2000, the American Civil Liberties Union, together with the Children’s Advocacy Institute, the League of Women Voters, and other organizations filed suit to void the initiative as unconstitutional on multiple grounds, including the violation of the single subject rule, violation of separation of powers concepts, and due process breach. In February of 2000, the 4<sup>th</sup> District Court of Appeal in San Diego heard a separate case and held that the proposition violated separation of powers doctrines, intruding into judicial functions.<sup>197</sup> The California Supreme Court granted review, reversed the 4<sup>th</sup> District, and upheld the proposition as constitutional in *Manduley v. Superior Court of San Diego County* 27 Cal.4th 537 (2002), filed on February 28, 2002. The eight minors petitioning the court had been accused of attacking some migrant farm workers in San Diego County, and reversed the 4<sup>th</sup> District Court of Appeal which had held that the initiative violated separation of powers. The Court went beyond the separation of powers issue and reviewed the various bases of pending challenges (violation of single subject rule, violation of equal protection concepts since such prosecutorial discretion only applies to juveniles, *et al*) and held that the measure passed muster as to each of the constitutional objections raised.

The initial few years of implementation have not yielded enormous change from previous practice. Between 1996 and 1999, more than 100 youth were in state adult prison, with 151 counted in 1997. As of July 15, 2001 the number had fallen to 98.<sup>198</sup> However, the totals after recent affirmation of the

measure could now increase. Moreover, the basic objection of child advocates is to the process: this decision is best made by a court after review of facts from multiple sources (including the prosecution) not made unilaterally by the Office of District Attorney.

### 8. Proposition 36

In November 2000, California voters approved Proposition 36: "The Substance Abuse and Crime Prevention Act of 2000." The initiative changes the traditionally punitive approach to drug offenses and introduces some treatment concepts. Effective July 1, 2001, offenders convicted of "non-violent drug possession" are to be sentenced to probation and drug treatment rather than jail or probation without treatment. Similar offenses by those on parole lead to similar treatment rather than return to prison. It requires up to one year of drug treatment upon request, and authorizes licensing of treatment programs by the state Department of Alcohol and Drug Programs, requires offenders to pay for treatment if they can afford it, provides for a study of the new approach's efficacy, and appropriates state funds to counties for treatment programs (\$60 million in 2000–01 and \$120 million/annum through 2005–06). In a curious anomaly, none of the money appropriated may be used for drug testing.

The new statute has implications for the juvenile justice system since case law is clear that a youth cannot receive a harsher penalty than an adult would receive for the same offense. Accordingly, it implicitly alters the state's approach to youth as well as adults. The strongest argument in opposition to the proposition is two interrelated contentions: (1) the treatment alternative assumes a desire by a defendant to de-addict, and (2) the major inducement to lead defendants into rehabilitation has been the threat of a harsher possibility (jail) which the new law removes from the table.

### 9. Federal Legislation and Funding Options

The Bush Administration's 2005 budget proposes to slash funding for juvenile justice programs by 41%, from \$308 million in fiscal year 2004 to \$180 million in fiscal year 2005.<sup>199</sup> These cuts include the elimination of the Juvenile Accountability Block Grant program. As noted by the Children's Defense Fund, the juvenile justice program cuts represent a highly regressive and dangerous shift in public policy, turning away from prevention and intervention and toward a focus on prosecution.<sup>200</sup>

#### a. Federal Violent Crime Control and Law Enforcement Act of 1994

A major source of funding to address juvenile and adult crime is the Violent Crime Control and Law Enforcement Act.<sup>201</sup> The statute was enacted only after the elimination of \$2 billion in originally-proposed prevention funding. The final conference agreement removed 13 prevention programs and replaced them with a \$377 million Local Crime Prevention Block Grant. Nevertheless, the \$30.2 billion statute devotes a remaining \$6.9 billion to preventive programs, most of which could affect juveniles.

The deletion of the prevention titles from the 1994 statute removes what Republicans called "social welfare programs" from a "law enforcement" measure.<sup>202</sup> As the discussion in other chapters of the *California Children's Budget* indicates, where block grants are designated for a broad array of programs, some may inhibit practical funding for others. Where prevention is grouped with underfunded services involving immediate demands, prevention generally goes unfunded. Affirming the merits of such concerns, California's post-1996 budgets have focused on the use of these federal block grant funds for prison construction or police and safety-related improvements.

The major Congressional initiatives from 1995 to the present have failed passage, including H.R. 3565 (McCollum, R-FL), the Violent Youth Predator Act, H.R. 3 (McCollum, R-FL), and S.10 (Hatch, R-UT) (and its 1999 successors). The measures contained in the latter two remain pending in Congress in various forms, but are given little chance of passage. These measures have included mandatory prosecution of juveniles over the age of 14 as adults for serious federal crimes, with an option to prosecute 13-year-olds as adults as determined by federal prosecutors. Juveniles (even before conviction) may be housed with adult prisoners. The laws would remove all juvenile confidentiality rules—subjecting all proceedings to adult rules. Grants would be available only to states enacting

statutes so providing. These measures currently compete with the approach taken in H.R. 278 (Schumer, D-NY), the “Balanced Juvenile Justice and Crime Prevention Act,” which would provide additional authority to federal prosecutors to try children as adults, increase juvenile record disclosure where offenses are serious, and accelerate trial of gun-involved offenses, but couple these provisions with individualized sanctions, juvenile drug courts, and after-school crime prevention programs and grants.

### **b. The Boot Camp Alternative**

The “boot camp” alternative for youthful offenders has become a popular proposal for enhanced spending. These camps generally target young, non-violent, first-time offenders and subject them to “shock incarceration” where they are put through a regimen similar to military basic training. The format generally involves precision drills, physical exercise and labor, close discipline, drug abuse treatment, counseling, and education. Usually, the participant is given an inducement of a short incarceration period—often six months or less—to volunteer. The stated purpose is to instill discipline, routine, and obedience to orders.

A 1993 report by the U.S. General Accounting Office estimated that 30 states and the federal government were operating more than 60 adult and juvenile boot camp facilities with a total capacity of about 9,000 inmates.<sup>203</sup> California’s initial boot camp was opened on September 1, 1990 by the Los Angeles County Probation Department and emphasized drug treatment for juveniles. The state now has the two juvenile “LEAD” programs noted above.

Additional boot camp *modus operandi* for juvenile corrections appears likely. In 1992, the Congress authorized the Office of Juvenile Justice and Delinquency Prevention to establish three model juvenile boot camps to emphasize education. Although few of the preventive programs of the Violent Crime Control and Law Enforcement Act of 1994 have been funded, substantial additional funds in “incarceration” categories have been made available. California’s share of funds over the next five years in categories amenable to boot camp spending will exceed \$1.3 billion.<sup>204</sup> See discussion below of the major boot camp investment supported by Governor Davis, the National Guard operated “Turning Point Academy.”

### **c. Federal Juvenile Accountability Block Grant**

Congress enacted through the budget process for fiscal year 1998 a \$250 million Juvenile Accountability Block Grant. Each state’s share is based on its proportionate under-18 population, which should make California’s yield above \$35 million. Grants go to the state, with 75% to flow through to local governments based on law enforcement spending and rate of violent crime. The state should help to arrange local jurisdictions into “juvenile crime enforcement coalitions” favored by the federal Office of Juvenile Justice and Delinquency Prevention administering the program.

Funds may be used for one or more of twelve purposes. Regrettably, the funds are not allocated for prevention except for a few narrow programs with possible preventive impact. Money may be used to develop accountability-based standards for juvenile offenders; fund pretrial services for juveniles; hire more court personnel and prosecutors—particularly where the latter create specialized drug, gang, and youth violence units; improve probation monitoring of juveniles; establish “gun courts”; set up more “drug courts”; implement drug testing for problem juveniles; establish accountability-based programs for court-referred juveniles; and establish information sharing between criminal justice systems, schools, and social workers.<sup>205</sup> To be eligible, states must “actively consider” legislation to prosecute more juveniles as adults, implement graduated sanctions for juveniles, enhance recordkeeping, and must not enact laws which prevent judges from holding parents responsible for the actions of their children. California’s recent record appears to satisfy these conditions.

The Juvenile Accountability Block Grant was once the largest single stream of juvenile justice funding. However, funding for this worthy program has been cut over the last few years, and has been eliminated entirely in the Bush Administration’s proposed budget.<sup>206</sup>

**d. Fathers Count Act of 1999**

The Fathers Count Act of 1999 makes available \$140 million in federal grants for responsible fatherhood, substantially as a deterrent to juvenile crime. The grants must promote marriage, better parenting, and enhance the income of impoverished fathers. This Act is the first federal program to address the critical preventive element in juvenile crime: enhance paternal presence and involvement.

**e. Juvenile Justice Appropriations: Existing Federal Programs**

In addition, a number of existing federal programs continued or received increased funding, most of which is available to states as grants. Table 9-G presents the existing federal programs extant in 1997, most of which has received some increase since. The Juvenile Justice Program total (in bold) is made up substantially of the programs listed thereunder, corresponding to the respective parts of the 1974 Juvenile Justice and Delinquency Prevention Act subject to reauthorization. Several federal programs not listed in Table 9-G also impact juvenile justice. Funds directed to programs such as Boys and Girls Clubs, runaway youth prevention, and various mental health programs relate to juvenile delinquency directly and indirectly.

Other related spending includes foster care and adoption assistance spending—given the high risk nature of that population and the general abandonment of these youth by the state at the emancipation age of 18 (see discussion in Chapter 8). Other investments in children who have special needs or are impoverished also impact juvenile justice caseload over the long run, e.g., Head Start and special education (Chapter 7), WIC, food stamps and school nutrition programs (Chapter 3), safety net investment (Chapter 2). Most of these programs are also substantially “level funded.”

The President’s proposal for 2005 includes \$505 million in funding for the Promoting Safe and Stable Families program. He also proposes \$60 million for independent living education and training vouchers for emancipating foster care youth.

The Bush Administration is seeking \$160 million in 2005 for three other programs more directly applicable to juvenile justice: (1) the Compassion Capital Fund, aimed at helping intermediary organizations assist grassroots faith-based and community organizations increase their capacity to assist people in need; (2) Maternity Group Homes; and (3) Mentoring Children of Prisoners.

However, Administration funding proposals are not meaningfully to scale and are more than offset by reductions. For example, President Bush is proposing to eliminate programs such as the Youth Opportunity Grant Program and the Young Offenders Program in 2005; in their place, three new discretionary grant proposals would be added: \$250 million in competitive grants to community colleges, \$250 million in youth challenge grants, and \$50 million for personal reemployment accounts.<sup>207</sup> The result is \$50 million in direct cuts to youth employment programs.<sup>208</sup>

<b>Program Approved</b>	<b>FY 1999</b>	<b>FY 2000</b>	<b>FY 2001</b>	<b>FY 2002</b>	<b>FY 2003</b>
<b>Juv. Justice Delinq. &amp; Prevention Act (JJDP A)</b>					
Office of JJDP A (Part A)	\$6	\$7	\$7	\$7	\$7
Formula Grants to States (Part B)	89	89	89	89	89
Discretionary Grants (Part C)	20	45	43	58	10
Youth Gangs (Part D)	12	12	17	12	12
State Challenge (Part E)	10	10	11	10	10
Mentoring (Part G)	7	12	20	14	16
Incentive Grants for Local Programs (Title V)	20	20	95	95	95
<b>Department of Justice</b>					
Violence Against Women Act Programs	277	273	288	391	391
Missing & Exploited Children	18	17	23	23	29
Juvenile Incentive Block Grant	250	250	244	249	215
Safe Havens for Children Pilot	na	na	na	15	15
Weed and Seed Program	34	34	34	34	59

<b>Education Programs</b>					
Safe & Drug Free Schools	644	644	644	747	644
21 <sup>st</sup> Century Community Learning Centers	na	na	846	1,000	1,000
Education of Homeless Children	35	35	35	50	50
State Grants for Incarcerated Youth	17	17	17	17	na
<b>Labor Programs</b>					
Responsible Integration of Youthful Offenders	na	na	na	55	55
Youth Opportunity Grants	268	268	268	244	225
Youth Training	1,130	1,130	1,129	1,128	1,001

Dollars in millions.

**TABLE 9-G: Juvenile Justice Appropriations, Existing Federal Programs**

Equally important is the overall trend of maintaining spending at the same raw number level, or at an increase below inflation and population increase. Each year of such spending cumulatively constricts public investment. As discussed in Chapter 1, the tax benefits (expenditures) enacted over the last two years do not share that self-constricting feature, but increase year to year by both inflation and population—and automatically continue unless affirmatively terminated. The total sums added by the Bush Administration proposal for child investment—including the juvenile justice related account above, and education, health, et al. over the last two years amounts to less than 1% of the annual new tax expenditures approved by the Congress each year. Those expenditures will repeat and grow over an eleven-year period.

Experts reviewing the federal programs note that juvenile justice spending is up, but most new spending remains on the punitive side. Those accounts allowing prevention programs within the states are few and there are lots of strings attached.<sup>209</sup> Kent Markus, counselor for youth violence within the U.S. Department of Justice, conceded that money continues to focus on the “front end” (police) or the “back end” (incarceration), noting “the only new money for prevention is \$5 million [see above] from drug prevention.”<sup>210</sup> Arguably, the possible small increase for mentoring, recent additions to quell underage drinking, and increased spending for boys and girls club could also be categorized as preventive.

In addition, there is federal spending related to juvenile delinquency prevention channeled outside the Justice Department budget. A recent General Accounting Office survey of federal programs relevant to at-risk and delinquent youth found 110 different programs spending \$4 billion nationally through 15 different departments and agencies, including 45 on substance abuse prevention, 20 on substance abuse treatment, and 57 on violence prevention. The GAO concluded that the programs are fragmented, uncoordinated, and lack information about results, notwithstanding recent passage of a federal Government Performance and Results Act to compel outcome measurement.<sup>211</sup> The pattern within California appears to mirror the GAO’s conclusion about the federal counterpart.

### III. MAJOR PROGRAMS AND BUDGETS

The state’s role in juvenile justice includes the enactment of statutes specifying crimes, punishments, and procedures; the funding (from 1998) of local courts; California Department of Youth Authority incarceration of young persons referred from the counties; parole of those released from CYA; restitution to crime victims (including a substantial population of injured children) through the State Board of Control; prevention programs run by the Office of Criminal Justice Planning (OCJP); and a new sum included in the CalWORKs block grant to counties with juvenile justice purposes. As Figure 9-J presents, two CYA accounts (Institutions and Camps and Parole Services) and the state’s crime victim fund are the three largest accounts.

The state has experimented with a number of programs to rehabilitate juvenile offenders, but most resources are committed to police and punishment options, with incarceration the increasingly common outcome. Juveniles who are confined may be located in local juvenile halls, county honor camps, or CYA for incarceration, and an increasing number are being tried as adults or transferred to adult prison (discussed above). The average cost of housing each juvenile committed to CYA in the current 2003–04 year is approximately \$60,000 per year in direct expenses, excluding capital costs.<sup>212</sup>

**FIGURE 9-J. Juvenile Justice, 2004–05 Proposed Program Levels**

### **A. California Youth Authority (CYA)**

The California Youth Authority (CYA) is responsible for the protection and safety of the public and of each minor under the jurisdiction of the juvenile court.<sup>213</sup> The Welfare and Institutions Code directs CYA to operate training and treatment programs that seek to correct and rehabilitate youthful offenders. However, the law explicitly authorizes “punishment that is consistent with...rehabilitative objectives.”<sup>214</sup>

CYA operates through five divisions: (1) Administrative Services, (2) Institutions and Camps, (3) Parole Services and Community Corrections, and two new branches—(4) an Office of Prevention and Victim Services again separated out, and (5) a new Education Services branch funded largely from Proposition 98 K–14 education money, and similarly separated out from its previous domain within Institutions and Camps. However, the Office of Prevention and Victim Services—although now given equal branch status in theory—is included for budget account presentation purposes within Parole and Community Services, as it has been over the past four years.<sup>215</sup>

CYA operates eleven institutions and two community-based camps. The February 2004 population of all institutions and camps was 4,351; CYA was also supervising 4,165 parolees as of February 2004.<sup>216</sup> As reflected in Figure 9-J and Table 9-H, most of the CYA budget is allocated to Institutions and Camps, driven by the high costs of incarceration.

As indicated in Table 9-H, the Governor's budget proposes total expenditures of \$378.1 million for CYA in 2004–05, about 13% below estimated current-year expenditures. Under the Governor's proposal, the general fund portion of CYA funding would drop 12% below general fund expenditures in 2003–04. CYA's proposed general fund expenditures include \$34 million in Proposition 98 education funds.<sup>217</sup> CYA also estimates that in 2004–05, it will receive about \$59.4 million in reimbursements, primarily from fees paid by counties for wards sent to CYA.<sup>218</sup> The proposed decrease in general fund spending for 2004–05 is the result of proposed closures of youth correctional facilities (discussed below), as well as the continued decline in the juvenile institution and parole populations.

CYA receives its youth offender population from both juvenile and criminal court referrals, and offenders committed directly to the CYA do not receive determinate sentences. Instead, the Youthful Offender Parole Board—a separate administrative body—determines their parole release. Those committed by the criminal courts who cannot complete their sentence by age 21 are transferred to the Department of Corrections prisons at age 18. CYA's jurisdiction for the most serious felony offenders, both juvenile and young adults, ends on the offender's 25<sup>th</sup> birthday. As part of his 2004–05 proposed budget, however, Governor Schwarzenegger is proposing to reduce the age of CYA's jurisdiction for wards and parolees from 25 to 22 years of age, in order to allow CYA to “re-engineer its system to focus its rehabilitative resources on a much more specialized population of youthful offenders.”<sup>219</sup>

That re-engineering of CYA's system is critically needed. Recently, CYA has come under a



substantial amount of criticism for its treatment of wards. For example, a videotape of a January 20, 2004 incident at a Stockton CYA facility allegedly shows two guards beating and kicking two wards, at least one of whom was handcuffed at the time. According to the *San Jose Mercury News*, the videotape also shows the guards continuing to hit the youths after they were subdued, hitting one boy at least fifteen times in the head. The CYA is reportedly seeking a criminal investigation of six employees in relation to that incident,<sup>220</sup> and the federal government has launched an investigation into possible civil rights violations by CYA staff in connection with the incident.<sup>221</sup>

Further, a series of articles published by the *Los Angeles Times* in February 2004 revealed a number of troubles in the CYA system, including harsh conditions, youth suicides, violence, and the lack of rehabilitative opportunities. Such a system, according to experts, turns out juveniles who are worse off than when they entered.<sup>222</sup>

And further yet, several reports issued in late 2003 and early 2004—and commissioned by Attorney General Bill Lockyer—were highly critical of CYA in the areas of health care services; mental health care and substance abuse; education programs; sex offender treatment programs; and general conditions. The Attorney General requested these reports as part of a pending class action filed in January 2002 by the Prison Law Office and three other non-profit entities.<sup>223</sup> The plaintiffs contend that CYA does not attempt *bona fide* rehabilitation of youth in its custody, but instead visits “cruel and unusual punishment.” This complaint was filed in federal court alleging federal constitutional and civil rights violations and seeking federal court supervision of CYA facilities because a “culture” has developed precluding correction in the normal course. That culture includes confined youth living in “constant fear of beatings and rapes.”

The AG-commissioned reports included the following findings:

(1) A December 2003 report<sup>224</sup> on mental health care and substance abuse programs in CYA facilities concluded that:

- The mental health care provided by the CYA is not adequate and does not conform to community standards or to professional standards as identified in the report. Evidence of clinicians utilizing evidence-based treatments is rare. Family involvement in treatment interventions is very much the exception in all facilities visited by the researchers.
- There is a wide variation in the quality of care and treatment provided to youths receiving mental health services. Much of this variation is a consequence of a history of limited central direction of behavioral health care services.

- Staffing of CYA health care professional positions is insufficient, and is particularly inadequate for child and adolescent psychiatrists and child psychologists versed in current practice parameters and empirically-based treatments, especially with ethnic minority populations experiencing the co-occurring disorders of mental illness and substance abuse.
- CYA does not demonstrate through its records the proper prescription administration or distribution of psychotropic medications. There is no evidence of peer review, drug utilization reviews, or record reviews to demonstrate adequacy in such activities. Reviews of the records consistently demonstrate poor documentation of medication practices, great variability of the use of stimulants for the treatments of ADHD and other disorders, and no evidence of quality review regarding medication management.

(2) An August 2003 report<sup>225</sup> on health care programs in CYA facilities concluded that:

- Although the CYA has appropriate numbers of health care professionals to provide health care services to wards, in some instances staff is unevenly distributed. Further, institutional policies and/or practices decrease staff efficiency and productivity, and affect ward access to health care.
- CYA's medical and dental staff is not appropriately trained. There are no adequate orientation and training programs, policies and procedures, or clinical guidelines to guide staff. The credentialing process for physicians is inadequate and does not ensure that competent physicians will be hired. Once hired, clinical supervision of physicians is virtually non-existent.
- Although all newly-incarcerated wards and parole revocators are medically screened, the current screening process is inadequate as it fails to thoroughly describe the medical conditions of wards, and fails to initiate appropriate treatment plans.
- CYA policies and procedures, as well as actual practice, do not ensure that wards have timely access to medical care.
- Medical care, especially care for wards with chronic disease, is generally poor and not commensurate with care as provided in the community.

(3) A September 2003 report<sup>226</sup> on CYA's sex offender programs revealed the following:

- CYA's rehabilitative programs for juvenile sexual offenders does not meet currently recognized standards of practice in the field. The programs are missing critical components, such as a comprehensive assessment, evaluation, and treatment planning policy and procedure.
- Programs and staff are constantly cut because of budget problems, and staff are not regularly trained in intervening or behavior management with sexually abusive youth.
- Staff is not always selected to meet the needs of the wards, but to meet the needs of the staff.
- The overall culture of the programs is institutional and punitive rather than rehabilitative.

(4) While a December 2003 report<sup>227</sup> on educational programs in CYA facilities concluded that the overall quality of high school programming offered to general and special education wards by CYA is adequate, and in some cases, the programs offered are exemplary, the report also noted that critical areas that must be addressed include adequate funding for academic and special education staff; ward attendance; special education recordkeeping; and the need for increased institutional support for the educational program. The report also noted the following:

- There is an inadequate number of credentialed teachers to provide a comprehensive academic program.



- A six-month review of monthly average daily attendance reports indicated that an average of 20–30% of wards were absent from school each day. Wards in all main high schools were observed being pulled from general and special education classes to attend other programs, without regard to their educational needs. Education is not the primary focus during the school day.
- Teacher absences, maintenance issues, and security concerns significantly impact class cancellations at all facilities. No evidence was produced to indicate that wards are required or allowed to make up lost instructional time caused by these routine pullouts.
- CYA does not have the ability to adequately monitor IEP compliance at each site and take corrective measures when a site fails to meet expectations. Further, CYA lacks uniformity in the identification and assessment of wards who have not previously received special education services or been identified as eligible for those services prior to their incarceration.
- Other behavioral interventions should be available and employed by facility administrators and staff prior to or instead of placement of wards in cages. There are no clearly defined entrance or exit criteria for the confinement of wards in cages. General and special education teachers report that often wards continue to be confined in cages for extended periods of time, even when they consistently exhibit acceptable school behavior.

(5) A December 2003 report<sup>228</sup> on general conditions at CYA facilities, covers a wide range of issues such as ward classification; access to lawyers and wards' rights; use of force and ward safety; restricted programs; and access to religious services. Among other things, the report revealed the following:

- CYA invests a substantial amount of staff time and resources collecting detailed information about its wards, but the data is not organized into an effective system to guide either security or custody needs.
- Assessment data is not translated or summarized for staff who supervise the wards on living units. Nor is the assessment data passed on to CYA parole staff who prepare the youth to return home, or to field staff who must supervise the ward upon release.
- CYA is a dangerous place, and neither staff nor wards feel safe in its facilities. The researcher found a "stunning" amount of violence in CYA facilities. The level of ward-on-ward or ward-on-staff assaults at CYA facilities is unprecedented in juvenile corrections across the nation.
- Suspicions that CYA staff were engaging in the use of excessive force were found to be well-grounded in a number of audits and investigations that were conducted by the Office of Inspector General. For example, dangerous and potentially fatal chemical restraints—designed by their manufacturers to be used by correctional staff to quell riots that break out in prison yards—are used by CYA staff during extractions of wards from their rooms and other secure areas. Wards at one facility are made to spend long periods of time on their knees with their hands bound behind them in mechanical restraints; in some cases, wards are forced to kneel on sharp surfaces that increase their discomfort.
- CYA staff make demeaning and angry detrimental comments to wards on a daily basis.
- Wards are often locked up for 23 hours per day, with little supervision, in decrepit living units.

Following the public release of these reports, the Secretary of the Youth and Adult Correctional Agency ordered an immediate review of the most serious conclusions, vowing to fix the problems as soon as possible.<sup>229</sup> Further, in March 2004 Governor Schwarzenegger appointed an independent panel to investigate and recommend changes to the state's correctional system. The panel, which will be chaired by former Governor George Deukmejian, includes Joseph Gunn, a former executive director of

the Los Angeles Board of Police Commissioners; George Camp, former director of the Missouri Department of Corrections and a national criminal justice consultant; and Robin Dezember, who served as deputy director of corrections under Deukmejian. Although the panel will be looking at both the youth and adult correctional systems, it will be looking in particular at the problems identified within the CYA. The panel’s findings and recommendations are due June 1, 2004.<sup>230</sup>

Also, in February 2004, Governor Schwarzenegger announced that CYA would phase out its use of small, steel-mesh cages as “classrooms” to confine wards.

**1. Institutions and Camps**

Within Table 9-H is the adjusted spending for the Institutions and Camps subaccount of the CYA account. Here, adjusted spending has decreased, in spite of the fact that the cost of housing each ward continues to rise. The higher cost to counties of CYA referrals, in combination with the “M-Case” statutory change described above, allows the transfer to adult corrections of a substantial number of juveniles. Further, Governor Schwarzenegger’s 2004–05 budget proposes legislation to change the age jurisdiction of CYA from 25 years of age to 22 years of age, and enact sentencing reforms that would allow certain wards to be transferred to the adult prison system. Accordingly, the Governor is estimating that the CYA ward population will continue to fall, from 4,055 at the end of 2004–05 to about 3,800 at the end of 2004–05, to 3,700 wards by the end of 2007–08.<sup>231</sup>

	Budget Year								Estimated	Proposed	Percent Change	
	1989-90	1996-97	1997-98	1998-99	1999-00	2000-01	2001-02	2002-03			2003-04	2004-05
<b>General Fund</b>	\$364,127	\$391,579	\$329,582	\$310,806	\$317,505	\$347,998	\$357,844	\$358,139	\$361,379	\$316,727	-0.8%	-12.4%
Reimbursements	\$0	\$29,850	\$47,011	\$62,896	\$72,679	\$76,583	\$74,097	\$66,519	\$70,348	\$59,356	na	-15.6%
Other	\$10,577	\$15,229	\$12,913	\$4,092	\$2,846	\$886	\$778	\$335	\$374	\$548	-96.5%	46.5%
Federal funds	\$985	\$1,175	\$1,024	\$1,261	\$1,522	\$1,471	\$957	\$737	\$2,702	\$1,495	174.3%	-44.7%
<b>Total</b>	\$375,689	\$437,833	\$390,530	\$379,055	\$394,552	\$426,938	\$433,676	\$425,730	\$434,803	\$378,126	15.7%	-13.0%
<b>Adjusted Total</b>	<b>\$638,357</b>	<b>\$526,923</b>	<b>\$459,279</b>	<b>\$433,379</b>	<b>\$440,234</b>	<b>\$460,301</b>	<b>\$461,562</b>	<b>\$439,030</b>	<b>\$434,803</b>	<b>\$365,825</b>	<b>-31.9%</b>	<b>-15.9%</b>
<b>Institutions &amp; Camps</b>												
General Fund	\$254,002	\$313,079	\$286,147	\$225,877	\$229,877	\$243,418	\$258,387	\$266,776	\$277,519	\$237,138	9.3%	-14.6%
Federal Trust Fund	\$0	\$1,098	\$1,015	\$1,261	\$1,511	\$1,344	\$830	\$657	\$1,477	\$1,495	na	1.2%
Reimbursements	\$0	\$28,726	\$44,154	\$56,092	\$62,580	\$64,276	\$66,918	\$54,684	\$58,953	\$52,510	na	-10.9%
Other	\$20,277	\$705	\$1,032	\$0	\$0	\$0	\$0	\$0	\$0	\$0	-100%	na
<b>Total I&amp;C</b>	<b>\$274,279</b>	<b>\$343,608</b>	<b>\$332,348</b>	<b>\$283,230</b>	<b>\$293,968</b>	<b>\$309,038</b>	<b>\$326,135</b>	<b>\$322,117</b>	<b>\$337,949</b>	<b>\$291,143</b>	<b>23.2%</b>	<b>-13.9%</b>
<b>Adjusted Total</b>	<b>\$466,045</b>	<b>\$413,525</b>	<b>\$390,854</b>	<b>\$323,821</b>	<b>\$328,004</b>	<b>\$333,188</b>	<b>\$347,106</b>	<b>\$332,180</b>	<b>\$337,949</b>	<b>\$281,671</b>	<b>-27.5%</b>	<b>-16.7%</b>
<b>Education Services</b>	na	na	na	\$47,465	\$50,081	\$52,660	\$50,877	\$47,869	\$48,733	\$43,611	na	-10.5%
<b>Parole Services &amp; Community Corrections</b>												
<b>Parole Services:</b>												
General Fund	\$36,321	\$73,773	\$39,883	\$39,538	\$39,367	\$39,004	\$48,304	\$42,504	\$36,037	\$35,655	-0.8%	-1.1%
Federal	\$0	\$77	\$9	\$0	\$0	\$0	\$0	\$0	\$0	\$0	na	na
Reimbursements	\$0	\$780	\$2,163	\$2,234	\$3,118	\$3,013	\$279	\$785	\$2,235	\$106	na	-95.3%
Other	\$968	\$2,083	\$101	\$855	\$296	\$227	\$288	\$0	\$0	\$0	-100.0%	na
<b>Total Parole Svcs</b>	<b>\$37,289</b>	<b>\$76,713</b>	<b>\$42,156</b>	<b>\$42,627</b>	<b>\$42,781</b>	<b>\$42,244</b>	<b>\$48,871</b>	<b>\$43,289</b>	<b>\$38,272</b>	<b>\$35,761</b>	<b>2.6%</b>	<b>-6.6%</b>
<b>Adjusted Total</b>	<b>\$63,360</b>	<b>\$92,322</b>	<b>\$49,577</b>	<b>\$48,736</b>	<b>\$47,734</b>	<b>\$45,545</b>	<b>\$52,013</b>	<b>\$44,641</b>	<b>\$38,272</b>	<b>\$34,598</b>	<b>-39.6%</b>	<b>-9.6%</b>
<b>Office of Prevention &amp; Victim Services</b>												
General Fund	\$73,804	\$4,698	\$3,552	\$3,043	\$3,908	\$19,863	\$5,835	\$5,660	\$5,925	\$3,448	-92.0%	-41.8%
Reimbursements	0	\$61	\$196	\$293	\$392	\$286	\$368	\$5,211	\$647	\$380	na	-41.3%
Other	\$9,704	\$12,470	\$11,780	\$2,194	\$1,558	\$13	\$0	\$0	\$0	\$0	-100.0%	na
<b>Total, Ofc of Prev. &amp; Victim Services</b>	<b>\$83,508</b>	<b>\$17,229</b>	<b>\$15,528</b>	<b>\$5,530</b>	<b>\$5,858</b>	<b>\$20,162</b>	<b>\$6,203</b>	<b>\$10,871</b>	<b>\$6,572</b>	<b>\$3,828</b>	<b>-92.1%</b>	<b>-41.8%</b>
<b>Adjusted Total</b>	<b>\$141,894</b>	<b>\$20,735</b>	<b>\$18,262</b>	<b>\$6,323</b>	<b>\$6,536</b>	<b>\$21,738</b>	<b>\$6,602</b>	<b>\$11,211</b>	<b>\$6,572</b>	<b>\$3,703</b>	<b>-95.4%</b>	<b>-43.6%</b>

Dollar amounts are in \$1,000s. Sources: Governor’s Budgets Adjusted to age 0–19 population and deflator (2003–04=1.00). Adjustments by Children’s Advocacy Institute.

**TABLE 9-H. California Youth Authority**

Because of the declining number of wards in juvenile facilities, AB 3000 (Oropeza) (Chapter 1124, Statutes of 2002) required CYA to develop a consolidation plan and to close three of its facilities by June 2007. AB 1758 (Oropeza) (Chapter 158, Statutes of 2003), requires CYA to close an additional facility.

Governor Schwarzenegger’s proposed 2004–05 budget seeks to accelerate the closure of the selected facilities, for savings of \$11 million in 2003–04 and \$52.1 million in 2004–05.

**2004 May Revise Update.** The Governor’s 2004 May Revise would increase CYA funding by \$3.1 million in 2003–04 and \$9.8 million in 2004–05 relative to the Governor’s January Budget proposal shown in Table 9-H. Of the \$9.8 million increase for 2004–05, \$6.0 million is attributable to the net impact of increased population projections.

### 2. Education Services Branch

In 1997, CYA’s Education Services Branch was created (Chapter 280, Statutes of 1996). As discussed briefly above, the Branch operates similarly to a special school district, seeking to provide basic education from middle school to high school diplomas to higher education for CYA youth. It includes 900 teachers, and other staff. During 1998–99, 743 students earned diplomas, 612 met GED requirements, and 23 earned AA degrees (see Table 9-I). The emphasis at CYA’s newly-separated Education Services Branch is education for job preparation.

	1992-93	1995-96	1997-98	1998-99
High School	542	860	673	743
GED (equivalency diplomas)	364	544	586	612
AA Degrees	N/A	N/A	36	23
BA Degrees	N/A	N/A	2	N/A

Sources: Governor’s Budgets.

**TABLE 9-I. CYA Ward Graduations**

As of February 2004, CYA had 3,263 of its wards enrolled in high school programs, and 436 enrolled in post-secondary programs.<sup>232</sup> As noted above, the educational component of the Institutions and Camp budget is currently budgeted at \$48.7 million; funding for these programs is a part of the Proposition 98 education budget of the state. Proposed funding for 2004–05 is \$43.6 million.

Significantly, the 1998–99 budget included \$1.4 million in Proposition 98 moneys (allocated for K–14 public education) to increase funding for the special education needs of CYA juveniles. Currently, 23% of those committed to CYA are acknowledged as eligible for special education. Child advocates contend that CYA insufficiently screens and otherwise fails to comply with the federal IDEA statute requiring identification of special education qualified children and the development of an Individual Education Plan (IEP) for each one. This Branch budget increased by one position in 1999–2000, and by another 5.8 positions (\$300,000 general fund, almost all proposition 98 monies) in 2000–01, reflecting a projected increase in population to be served. It has declined by about \$1 million since that high point to the current year, and was budgeted for another \$1 million reduction in 2002–03.

In addition to high school credentials and job training, CYA offers a number of educational programs cutting across the respective curricula of its schools and camps, and directed at the particular needs of troubled youth. One of the novel teaching programs initiated by former Governor Wilson is the “Young Men as Fathers” parenting program. This effort imparts a critical message about the rights and needs of children, the need for two parents, and the importance of fathers in families. It includes classroom instruction, mentors, and practical interaction between fathers in custody and their children. Started in 1993 with federal grants, the program was supported by the former Governor; after his “Focus on Fathers” summit in Los Angeles on June 13, 1995, he ordered the effort expanded to include all of the facilities and offices of CYA—including its 16 parole offices. However, as with many prevention concepts, ideas were generated and widely publicized, followed by abandonment or token funding. Current 2003–04 funding for this program is \$850,000, as is the proposed 2004–05 funding.

### 3. Parole Services

Table 9-H presents adjusted spending for parole services. The Parole Services Division supervises the parole of those who have served in a CYA facility, providing supervision and surveillance of wards in the re-entry phase, intervention to prevent violation behavior, and liaison with community agencies.<sup>233</sup> The division operates from 16 parole offices located throughout California. The parole population was 6,120 on June 30, 1998; as of February 2004, the parole population had dropped to 4,165.<sup>234</sup> This reduction is driven by revised fees to counties, longer sentences, fewer arrests, and the “M-case” legislation discussed above moving some CYA youth into adult corrections and out of the rehabilitation-mandated youth services sector. These parolees supervised by CYA are a small portion of youth under supervision; another 47,000 minors are supervised by county probation or parole officers. This larger number is the product of the substantial number of youth subject to county probation—often in response to initial offenses.

In January 1995, the Little Hoover Commission released *Boot Camps: An Evolving Alternative to Traditional Prisons*, a study of boot camps as a juvenile punishment alternative. The report noted mixed results from the boot camp approach thus far, and concluded that “the powerful element that makes boot camps and related programs work is the aftercare—the continued contact with the graduates to ensure that education, training, and job placement occur.”<sup>235</sup> California’s juvenile corrections system has generally underfunded the education, training, and job placement after-care components which the empirical evidence suggests may work. It is unclear to what extent the federal accounts will allow (and the state will seek) adequate funding for the elements identified as crucial in the Little Hoover Commission report, which were then repeated and amplified in its 2001 Report, discussed above.

#### **4. CYA Prevention**

In 1989–90, the state spent \$124 million in current population adjusted dollars for “prevention and community corrections.” This account addressed delinquency through prevention grants and projects, such as upgrading local facilities, etc. In 1991–92, the account was “significantly reduced in order to meet budget reduction requirements.”<sup>236</sup> It was then made into an Office of Prevention and Victim Services within Parole Services and Community Corrections at a fraction of previous spending.

Some of the reduction in this account does not represent cuts or abandonment of prevention, but the transfer of programs removed in 1991–92 to the Department of Education (drug education) or the state Office of Criminal Justice Planning (OCJP) presented below (see Table 9-K). In general, these latter programs have suffered 5–10% adjusted subsequent reductions where transferred. Other prevention initiatives since 1989 have been administered by other agencies, so it is misleading to conclude that total prevention spending has declined consistent with this account’s reduction. However, the funding of these additional programs (discussed above and below) should not be viewed as advertised—as new money launching new initiatives with a “maintenance of effort” holding firm on existing prevention spending. Rather, a substantial part of such “new” funding—repeated each year as if vast new sums are being committed—usually in fact representing the repackaging of already committed funds, often with reductions as adjusted for population and inflation. In the alternative, they will often involve the transfer of Proposition 98 school funds—money taken from the state’s underfinanced public school system (see Chapter 7).

The current 2003–04 and the proposed 2004–05 budgets impose considerable overall reductions in prevention spending—in the face of a major Little Hoover Commission Report recommending increased resources and major state governmental reorganization to apply them. Those reductions include the virtual elimination of the Office of Prevention and Victim Services, currently funded at just \$6.5 million—a cut of 92% from the 1989–90 unadjusted funding level. Governor Schwarzenegger is proposing to cut this program’s funding further to \$3.7 million in 2004–05.

#### **B. Board of Corrections’ Juvenile Justice Crime Prevention Act Grant Program**

The most significant state funding source of juvenile probation programs is the Juvenile Justice Crime Prevention Act (JJCPA) grant program administered by the Board of Corrections. From its inception in 2000 through June 2003, the program made a total of \$353.9 million available to counties

for collaborative efforts addressing a continuum of responses to juvenile crime—prevention, intervention, supervision, treatment and incarceration.<sup>237</sup> In 2003–04, this program is providing \$100 million for crime prevention programs. The main source of federal funds for JJCPA programs is the federal TANF block grant, which has historically provided approximately \$200 million for probation services.<sup>238</sup>

A total of 56 counties participate in the JJCPA. The funded programs address a continuum of responses to at-risk youth and juvenile offenders—including prevention, intervention, supervision, treatment and incarceration—and respond to specific problems associated with these populations in each county.<sup>239</sup>

As of March 2003, the JJCPA requires the Board of Corrections to submit an annual report to the Governor and Legislature on—among other things—six statutorily mandated outcomes (arrest, incarceration and probation violation rates as well as probation, restitution, and community service completion rates). Although they are somewhat preliminary, the results reported in the 2003 Annual Report indicate that JJCPA programs are making a positive difference in the lives of at-risk youth. Specific findings include the following:

- Nearly 60% of the programs met or exceeded their goal for reducing the rate of arrest; juveniles participating in the program had a lower arrest rate than reference group juveniles.
- Over two-thirds of the programs met or exceeded their goals for completion of restitution and court-ordered community service, with completion rates higher on both outcomes for JJCPA juveniles.
- Nearly two-thirds of the programs met or exceeded their goal for completion of probation, and the average completion rate was higher for juveniles in JJCPA.<sup>240</sup>

As is noted above, the main source of federal funds for JJCPA programs is the federal TANF block grant, which has historically provided approximately \$200 million for probation services. Under current law, however, the TANF block grant for juvenile probation programs sunsets in October 2004. Governor Schwarzenegger has proposed to allow the block grant funding to sunset at that time, resulting in a reduction of \$134 million in 2004–05 for juvenile probation programs. In other words, of TANF's \$200 million allocation for probation services in 2004–05, \$67 million would be appropriated for that purpose from July–October 2004, but starting in November, the remaining \$134 million would be retained by the CalWORKs program.

TANF block grant funds are primarily used by county probation departments to provide services to youth detained in juvenile halls, camps, and ranches—elements that LAO describes as “core services.”<sup>241</sup> Thus, the loss of these funds would appear to have a significant impact on the ability of counties to operate juvenile probation facilities; such an action could result in a lower level of public safety and increased general fund costs resulting from more CYA commitments.<sup>242</sup>

As opposed to the core services funded by the TANF block grant, JJCPA grants (for which the Governor's budget proposes \$100 million for 2004–05) primarily support program “add-ons” or enhancements that may still be in the early stages of development.<sup>243</sup> Although—as discussed above—such grant programs have initially shown promise in steering at-risk youth in the right direction, LAO has recommended that the Legislature consider eliminating or suspending the JJCPA grant programs, instead of allowing the TANF block grant funds to expire.<sup>244</sup>

### **C. California Victim Compensation and Government Claims Board**

The California Victim Compensation and Government Claims Board consists of three members: the Director of the Department of General Services, the State Controller, and a public member appointee of the Governor. A major function of the Board is to compensate innocent victims of violent crimes for documented financial losses. That recompense comes from a restitution fund for crime victims fed by criminal fines and other sources, and which includes a federal contribution.



This account is designed to provide funds for medical expenses, counseling, and other compensation to those who have been the victims of crime. The proportion of the fund benefitting children has increased due to rule changes enhancing access by abused children. The adjusted trend assumes that 60% of the fund benefits children. However, the Board’s revision of its regulations in the mid-1990s to allow more liberal claims by abused children has increased somewhat the ratio of their awards beyond the Table’s indication.<sup>245</sup>

	Budget Year								Estimate d	Proposed	Percent Change	
	1989-90	1996-97	1997-98	1998-99	1999-00	2000-01	2001-02	2002-03			2003-04	2004-05
General Fund	\$0	\$0	\$0	\$0	\$0	\$2,434	\$1,978	\$0	\$0	\$0	na	na
Restitution Fund	\$61,621	\$77,072	\$13,711	\$81,396	\$99,763	\$109,232	\$137,362	\$103,805	\$111,179	\$104,222	80.4%	- 6.3%
Missing Children Reward Fund	\$0	\$0	\$85,288	\$0	\$0	\$0	\$0	\$0	\$0	\$0	na	na
Federal Trust Fund	\$13,610	\$25,489	\$0	\$18,680	\$21,103	\$18,046	\$31,042	\$51,395	\$18,384	\$28,109	35%	52.9%
Reimbursements	\$0	\$0	\$0	\$0	\$0	\$29	\$34	\$0	\$0	\$0	na	na
Total	\$75,231	\$102,561	\$98,999	\$100,076	\$120,866	\$129,741	\$170,416	\$155,200	\$129,563	\$132,331	72.2%	2.1%
<b>Adjusted Total</b>	<b>\$135,513</b>	<b>\$139,291</b>	<b>\$129,823</b>	<b>\$126,414</b>	<b>\$145,653</b>	<b>\$147,255</b>	<b>\$184,053</b>	<b>\$160,837</b>	<b>\$129,563</b>	<b>\$126,944</b>	<b>- 4.4%</b>	<b>- 2.0%</b>

Dollar amounts are in \$1,000s. Sources: Governor’s Budgets  
Adjusted to state population and CPI-U (2003–04=1.00). Adjustments by Children’s Advocacy Institute.

**TABLE 9-J. California Victim Compensation and Government  
Claims Board—Citizens’ Indemnification Program**

**D. Former Office of Criminal Justice Planning**

The Office of Criminal Justice Planning (OCJP) was the staff arm of the California Council on Criminal Justice. OCJP was administered by an executive director appointed by the Governor. Only a percentage of OCJP’s state budget money went toward juvenile justice and other programs targeted at youths. The 2003–04 Budget Act abolished OCJP as of January 1, 2004 and transferred its functions and programs to the Office of Emergency Services and the Board of Corrections.

OCJP funds directed at the juvenile justice system were predominantly spent on three areas targeted at youth:<sup>246</sup> (1) delinquency prevention/diversion; (2) separation of juveniles from the adult jail population; and (3) programs for serious juvenile offenders, including positive parenting programs and special programs for sex offenders.<sup>247</sup> OCJP was the major funder of juvenile delinquency prevention services, particularly given the reductions in CYA prevention noted above. Projects funded by this agency emphasize individual, group, and family counseling, substance abuse therapy, academic and vocational training, self-esteem building, and education. OCJP also provided funds to identify and evaluate successful services. These funds identified effective delinquency prevention techniques, and disseminated information about successful programs so that other service providers can emulate what works.<sup>248</sup>

Within the OCJP account, juvenile justice programs included two major subaccounts: victim services and public safety. Of the 19 programs funded from this account, 10 focused on youth: including delinquency prevention, drug abuse prevention in schools,<sup>249</sup> gang violence, homeless youth, sexual assault prosecutions, sexual abuse prevention and training, youth emergency telephone referral, and gang risk intervention. Another group of specific programs previously in OCJP’s victim services account included seven individual programs which were child- or family-related and including in particular domestic violence, family violence, homeless youth, youth emergency, and two child sexual abuse programs.

The Office of Emergency Services is now responsible for the Victim Services Program and the Public Safety Programs previously performed by OCJP, as presented below.

VICTIM SERVICES PROGRAM	2003-04	2004-05
General Fund	\$847	\$1,696
Victim Witness	\$7,759	\$15,519
Reimbursements	\$0	\$0

Federal	\$34,289	\$68,581
<b>Total, Victim Services</b>	<b>\$44,898</b>	<b>\$87,800</b>

PUBLIC SAFETY PROGRAMS	2003-04	2004-05
General Fund	\$19,621	\$39,247
Reimbursements	\$502	\$1,005
Other	\$396	\$792
Federal Trust Fund	\$32,879	\$65,761
Total, Public Safety	\$53,398	\$106,805

### Office of Emergency Services

Similarly, the Department of Corrections absorbed OCJP's Juvenile Justice Grants Program, which provides support to the California criminal justice system through awards of federal grant funds to public and private agencies for public safety and juvenile justice projects.

JUVENILE JUSTICE GRANTS PROGRAMS	2003-04	2004-05
General Fund	\$255	\$507
Reimbursements	\$5	\$10
Federal Trust Fund	\$17,795	\$35,610
Total, Public Safety	\$18,055	\$36,127

### Department of Corrections

## E. Miscellaneous Juvenile Justice-Related Projects

### 1. Turning Point Academy

From March 2001 to approximately June 2002, Former Governor Davis spent \$12 million to create and run Turning Point Academy, a six-month residential program offered through the California National Guard Camp at San Luis Obispo. The boot camp-type Academy was established to house 160 first-time offenders, who have committed a firearms-related offense at school or at a school event off school grounds.

Turning Point Academy was illogically not confined to persons likely to benefit from the "boot camp" methodology—but to youth who have been charged with bringing a gun onto campus, and they must be first time offenders. The first problem with this population definition is its disconnect from criteria related to boot camp as a useful tool. The second problem is the very small number of youth who commit first time gun offenses and are sentenced to more than 30 days in juvenile hall. A six-month stint away from home usually awaits a second offense in the normal course. San Diego's Probation chief estimated that only seven persons would meet criteria for the camp from San Diego in a year.<sup>250</sup>

Indeed, Turning Point Academy expected to enroll 360 students in its first year for the six-month program; instead, it drew just one.<sup>251</sup> By the time the Legislature terminated the funding for Turning Point in 2002, the program had served only 34 students, graduating just 11.

### 2. Governor's Mentoring Partnership

The Governor's Mentoring Partnership (GMP), formerly the California Mentoring Initiative under Governor Wilson, was created to provide continuing support for California's youth through mentoring. Statistics show that children with mentors demonstrate solid improvements, especially in the areas of academic performance and are less likely to be involved with gangs, violence, teen pregnancy, alcohol and drug use. Mentoring is a logical, cost-effective prevention strategy that provides youth with positive, caring role models who help them succeed and become productive, contributing members of our society.

The GMP works in partnership with over 700 California community, faith- and school-based mentoring programs such as Big Brothers/ Big Sisters, Boys and Girls Clubs and regional mentoring coalitions throughout the state to provide increased public awareness of the need for and support of mentoring; identify and implement effective incentives and strategies to expand mentoring in the public

and private sector. The goal of GMP is to encourage strong collaborations regionally to involve whole communities in mentoring efforts to assist our youth.

Since 1995, California has provided support of mentoring through various programs and activities. Some of those efforts have included the following

- The Department of Community Services and Development has awarded funds to support local mentor collaboratives and programs.

■ The Governor's Office of the Secretary of Education has awarded funds to local school districts and communities to mentor children and youth under the California Academic Volunteer and Mentor Service Program. Under this program, mentors will be linked with at-risk children to improve educational outcomes, and life skills.

■ The Department of Alcohol and Drug Programs has allocated funds to support local mentoring efforts through California's alcohol and drug program service system.

■ CYA has allocated funds for the expansion of its "Young Men as Fathers" program into county juvenile halls, ranches and possibly alternative schools in the community.

■ The Governor's Office on Service and Volunteerism (GOESERV) is providing significant support to local mentoring programs through the AmeriCorp programs across California. Since 1998 GOESERV has invested over \$58 million in AmeriCorps mentoring programs, which has resulted in 87,298 children reached by 7,514 AmeriCorps members that also recruited 18,677 volunteer mentors.

AB 215 (Alpert), currently being considered in the 2003–04 legislative session, would delete the limitation under the Governor's Mentoring Partnership that the mentoring relationship is limited to at-risk persons. This measure would also enact the Youth Development Act, creating the California Youth Policy Council (CYPC) to coordinate state policy regarding youth development.

## IV. SUMMARY AND RECOMMENDATIONS

In its earlier study of juvenile crime and prevention, the Little Hoover Commission found that "funding cutbacks have disproportionately impacted the programs with the highest potential for success in diverting juveniles from crime."<sup>252</sup> The Commission's transmittal letter concluded: "Unfortunately, the universal agreement that prevention is vital has been systematically undercut by a gradual but accelerating shift in spending patterns over the last two decades. That shift has seen the near elimination of early intervention and prevention programs and the mushrooming of 'back-end' incarceration expenses."<sup>253</sup> Five years later the Commission marshaled substantial new evidence to support its thesis, spelling out in detail recommendations for resources and state organization for focused and accountable investment in youth. That Report was buttressed by a Study of the U.S. Surgeon General which came to similar conclusions, as discussed above.

State adult and youth corrections/law enforcement is currently budgeted at \$8.2 billion for 2004–05, a 7.3% decrease from the current 2003–04 spending levels. The total state budget for prevention is approximately \$120 million,<sup>254</sup> amounting to under 2.2% of the total. The Senate Office of Research has estimated that the cost of criminal violence in California, including court costs, medical care, and lost job productivity totals \$72 billion per year,<sup>255</sup> 600 times direct state spending on juvenile crime prevention.

The Governor's decision to largely remove CalWORKs funding from local juvenile probation services endangers the future of troubled youth subject to the criminal justice system. It is unlikely that the almost \$150 million in reductions from this source can be backfilled locally. Indeed, the pressure on counties discussed in Chapter 1 is momentous, and is exacerbated by the \$350 million "loan" from funds due the counties demanded of the Governor for 2004–05 and 2005–06. The youth on probation will not wait two years unsupervised without regrettable consequences.

Of the over 50 prevention-oriented ideas and pilots described over the past nine *California Children's Budgets*, few have received study and generalized roll-out on a scale likely to impact substantially the problem purportedly addressed. The proposed 2004–05 budget not only continues this longstanding pattern, but imposes adjusted reductions in most prevention oriented accounts.

### A. Consequences

The adult imprisonment rates and costs discussed above are the most evident consequence of failed juvenile justice. Even with welcome signs of reduction in juvenile (and adult) crime rate, the increasing numbers of youth—particularly the increasing number in fatherless and impoverished families—lead criminologists to predict “a potential future wave of violent juvenile crime unless large-scale efforts are made in the arenas of violence prevention and early intervention.”<sup>256</sup>

### **B. California Children’s Budget Recommendations**

Efforts to find solutions to the problems identified in this chapter include a recent national study by the Coordinating Council on Juvenile Justice and Delinquency Prevention,<sup>257</sup> studies from the U.S. Office of Juvenile Justice and Delinquency Prevention,<sup>258</sup> the Packard Foundation’s Center for the Future of Children,<sup>259</sup> the League of Women Voters,<sup>260</sup> a state Juvenile Justice Task Force,<sup>261</sup> and a series of hearings and reports by the Assembly Public Safety Committee’s Subcommittee on Juvenile Justice,<sup>262</sup> the U.S. Surgeon General’s Report of 2001<sup>263</sup>, and the recent Little Hoover Commission report on Youth Violence.<sup>264</sup> A review of the expert advice offered among them commends the following for state priorities:

#### **Recommendation #1. Spend on Paternal Involvement as a Prevention Strategy. Estimated cost: \$20 million, in addition to Chapter 2 spending**

The first line of defense to prevent juvenile delinquency is the family. Strong and involved fathers in particular have a strong potential preventive impact which is unseized by too many of them and is unrecognized by others. There is no substitute for two involved parents. No social service system can approach its efficacy. Even during the travails of adolescence, the messages parents impart are being heard even through reactions ranging from mute disregard to open contempt. Every word, gesture, and deed of a parent in the pursuit of parenting is recorded in a child’s mind, and has an impact which reverberates more strongly as time passes. There is no more important prevention program than the recognition of a child’s right to a *bona fide* attempt to parent by a mother and father. Such recognition increases the odds of paternal involvement momentarily, and it prevents extreme child poverty more effectively than does the most generous form of income support. Until we address that issue head on, nothing else we do is likely to matter. Yet it is lost in notions of political correctness, which represent a distorted idea of adult right, a right steeped in adult-centric rationalization of self-indulgence at the expense of children. *Wait, get married, and try to do it right*, as the public relations campaign, education, and parenting recommendations of Chapter 2 detail. Currently, the state spends a paltry \$1 million on a male responsibility project, and other small sums in various accounts amounting to a symbolic commitment.

The other recommendations of Chapter 2 also interact with underlying causes and preventive strategies. Measures to increase fluidity and opportunity through minimum wages set at least at the poverty level, unemployment compensation, use of a state earned income tax credit, and a seamless system of quality child care, all defeat delinquency by adding wealth, quality, and hope to children’s lives.

In addition, the analysis in the condition indicator discussion of this chapter commends several other areas of attention, although not all are relevant to budgetary accounts. The role of the media in promoting male and female stereotypes relating to violence and sexual allure, the proliferation of hand guns, the problems with illicit drugs and alcohol, all present possible territory for preventive strategies beyond the scope of the preventive recommendations of Chapter 2 relating to poverty. At least \$20 million should be allocated to explore them through creative pilot projects—with the independent evaluation and roll-out conditions discussed below.

#### **Recommendation #2. Early Intervention and Required Independent Evaluation. Estimated cost: Use of \$121 million new funding with \$15 million added for independent evaluation**

The next step is early detection and intervention. In this regard, those close to the juvenile justice system share a common critique: The system tends to condition youth into violative behavior by ignoring

low-level initial offenses.<sup>265</sup> The system is overloaded to the point it must choose priorities, and those juveniles who wreak havoc get it—after their behavior has escalated to habitual havoc.

Juvenile justice should be “front-loaded.” Decisive intervention should occur at defined trigger points: truancy, first offenses, and second offenses. Rather than viewing first offenses as a free pass, they should involve some required response by the juvenile, preferably restitution. About one-half of those arrested once and dealt with do not return. A decisive response could raise that percentage substantially. And when a second offense occurs, the matter should be treated as a four-alarm emergency—because this population is highly correlated with trouble.

To accomplish this end, no probation officer dealing with youth should have a caseload of more than 40 cases. And if the Orange County “8% Solution” continues as indicated thus far, similar programs should be initiated in every county. Similarly, the mentoring program and the intervention proposals of former Assemblymember (now Judge) Jan Goldsmith deserve *bona fide* trial, measurement, and full funding as outcomes warrant.

### ***Recommendation #3. Truancy Prevention. Estimated cost: included in Chapter 7***

Truancy must be a decisive red flag. It occurs most frequently in elementary and middle schools, not high schools as most believe. It correlates with all of the later indicia of delinquency: drop-out status, drug and alcohol use, etc. Funding for truancy prevention programs must be given high priority. Learning the skills school can impart, and obtaining the credentials it offers, is critical to a child's future. We must fund programs which work—regardless of the collateral protests from school officials, parents, or the children themselves. Drastic measures are warranted to save children from the fate awaiting those who have nothing to offer the economy.

### ***Recommendation #4. Trade and Higher Education Investment. Estimated cost: included in Chapter 7***

As Chapters 2 and 7 discuss, the lowering of trade barriers means that California's youth must find employment outside field or factory manual labor. The information revolution may eventually limit retail blue-collar employment as well. But the state has the chance to occupy a critically growing niche—the educated worker: the skilled, computer-literate artisan, tradesperson, professional; the fixer, coordinator, arranger.

California must invest in career paths. As Chapter 7 indicates, the state's children sense their chance. Although California has extraordinarily high levels of limited English proficiency and high child poverty, unusual numbers of the state's youths are taking college entrance examinations. And, notwithstanding disadvantageous demographic profiles and educational disinvestment by the state which should place them near the bottom of the nation, they are matching the national averages. The children of California want an opportunity, and lead the nation in the percentage who seek higher education. And for the past four years of SAT results, they have walked the walk. Their effort and performance—as well as employment demographics—warrant our investment in their future through vastly expanded higher education. Student loans should be substantially expanded beyond levels proposed—particularly to finance room and board while attending school—California's most significant barrier. Trade schools, community colleges, and the CSU and UC college systems need to increase their capacity by at least 20% over the next ten years beyond population increase.

Chapter 9

ENDNOTES

1. Department of Corrections, *Spring 2004 Population Projections, 2004 Through 2009* (Sacramento, CA; 2003) at Table A (<http://www.corr.ca.gov/OffenderInfoServices/Reports/Projections/S04Pub.pdf>).
2. *Id.* at 4.
3. Office of the Governor, *Governor's Budget Summary 2004–05* (Sacramento, CA; January 2004) at 146 (hereinafter "*Governor's Budget Summary 2004–05*").
4. California Department of Corrections, *CDC Facts, First Quarter 2004* (Sacramento, CA; 2004) (available at [www.corr.ca.us](http://www.corr.ca.us)).
5. *Governor's Budget Summary 2004–05*, *supra* note 3 at 145.
6. Office of the Governor, *Governor's Budget Summary 1999–2000* (Sacramento, CA; 1999) at 188–189 (hereinafter "*Governor's Budget Summary 1999–2000*").
7. Snyder H., *Juvenile Arrests 2001* (Washington, DC: Office of Juvenile Justice and Delinquency Prevention, December 2003) (hereinafter "*Juvenile Arrests 2001*").
8. *Id.*
9. *Id.*
10. See Michael Ryan, *Before Teenagers Become Criminals*, Parade Magazine, S.D. UNION-TRIB., April 26, 1998, at 14.
11. See Tables 9-A and 9-B.
12. *Juvenile Arrests 2001*, *supra* note 7.
13. *Id.* at 4.
14. *Id.* at 2. The overall juvenile arrest rates have been adjusted consistent with historical patterns of FBI clearance data which eliminates certain percentages of initial arrestees based on overly broad initial arrests which are then culled through release or declination to file. These group arrest patterns occur most often with younger suspects and artificially inflate incidence if not adjusted. The rates vary by crime type.
15. *Id.* at 3.
16. California Department of Justice, *Crime in California 2002* (Sacramento, CA) at Table 17 (hereinafter "*Crime in California 2002*").
17. *Id.*
18. *Juvenile Arrests 2001*, *supra* note 7, at 11.
19. See esp. the findings of Lori Dorfman and Vincent Schiraldi, *Off Balance: Youth, Race and Crime in the News*, Building Blocks for Youth, April 13, 2001, available at [www.buildingblocksforyouth.org](http://www.buildingblocksforyouth.org). The Report examined 77 studies from 1919 to 2001 and found that violent crime dominated news coverage and that coverage and reportage ran counter to actual trends from 1990 to 1998, with homicides down 32.9% while news coverage of homicides increased by 473%. It also found that youth rarely appear in the news, and when they are covered, it is often in connection with violence, particularly for minority youth—however, such coverage rarely covers violence against youth. In March of 2002, Children Now released its own study of local television news coverage, "*The Local Television News Media's Picture of Children*," (October 23, 2001) with similar findings, finding that children were subject matter in only 10% of the stories, and when they were covered, crime accounted for 45% of the subject matter. More than eight out of ten of these stories were related to violent crimes—however it found attention to children as victims of crime, with 69% featuring children as victims (at 1). Note that both studies note the contrary relationship between coverage attention and empirical incidence. To the extent the media's "boy bites dog" basis for coverage stimulates it to cover the exception rather than the rule, and does so en masse, public policy may be misinformed.
20. *Crime in California 2002*, *supra* note 16; see also California Attorney General, *Crime and Delinquency in California, 2001* at Table 22.

21. *Id.*
22. See Table 9-E and source.
23. California Department of Justice, *California Criminal Justice Profile 2002* (Sacramento, CA; 2003) at Table 19 and Table 3C.
24. See Peter W. Greenwood, *Responding to Juvenile Crime: Lessons Learned*, 6:3 THE FUTURE OF CHILDREN: THE JUVENILE COURT 75, 77 (Richard E. Behrman, M.D., ed. 1996) (hereinafter "*Lessons Learned*").
25. In 1993, the California Department of Justice reported 564,307 arrests of juveniles and adults while more than two million felony crimes were reported. See Little Hoover Commission, *The Juvenile Crime Challenge: Making Prevention a Priority* (Sacramento, CA; 1994) at 10 (hereinafter "*Juvenile Crime Challenge*").
26. Howard N. Snyder, *The Juvenile Court and Delinquency Cases*, 6:3 THE FUTURE OF CHILDREN: THE JUVENILE COURT 53, 60 (Richard E. Behrman, M.D., ed. 1996) (hereinafter "*Juvenile Court and Delinquency Cases*").
27. *Id.*
28. See Coalition for America's Children, *Children and Violence* (Washington, D.C.; 1995) at 6 (hereinafter "*Children and Violence*"), and Michele Byrnes, Daniel Macallair, and Andrea Shorter, *Aftercare as Afterthought: Reentry and the California Youth Authority* (San Francisco, CA; August 2002) at 1).
29. *Juvenile Court and Delinquency Cases*, *supra* note 26, at 61.
30. Office of Juvenile Justice and Delinquency Prevention, *Action Plan Update* (Washington, D.C.; October 2001) (hereinafter "*Action Plan Update*") at 2. Office of Juvenile Justice and Delinquency Prevention, *Juvenile Offenders and Victims: 1999 National Report* (Washington, D.C.; 1999) at 26.
31. National Center for Injury Prevention and Control, *10 Leading Causes of Death, U.S., 2000* (available at [www.cdc.gov](http://www.cdc.gov)).
32. *Id.* at 17.
33. *Id.* at 18.
34. David Finkelhor and Richard Ormrod, Office of Juvenile Justice and Delinquency Prevention, *Reporting Crimes Against Juveniles* (Washington, D.C.; November 1999) at 1–7. Self-reporting is limited where the victim is inarticulate or young. Even where a report exists regarding violence against a child, it may be reported to school officials, or to local child protective services authorities and not become part of criminal justice statistics.
35. Children Now, *The State of Our Children* (Oakland, CA; 2002) at 64.
36. *Id.*
37. Children's Defense Fund, *Protect Children Instead of Guns 2001* (Washington, D.C.; September 2001) (hereinafter "*Protect Children Instead of Guns*") at 3; Children's Defense Fund, *Protect Children Instead of Guns 2000* (Washington, D.C.; September 2000) at Historical State Data.
38. The CII Forum, *Understanding Kids Who Kill*, Children's Institute International (Los Angeles, CA; Fall 1999) at 1.
39. The primary police enforcement entity at the state level is the California Highway Patrol, which focuses on traffic safety, auto theft, and related violations. Special anti-drug task forces have also been established on state and federal levels, but most youthful offenders are arrested by local police enforcing the California Penal Code.
40. California Department of Justice, *Juvenile Justice in California 2002* (Sacramento, CA; 2003) at 12.
41. 387 U.S. 1 (1967). See also *McKeiver v. Pennsylvania* (1971) 403 U.S. 528; *In Re Winship* (1970) 397 U.S. 358.
42. *Juvenile Justice in California in 2002*, *supra* note 40, at 28.
43. *Id.*



44. Department of the Youth Authority, *About the CYA: Summary Fact Sheet* (Sacramento, CA; Feb. 2004).
45. *Id.*
46. California Board of Corrections, *Juvenile Detention Profile Survey* (Sacramento, CA 2001).
47. Department of the Youth Authority, *First Commitments and Institution Population* (Sacramento, CA; 2003).
48. *Id.* For numbers as of the end of 1998, see Legislative Analyst's Office, *Analysis of the Budget Bill 1999–2000* (Sacramento, CA; January 1999) at D-90 (hereinafter "LAO 1999–2000").
49. *Id.*
50. Office of the Governor, *Governor's Budget 1995–96* (Sacramento, CA; Jan. 1995) at YAC-25.
51. *First Commitments and Institution Population*, *supra* note 47.
52. *Id.*; Department of the Youth Authority, *Updated Population Projections for Fiscal Years 2001–02 through 2005–06* (Sacramento, CA; March 2002) at Table G.
53. Little Hoover Commission, *Boot Camps: An Evolving Alternative to Traditional Prisons* (Sacramento, CA; 1995) at 14 (hereinafter "*Boot Camps: An Evolving Alternative*"), citing California Youth Authority, *California's Juvenile Probation Camps: Summary* (Sacramento, CA; December 1989) at 14–19.
54. U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *Juvenile Offenders and Victims: 1999 National Report* (Washington, D.C.; September 1999) at 189.
55. Mark Dowie, *Tough Justice*, CAL. LAWYER 55, 58 (Oct. 1993) (quoting David Steinhart, former National Council on Crime and Delinquency attorney).
56. See Building Blocks for Youth, *The Color of Justice* (2000), focusing on Los Angeles; see also the national study, Eileen Poe-Yamagata and Michael A. Jones, National Council on Crime and Delinquency, *And Justice for Some* (San Francisco, CA; 2000) (hereinafter "*And Justice for Some*"); see discussion of both and reaction to their contentions at Cheryl Romo, *Youth Hostile*, L.A. DAILY J. (April 26, 2000) at A-1.
57. *And Justice for Some*, *supra* note 56.
58. Joseph F. Sheley, Ph.D., and James D. Wright, Ph.D., *Gun Acquisition and Possession in Selected Juvenile Samples*, NAT'L INST. OF JUSTICE RESEARCH IN BRIEF (1993) (hereinafter "*Gun Acquisition and Possession*").
59. *Children and Violence*, *supra* note 28, at 4, citing *Gun Acquisition and Possession*, *supra* note 58.
60. *Id.*
61. Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, *Juvenile Offenders and Victims: 1996 Update on Violence (Statistics Summary)* (Washington, D.C.; February 1996) at 21.
62. See Julie Marquis, *Study Finds Alarming Rate of Risky Behaviors by Boy Teens*, L.A. TIMES (May 8, 1998) at A-1, A-47 (reporting on a study by Charles F. Turner of the Research Triangle Institute in Washington, D.C., the findings of which were published on May 8, 1998 in SCIENCE) (hereinafter "*Risky Behaviors*").
63. National Center for Education Statistics, *Violent Deaths at School* (Washington, D.C.; 2003).
64. *Id.*
65. *Id.*
66. Elizabeth Donohue, Vincent Schiraldi, and Jason Ziedenberg, Justice Policy Institute, *School House Hype: School Shootings and the Real Risks Kids Face in America* (Center on Criminal and Juvenile Justice; July 1998).
67. Joseph Sheley and James Wright, *High School Youths, Weapons, and Violence: A National Survey*, National Institute of Justice Research in Brief (October 1998) at 1.

68. *Id.* It also supports the thesis that one possible major inducement to higher rates of youth carrying guns is the impression advanced by the media that it is now more common than is the case, thus invoking the self-defense justification, and perhaps leading to a self-fulfilling result.
69. 1999 National Report, *supra* note 54, at 68.
70. *Id.*
71. Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, *Juvenile Offenders and Victims: 1997 Update on Violence* (Statistics Summary) (Washington, D.C.; February 1997) at 14–15 (hereinafter “1997 Update on Violence”).
72. 1999 National Report, *supra* note 54, at 68.
73. *Id.* at 64.
74. See Paul Farhi, *Study Finds Real Harm in TV Violence*, WASH. POST (Feb. 6, 1996) at A1; see also Bill Carter, *A New Report Becomes a Weapon in Debate on Censoring TV Violence*, N. Y. TIMES (Feb. 6, 1996) at C11.
75. See Richard Huff, *TV Rolls with Punches*, N.Y. DAILY NEWS (Apr. 17, 1998) (quoting Dale Kunkel, Professor of Communication at UC Santa Barbara, and discussing the National Television Violence Study).
76. *Children and Violence*, *supra* note 28, at 7, citing *Growing Up Scared*, NEWSWEEK (Jan. 10, 1994) at 44.
77. Brandon S. Centerwall M.D., M.P.H., *Television and Violence*, 267:22 JAMA 3059 (June 10, 1992).
78. *Id.* at 3060.
79. *Id.*
80. *Id.*, citing the Joy *et al.* study; aggressiveness was measured objectively by recording rates of hitting, shoving, and biting (physical fighting).
81. *Id.*, citing the Huesmann study of 875 children.
82. *Id.* at 3060–62. The author cites the advice of the American Academy of Pediatrics that children be restricted to one to two hours of television per day, and recommends the now developing “v-chip” option to enable parents to decide what their children should see.
83. See discussion of the evidence in David Grossman, *Stop Teaching Our Kids to Kill: A Call to Action Against TV, Movie and Video Game Violence* (Crown Publishing, 1999).
84. Kaiser Family Foundation, *How Parents Feel (and What They Know) About TV, the V-Chip, and the TV Ratings System* (Menlo Park, CA; May 1999) at 11, 13, 16. The survey found 62% favoring content based ratings as the “most useful” (at 11), that 72% would by a television at the same cost with a V-Chip, that 77% would use it to filter shows viewed by their children. The poll, compared with one just one year earlier, shows remarkable increases in computer and internet access. As of 1999, 80% of households had cable or satellite TV, 63% has personal computers, and 50% had access to the internet—up from 38% in 1998. *Id.* at 15.
85. *Kids & Media—The New Millennium*, Kaiser Family Foundation (November 2000) *passim*.
86. Katharine Heintz Knowles, PhD, and Jennifer Henderson, *Fair Play? Violence, Gender and Race in Video Games*, Children Now (Oakland, CA; October 2001) at 1-30.
87. See discussion and data in Chapter 2 “Child Support Collection.” Note that these numbers represent substantial increases from collections in the early 1990s..
88. “Comprehensive reports from the Centers for Disease Control and Prevention, The National Research Center, The American Psychological Association and the Office of Juvenile Justice and Delinquency Prevention link youth violence with these risk factors: a history of child abuse or family violence, cultural acceptance of violence, childhood behavior disorders, school failure, poor self-esteem and unemployment.” *Children and Violence*, *supra* note 28, at 2.

89. "The damage begins early and is often imprinted for life. A recent study...recounts the testimony of experts who have identified post-traumatic stress symptoms in infants and toddlers who were exposed to violence in their first year of life..." *Id.* at 2, quoting *Hurt, Healing, Hope: Caring for Infants and Toddlers in Violent Environments* (Zero to Three/National Center for Clinical Infant Programs, 1994) at 5.
90. Joy D Osofsky, Office of Juvenile Justice and Delinquency Prevention, *Addressing Youth Victimization* (Washington, D.C.; October 2001). See also Richard Wiebush, Raelene Freitag, and Christopher Baird, Office of Juvenile Justice and Delinquency Prevention, *Preventing Delinquency Through Improved Child Protection Services* (Washington, D.C.; July 2001).
91. Child advocates generally prefer to see the dependency court proceeding take precedence to seek an outcome of close foster care supervision by a person skilled in influencing the respondent, or in adoption by attentive parents who will redirect their new child. See Sonia Nazario, *Sex, Drugs and No Place To Go*, L.A. TIMES (Dec. 12, 1993) at A-1; see also Chapter 7.
92. National Institute of Justice, *The Cycle of Violence Revisited*, RESEARCH PREVIEW (February 1996) at 1 (hereinafter "Cycle of Violence").
93. See *1997 Update on Violence*, *supra* note 71, at Arrests 1980, 1992–1997 Table; the felony arrest rate is 1,506 per 100,000, or 1.5% of the population in the same year of 1994, with the most recent 1997 figure at 1.4%
94. *Cycle of Violence*, *supra* note 92, at 1.
95. *Children and Violence*, *supra* note 28, at 5.
96. Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice, *Juvenile Offenders and Victims: 1996 Update on Violence* (Statistics Summary) (Washington, D.C.; February 1996) at 7 (hereinafter "1996 Update on Violence").
97. *Id.*
98. U.S. Department of Justice, Office of Justice Program, National Institute of Justice, *1999 Annual Report on Drug Use Among Adult and Juvenile Arrestees* (Washington, D.C.; June 2000) at 97.
99. Coalition for Juvenile Justice, *Transformation of the Juvenile Justice System: The State of the States* (1996 Annual Report) (Washington, D.C.; Fall 1996) at 18–19 (hereinafter "Transformation of the Juvenile Justice System"), citing the National Household Survey on Drug Abuse.
100. Luntz Research Companies (for the National Center on Addiction and Substance Abuse at Columbia University), *CASA 1997 Back to School Survey* (New York, NY; August 1997). See also Dina Bass, *Poll Finds Sharp Rise in Drug Use Among Youngsters*, L.A. TIMES (Aug. 14, 1997) at 1.
101. See *Risky Behaviors*, *supra* note 62, at A-47.
102. See survey results presented in *1999 National Report*, *supra* note 54, at 70.
103. *Id.* at 73, presenting data from the *1997 Youth Risk Surveillance*.
104. Partnership for a Drug-Free America, *The Boomer-Rang: Baby Boomers Seriously Underestimating Presence of Drugs in Their Children's Lives* (New York, NY; April 1998). See also Ronald J. Ostrow, *Parents Underrate Children's Exposure to Drugs*, L.A. TIMES (Apr. 13, 1998) at A-14.
105. Professor Rodney Skager, University of California at Los Angeles, *8<sup>th</sup> Biennial California Student Survey* (Los Angeles, CA; 2000) *passim*.
106. See discussion in Chapter 2 at Table 2-D.
107. Nancy Sconyers and Monica Heuer, National Association of Child Advocates, *The Link Between Father Absence and Youth Incarceration*, Youth Development and Juvenile Justice Update (February 5, 1999) at 1–2, reporting the findings of Sarah McLanahan and Cynthia Harper presented to the American Sociological Association in San Francisco in 1998, based on data from the National Longitudinal Survey on Youth.

108. *Id.* The one exception to improvement from fathers comes from step father involvement. It did not improve results, a predictable outcome given the often transitory record of many step fathers, enhanced insecurities in the relationship, and the common competitive problems involved in having someone as a parent who is focused on a child's mother as the preeminent relationship.
109. *1996 Update on Violence, supra* note 96, at 6–7. The 1989 survey was the National Crime Victimization Survey with a national sample of students aged 12 to 19; the 1993 study was by the National Center for Education Statistics surveying a similar national sample of sixth- through twelfth-graders.
110. See *1999 National Report, supra* note 54, at 77–79.
111. See estimate by Kate Fogel of the California Child Youth and Family Coalition, cited in *Juvenile Justice in California, supra* note 40, at 11.
112. David J. Steinhart, *Status Offenses*, 6:3 THE FUTURE OF CHILDREN: THE JUVENILE COURT 86, 93 (Richard E. Behrman, M.D., ed. 1996).
113. *Id.*
114. *Children and Violence, supra* note 28, at 3, citing J. Garbino, National Association for the Education of Young Children, *Helping Children Cope with the Effects of Community Violence* (New Orleans, LA; 1992); L. Wallach, *Helping Young Children Cope with Violence*, 48:4 YOUNG CHILDREN 4-11; L. J. Schweinhart, H. V. Barnes, and D. R. Weikart, High/Scope Educational Research Foundation, *The High/Scope Perry Preschool Study Through Age 27* (Ypsilanti, MI; 1993).
115. *Lessons Learned, supra* note 24, at 77.
116. CAL. WELF. & INST. CODE § 18220(h) (legislative findings for Comprehensive Youth Services Act).
117. *In Re Charles G.*, 115 Cal.App.4th 608, 9 Cal.Rptr.3d 503 (2004).
118. See Richard A. Mendel, American Youth Policy Forum, *Prevention or Pork? A Hard-Headed Look at Youth-Oriented Anti-Crime Programs* (Washington, D.C.; 1995) at 7.
119. *Boot Camps: An Evolving Alternative, supra* note 53, at 24.
120. *Id.* at 18–20. Most boot camps solicit volunteers by promising reduced sentences for participation. Nevertheless, “selection out” factors should produce a somewhat improved recidivist rate. In June 1996, the U.S. Office of Juvenile Justice and Delinquency Prevention summarized the research on boot camp efficacy to date. It studied three camps in Ohio, Colorado, and Alabama which had been federally funded in 1992. None of the pilot projects indicated any recidivist improvement. They are particularly ineffective for young, new violators, and for troublesome chronic offenders. There may be some marginal benefit to those between early offenders and serious long-term violators, *i.e.*, as an “intermediate intervention” for some. See Shay Bilchik, U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, *Juvenile Boot Camps: Lessons Learned* (Fact Sheet #36) (Washington, D.C.; June 1996) at 1.
121. *Boot Camps: An Evolving Alternative, supra* note 53, at 19.
122. *Id.*
123. *Id.*, citing Little Hoover Commission, *Putting Violence Behind Bars: Redefining the Role of California's Prisons* (Sacramento, CA; January 1994) at 68. The return percentage was reported at 59.2% in 1992.
124. *Boot Camps: An Evolving Alternative, supra* note 53, at 19.
125. *Id.* at 18–19.
126. *Id.* at 14.
127. *Id.* at 19.
128. *Lessons Learned, supra* note 24, at 78–79.

129. *Prevention or Pork?*, *supra* note 118, at 11–26, surveys many of the programs. See also Peter Greenwood, *et al.*, Rand Corporation, *Diverting Children from a Life of Crime: Measuring Costs and Benefits* (Santa Monica, CA; 1996). Other recent documents indicating the success of various prevention programs include: National Recreation and Park Association, *Beyond 'Fun and Games': Emerging Roles of Public Recreation*, (Arlington, VA; October 1994); U.S. Department of Justice, Office of Juvenile Justice Delinquency Prevention, *What Works: Promising Interventions in Juvenile Justice* (Washington, D.C.; October 1994); Black Community Crusade for Children and the Urban Strategies Council, *The Challenge: Preventing Youth Violence* (Washington, D.C.; September 1994); U.S. Senate Judiciary Committee Majority Staff, *Catalogue of Hope: Crime Prevention Programs for At-Risk Children* (Washington, D.C.; April 1994); Centers for Disease Control and Prevention, *The Prevention of Youth Violence: A Framework for Community Action* (Atlanta, GA; 1993); Education Development Center, Inc., *Violence Prevention for Young Adolescents: A Survey of the State of the Art* (Boston, MA; 1991).
130. See, e.g., the compilation of studies to date analyzed by the Packard Foundation in its Future of Children series. See *Home Visiting: Recent Program Evaluations*, THE FUTURE OF CHILDREN, Vol. 9, No. 1 (Spring, Summer 1999), Packard Foundation, *passim*. These “home visitation” programs are often formulated to reduce child neglect and abuse by providing in-home visits to children who meet an at-risk profile; in general, this is the same population of youth also at-risk for delinquency. The studies do not indicate consistent or substantial general benefits when compared to control groups, although some specific populations may benefit from specific kinds of intervention (indicating the need to refine what is done and where). Such interventions on the abuse side, often to teach basic parenting skills, must proceed in weekly to monthly visits of several hours in a very expensive, one-on-one in the home setting. It is unclear why such programs are implemented on the massive basis many advocates suggest, while parenting education in schools remains nil.
131. Sanford Newman, T. Berry Brazleton, Edward Zigler, Lawrence Sherman, William Bratton, Jerry Sanders, and William Christeson, *America's Child Care Crisis: A Crime Prevention Tragedy*, Fight Crime Invest in Kids (June 7, 2000) *passim* (see [www.fightcrime.org](http://www.fightcrime.org)).
132. See, e.g., the findings from the substantial longitudinal study in Rochester, concluding that children who were more attached to and involved with their parents were less involved in delinquency. The study also found strong correlation between poor school performance and interest and delinquency. And, predictably, found that relating to peers engaged in delinquency to be another strong indicator. See Katharine Browning, Ph.D., Terrence P. Thornberry, Ph.D., and Pamela Porter, M.S.E., *Highlights of Findings from the Rochester Youth Development Study*, OJJDP Fact Sheet # 103 (April 1999) at 1.
133. Martin & Glantz, Resources for Youth, *Fact Sheet on Juvenile Crime and Violence in California* (1996) at 1, citing, respectively: for local law enforcement—a 16% allocation of the total \$6.7 billion law enforcement budget, based on arrest incidence of juveniles to total arrestees; for prosecution and defense costs—a similar 16% of the \$1.1 statewide total; for court costs—a somewhat inflated 38% of a \$1.4 billion state total; for county probation—18% of the \$810 million total representing the juvenile caseload. Source of all statewide total spending figures: Legislative Analyst's Office, *Juvenile Crime: Outlook for California* (Sacramento, CA; May 1995) at 12.
134. The Trial Court Funding Realignment and Efficiency Act of 1991 increased state funding of trial courts and transferred some revenues from fines to the state general fund. The 1997 state share of those costs was 70%; see Office of the Governor, *Governor's Budget 1994–95* (1994) at LJE-12 (hereinafter “*Governor's Budget 1994–95*”). State trial court funding beginning in January 1998 transferred virtually all courtroom costs into state accounts under the direction of the state Supreme Court's administrative arm.
135. Judicial Council of California, *Research Update: California Juvenile Delinquency Data* (San Francisco, CA; December 1, 2003); Judicial Council of California, *1999 Annual Report: Court Statistics Report* (San Francisco, CA; 1999) at 51 (hereinafter “*1999 Annual Report*”). See also Judicial Council of California, Administrative Office of the Courts, *State Court Outlook, California Courts in Crisis* (San Francisco, CA; 1996) at 19 (hereinafter “*California Courts in Crisis*”).
136. *Research Update: California Juvenile Delinquency Data*, *supra* note 135, at 2.
137. The county that commits the youth must contribute \$25 per day. Legislative Analyst's Office, *Analysis of the 1993–94 Budget Bill* (Sacramento, CA; 1993) at D-55 (hereinafter “*LAO 1993–94*”).
138. Office of the Governor, *Governor's Budget Summary 1997–98* (Sacramento, CA; Jan. 1996) at 127, citing SB 681 (Hurt) (Chapter 6, Statutes of 1996).
139. SB 1728 (Hughes) (Chapter 1023, Statutes of 1994).
140. See Assemblymember Jan Goldsmith's AB 2531, introduced during the 1995–96 legislative session, which would give juvenile judges greater leeway in sentencing status offenders, particularly useful for truants. Consistent with Goldsmith's effort to bring more attention to juvenile justice's “up front” interaction with youth, the measure was designed to bring earlier and more decisive intervention at the first signs of youth failure.

141. See Deborah Anderluh, *The Lost Children*, SACRAMENTO BEE (Feb. 18, 1996) at A1; Deborah Anderluh, *Schools Get Little Help in Battling Truancy Problems*, SACRAMENTO BEE (Feb. 19, 1996) at A1.
142. The state also offers related drop-out prevention programs. SB 65 (Torres) (Chapter 1431, Statutes of 1985) established drop-out prevention services (educational clinics, alternative education, and work centers) in a limited number of schools. California also has a conflict resolution program created by 1994 legislation to be separately funded by the Drug Asset Forfeiture Fund. See SB 1255 (Hughes) (Chapter 1022, Statutes of 1994).
143. The Legislative Analyst estimates that the community schools of county offices of education receive \$1,200 more per student than do school districts for regular instruction. See Legislative Analyst's Office, *Analysis of the 1995–96 Budget Bill* (Sacramento, CA; 1995) at E-57 (hereinafter "LAO 1995–96").
144. *Id.* at E-58.
145. *Id.* at E-61.
146. Senate Rules Committee, *Analysis of AB 1012 (Steinberg)* (Sacramento, CA; September 2003).
147. *People v. Burton*, 6 Cal.3d 1 (1971).
148. Jerry Thomas Consulting and Training, *Evaluation of Sex Offender Programs of the California Youth Authority* (Memphis, TN; September 29, 2003).
149. See *Greater Los Angeles Council on Deafness, Inc. v. Los Angeles County Probation Department*, CV98-2130 (C.D. Cal., March 29, 1999).
150. For example, the 1991 Budget Act contained \$1.8 million and the 1992 Budget Act contained \$2.1 million for compliance purposes. However, note that these additional resources for special education have come from Proposition 98 monies. CYA education expenditures are now deemed a part of the Proposition 98 funding. Positions have been established in order to provide identification, educational planning, and placement services to wards with special education needs.
151. LAO 1993–94, *supra* note 137, at D-65.
152. Dr. Thomas O'Rourke, Dr. Robert Gordon, *Education Program Review of the California Youth Authority* (Sacramento, CA; December 2003).
153. National Mental Health Association, *Children with Emotional Disorders In the Juvenile Justice System* (2001) (see [www.nmha.org/children/justjuv/index.cfm](http://www.nmha.org/children/justjuv/index.cfm)). The paper cites J.J. Coccozza, *Responding to Youth with Mental Disorders in the Juvenile Justice System* (Seattle, WA; 1992).
154. David Doi, Coalition for Juvenile Justice, *Many Incarcerated Juveniles with Mental Illness Untreated* (December 2000) *passim* (see [www.npr.org/ramfiles/atc/20001205.atc.14.ram](http://www.npr.org/ramfiles/atc/20001205.atc.14.ram)).
155. *Juvenile Halls Are on Notice*, LOS ANGELES TIMES (April 26, 2003) at part 2, p. 26.
156. *Id.*
157. Eric W. Trupin, PhD., Raymond Patterson, M.D., *Report of Findings of Mental Health and Substance Abuse Treatment Services to Youth in California Youth Authority Facilities* (Sacramento, CA; December 2003).
158. *Emily Q. v. Diana Bonta*, CV98-4181 (C.D. Cal. March 30, 2001).
159. *In Re Howard N.*, 115 Cal. App. 4th 1134 (Feb. 19, 2004).
160. Christopher Hartney, Theresa McKinney, Laura Eidlitz, and Jessie Craine, *A Survey of Mental Health Care Delivery to Youth in the California Juvenile Justice System*, National Council on Crime and Delinquency (Oakland, CA; Sept. 2003).
161. *Id.*

162. *Id.*
163. *Id.*
164. *Juvenile Crime Challenge, supra* note 25.
165. *Id.* at 4.
166. *Id.*
167. Orange County Probation Department, *Intervention Program Evaluation: Evaluating the Success of the 8% Early Intervention Program* (Orange County, CA; May 2001).
168. *Id.*
169. *Id.*
170. U.S. Surgeon General, *Youth Violence: A Report of the Surgeon General (hereinafter "Surgeon General 2001")*, (Washington, D.C.; 2001).
171. *Id.*
172. See Robert E. Shepherd, Jr., *Challenging Change: Legal Attacks on Juvenile Transfer Reform*, 12:3 CRIMINAL JUSTICE MAGAZINE (Fall 1997); see also Thomas Grisso, *Juvenile Competency to Stand Trial: Questions in an Era of Punitive Reform*; 12:3 CRIMINAL JUSTICE MAGAZINE (Fall 1997).
173. Three recent statutes not included in the list authorize the liberalized transfer of records between agencies or between schools and juvenile court—supported by many child advocates; prohibit the sealing of juvenile records where convicted as an adult; and extend the period to apply for sealing of juvenile records from three to six years. See Chapters 215, 835, and 1018, Statutes of 1994, respectively. In addition, several bills failed passage *en toto*, among them two embarrassing measures by Assemblymember Mickey Conroy to punish juvenile graffiti offenders by requiring parents to paddle them in open court by up to ten whacks with a paddle; if the blows are not sufficiently hard, the court must order the court bailiff to deliver them. AB 7 (Conroy) and AB 101 (Conroy) were introduced and defeated during the 1995–96 session.
174. See AB 560 (Peace) (Chapter 453, Statutes of 1994), amending CAL. WELF. & INST. CODE §§ 207.1, 211, 607, 653.1, 653.5, 645.3, 676, 707, 707.1, 781, 827, 828.1, 1731.5, 1767.1, 1769, 1772.
175. See the list of serious crimes in § 707(b) of the Welfare and Institutions Code.
176. As noted above, the juvenile court, and initial statutes separating out treatment of children who violate laws, focused on preventing contact between children and adults who have chosen a life of crime. The movement of children into the adult setting, including adult corrections and contact with older repeat offenders, reverses the theoretical underpinning of traditional juvenile justice assumptions.
177. See CAL. WELF. & INST. CODE § 707(d).
178. See *People v. Superior Court [Melvin Ray Jones]* 98 D.A.R. 7839 (July 20, 1998).
179. CAL. WELF. & INST. CODE § 1732.6, added by SB 23 (Leonard) (Chapter 15, 1st Ex. Sess., Statutes of 1994).
180. *Id.* at § 1731, amended by SB 1539 (McCorquodale) (Chapter 23, 1st Ex. Sess., Statutes of 1994).
181. *Id.* at § 208.1, added by AB 45 (Andal) (Chapter 23, 1st Ex. Sess., Statutes of 1994).
182. CAL. PENAL CODE § 2933.1, added by AB 2716 (Katz) (Chapter 713, Statutes of 1994). This limitation will affect those CYA inmates under 21 years of age transferred to CYA by adult corrections or who were tried as adults under waiver and sentenced to CYA.
183. CAL. WELF. & INST. CODE § 827.5, added by SB 31 (Peace) (Chapter 37, 1st Ex. Sess., Statutes of 1994).
184. See *supra* note 180.

185. CAL. WELF. & INST. CODE § 1772(a) and (b), amended by AB 560 (Peace) (Chapter 453, Statutes of 1994).
186. The California Supreme Court upheld such juvenile court “strike” counting in *People v. Davis*, 15 Cal. 4th 1096 (July 3, 1997). The close 4–3 decision held that such strikes may count without express findings that the youth “is a fit and proper subject” to be dealt with by juvenile court, as the statute appears to require (e.g., as opposed to a person unfit to stand trial or understand the proceedings). The court held that such a finding is properly assumed without court assumption of jurisdiction. The majority failed to address the defense argument that the lack of a jury trial in juvenile court proceedings constitutionally precludes their status as prior convictions for later adult sentencing. The decision is troubling in its lack of clarity as to which offenses qualify. An adult conviction constitutes strike one or two only if it is a violent felony; but the decision does not elucidate how this line is to be drawn in juvenile court where youth are civilly “adjudicated” rather than “convicted.”
187. See, e.g., Charles Finnie, *‘Three Strikes’ Hits Hard in Juvenile Court*, L.A. DAILY J. (Apr. 8, 1994) at 4 (remarks by Santa Clara County Superior Court Judge Leonard Sprinkles). Some defenders would prefer to have their requests for jury trials denied, as is occurring in Los Angeles and other counties, in order to preserve a constitutional defect which may win reversal. If a jury trial is granted and the defendant is convicted, there would be no grounds for reversal due to denial of due process.
188. *Id.* (comments of San Francisco deputy public defender Joseph Spaeth).
189. LAO 1995–96, *supra* note 143, at D-81.
190. *People v. Superior Court (Jones)* (1998) 18 Cal. 4th 667, 76 Cal. Rptr. 2d 641.
191. Senate Appropriations Committee, *Fiscal Summary of SB 1151 (Kuehl)* (Sacramento, CA; May 20, 2004).
192. See Peter Blumberg, *Tough Juvenile Crime Bill Passed by Democrats*, L.A. DAILY J. (September 14, 1999) at 1.
193. Objectors filed *Macallair v. Jones* before Judge Ford in Sacramento County #99CS02532; Judge Ford required changes in some of the statements of proponents, and one statement in the submission of opponents as well, but the basic contentions were not altered.
194. See discussion in California Budget Project, *Will Proposition 21, ‘The Gang Violence and Juvenile Crime Prevention Act,’ Decrease Juvenile Crime in California?*, Budget Brief (Sacramento, CA; January 2000) at 2.
195. See Maura Dolan, *More Teenagers Face Charges as Adults*, L.A. TIMES (November 30, 2000).
196. E.g., studies of automatic transfer to adult court programs in New York and Idaho found no deterrent impact benefit, see Simon Singer and David McDowall, *Criminalizing Delinquency: The Deterrent Effects of the New York Juvenile Offender Law*, LAW AND SOCIETY REVIEW, Vol. 22 (1988) at 521–535; see also Eric Jenson and Linda K. Metsger, *A Test of the Deterrent Effect of Legislative Waiver on Violent Juvenile Crime*, CRIME & DELINQUENCY, Vol. 40, No. 1 (January 1994).
197. See *Resendiz v. Superior Court* (D036738), court of appeal decision vacated by the Supreme Court’s acceptance of review.
198. See statistics presented in Mareva Brown, *Proposition 21 Not filling Prisons with Juveniles*, SACRAMENTO BEE, July 15, 2001.
199. Children’s Defense Fund, *Fiscal Year 2005 Budget Analysis* (Washington, D.C.; Feb. 2004) at 7.
200. *Id.*
201. Pub. L. No. 103-322.
202. See Linda Roeder, *Child Protection Report*, Business Publishers Inc. (December 9, 1994) at 201.
203. *Boot Camps: An Evolving Alternative*, *supra* note 53, at 11.
204. The three prospective federal sources and maximum total California allocations for the five years from 1995 to 2000 are: (1) The Edward Byrne Memorial State and Local Law Enforcement Assistance Grant Program of the Anti-Drug Abuse Act of 1988 (Title XXI, Subtitle A, § 210101). Extension of Byrne Act Funding as amended by the 1994 Crime



- Act would authorize \$88 million to California. The Act establishes 21 “purpose areas” for spending, including “changing attitudes through physical adventure” for offenders. (2) Certain Punishment for Young Offenders, Title II, amending Title I of the 1968 Omnibus Crime Control and Safe Streets Act would provide California with \$15 million to “develop alternative methods of punishment for young offenders....” (3) Grants for Correctional Facilities in Title II, Subtitle A, § 20101 is by far the largest account, and authorizes up to \$1.2 billion for California. The account specifically authorizes construction, expansion, modification, and operation of correctional facilities, including boot camps.
205. See discussion in *Juvenile Justice: States May Apply for Their Share of Juvenile Crime Block Grant*, CHILDREN AND YOUTH FUNDING REPORT (Silver Spring, MD; April 9, 1998) at 8.
  206. Children’s Defense Fund, *Fiscal Year 2005 Budget Analysis* (Washington, D.C.; Feb. 2004) at 7.
  207. Health and Human Services and Education Subcommittee, *U.S. Representative Ralph Regula (R-OH) Holds Hearing on FY2005 Department of Health and Human Services Appropriations* (Washington, D.C.; Feb. 12, 2004).
  208. *Id.*
  209. See *Spending of Justice Department Tackles Juvenile Crime But Ignores Prevention*, CHILDREN AND YOUTH FUNDING REPORT (Silver Spring, MD; November 25, 1997) at 11.
  210. *Id.*
  211. Cornelia M. Blanchette, U.S. General Accounting Office, *At-Risk and Delinquent Youth: Multiple Programs Lack Coordinated Federal Effort* (GAO/T-HEHS-98-38) (Washington, D.C.; November 5, 1997) at 1–12 (testimony before the U.S. Senate’s Subcommittee on Youth Violence, Committee on the Judiciary).
  212. California Youth Authority, *About the CYA: Summary Fact Sheet* (Sacramento, CA; 2004) (see <http://www.cya.ca.gov/about/summaries.html>).
  213. CAL. WELF. & INST. CODE § 202(a).
  214. *Id.* at § 202(b).
  215. Office of the Governor, *Governor’s Budget 1998–99* (Sacramento, CA; 1998) at YAC-41 to YAC-43 (hereinafter “*Governor’s Budget 1998–99*”).
  216. California Youth Authority, *About the CYA: Summary Fact Sheet* (Sacramento, CA; 2004) (see <http://www.cya.ca.gov/about/summaries.html>).
  217. Legislative Analyst’s Office, *Analysis of the 2004–05 Budget Bill* (Sacramento, CA; Feb. 2004).
  218. *Id.*
  219. Office of the Governor, *Governor’s Budget Summary, 2004–05* (Sacramento, CA; Jan. 2004) at 153.
  220. Associated Press, *Video Shows Guards Beating Young Inmates* LOS ANGELES DAILY JOURNAL (March 18, 2004) at 3.
  221. Scott Smith, *Federal CYA Probe Begins*, THE RECORD, April 30, 2004.
  222. See, e.g., Jenifer Warren, Jill Leovy, Nora Zamichow, *A Daily Lesson in Violence and Despair* LOS ANGELES TIMES (Feb. 17, 2004) at A1; Jill Leovy, *Revamp of CYA Slow to Occur; Youth Penal System’s Ex-Chief Says State Hasn’t Followed Through on Promised Changes* LOS ANGELES TIMES (Feb. 16, 2004) at B1; Jie-Rui Chong, *Families of Boys Found Hanged at CYA Facility File Legal Claims* LOS ANGELES TIMES (Feb. 11, 2004) at B6; Jill Leovy, Jia-Rui Chong, *Youth Authority to Review Use of Cages* LOS ANGELES TIMES (Feb. 6, 2004) at A1.
  223. *Stevens, et al. v. Harper*, U.S. District Court Case No. S-01-0675 DFL-PAN-P (E.D. CA).
  224. Eric W. Trupin, PhD., Raymond Patterson, M.D., *Report of Findings of Mental Health and Substance Abuse Treatment Services to Youth in California Youth Authority Facilities* (Sacramento, CA; December 2003).
  225. Michael Puisis, D.O., Madie LaMarre, M.N., C.F.N.P., *Review of Health Care Services Youth in the California Youth Authority* (Sacramento, CA; August 22, 2003).

226. Jerry Thomas Consulting and Training, *Evaluation of Sex Offender Programs of the California Youth Authority* (Memphis, TN; September 29, 2003).
227. Dr. Thomas O'Rourke, Dr. Robert Gordon, *Education Program Review of the California Youth Authority* (Sacramento, CA; December 2003).
228. Barry Krisberg, Ph.D., *General Corrections Review of the California Youth Authority* (Sacramento, CA; December 23, 2003).
229. Clea Benson, *Youth Prison System Blasted*, THE SACRAMENTO BEE (Feb. 3, 2004).
230. Nancy Vogel, Tim Reiterman, *Panel to Probe System; Former Gov. Deukmejian is Named to Head the Group, Which Will Consider Closures and Ending 'Code of Silence' Among Guards*, L.A. TIMES (March 6, 2004) at B1.
231. Legislative Analyst's Office, *Analysis of the 2004–05 Budget Bill* (Sacramento, CA; Feb. 2004) at D-75.
232. California Youth Authority, *Summary Fact Sheet* (Sacramento, CA; Feb. 2004) at 1. Also see Assembly Public Safety Committee, Subcommittee on Juvenile Justice, *Summary of Public Hearings* (Sacramento, CA; May 28, 1996) at Appendix C (hereinafter "*Summary of Public Hearings*").
233. Office of the Governor, *Governor's Budget 1994–95* (Sacramento, CA; Jan. 1994) at YAC-28.
234. California Youth Authority, *Summary Fact Sheet* (Sacramento, CA; Feb. 2004) at 1.
235. *Boot Camps: An Evolving Alternative*, *supra* note 53 (transmittal letter from Commission Chair Richard R. Terzian to the Governor and legislative leaders dated January 4, 1995).
236. Office of the Governor, *Governor's Budget 1992–93* (Sacramento, CA; 1992) at YAC-55.
237. California Board of Corrections, *Juvenile Justice Crime Prevention Act, 2003 Annual Report* (Sacramento, CA; March 2003) at 1.
238. Legislative Analyst's Office, *Analysis of the 2004–05 Budget Bill* (Sacramento, CA; Feb. 2004) at D-23. Arguably, TANF funds are federally allocated not for probation or law enforcement purposes, but to provide job training and direct employment of TANF parents, and to provide child care for their children. Its redirection to different accounts where current programs have long existed is a form of "supplantation" or diversion.
239. *Juvenile Justice Crime Prevention Act*, *supra* note 237.
240. *Id.*
241. Legislative Analyst's Office, *Analysis of the 2004–05 Budget Bill* (Sacramento, CA; Feb. 2004) at D-24.
242. *Id.* at D-25, D-27.
243. *Id.* at D-24.
244. *Id.*
245. The Board had a policy of requiring police reports as proof of crime victim status. However, child abuse is a difficult crime to prove, and investigations may be picked up by Child Protective Service social workers rather than police. While evidence may be lacking to criminally investigate and prosecute, the evidence that a child is the victim of a crime may be easily demonstrated. The Board altered its practices in the mid 1990s to allow CPS social worker reports to substitute for police reports and to qualify claimants lacking such police reports for possible crime victim benefits.
246. CAI's analysis of this budget item was made much more difficult by the fact that, since 1992–93, the Governor's Budget has not separated out the amounts spent on individual juvenile justice programs. The gross grouping of programs inhibits precise measurement and accountability.
247. CAI is grateful to Cherie McKone and the Office of Criminal Justice Planning for this information.

248. Office of Criminal Justice Planning, *1991 California Formula Grant and Application for Juvenile Justice Delinquency and Prevention* (1991) at 22.
249. Funding for programs to stop drug abuse in schools was allocated to the Department of Education beginning in fiscal year 1992–93. The importance of these programs is discussed in Kate Fogle and Marilyn Ericksen, California Child, Youth and Family Coalition, *A Response to Youth Crime Proposals* (1994).
250. Hudson Sangree, *National Guard Will Run State’s Juvenile Camp* L.A DAILY J. (September 28, 2000) at 1.
251. Kelly St. John, *Price School Chopped from State Budget; \$12 Million Was Spent on 34 Teens*, San Francisco Chronicle (July 27, 2002) at A15.
252. *Juvenile Crime Challenge*, *supra* note 25, at 55.
253. *Id.* (transmittal Letter from Commission Chair Richard R. Terzian to the Governor and legislative leaders dated October 4, 1994).
254. The Little Hoover Commission estimated a lower \$46 million expenditure for juvenile crime prevention; see *id.* at 17. The Commission counted the juvenile justice prevention grants funneled to local governments and organizations by the Office of Criminal Justice Planning. A broad interpretation of youth crime prevention could include part of the 19-program Public Safety subaccount and 7 of the 11 programs within the Victim Services subaccount. Adding funded programs listed in this chapter, including those within the Department of Youth Services, and those within the Department of Education, yields a total of approximately \$120 million as proposed.
255. *Juvenile Crime Challenge*, *supra* note 25, at 27.
256. See Lisa Greer, California Public Defenders Association, *Juvenile Justice Issues in the 1997 Legislative Session* (Sacramento, CA; 1997) (memorandum to members of the Assembly Democratic Caucus) at 1.
257. Coordinating Council of Juvenile Justice and Delinquency Prevention, *Combating Violence and Delinquency: The National Juvenile Justice Action Plan* (Attorney General Janet Reno, Chair) (Washington D.C.; March 1996).
258. See, e.g., U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, II:2 *Juvenile Justice: Deinstitutionalizing Status Offenders: A Record of Progress* (Washington, D.C.; Fall/Winter 1995).
259. Center for the Future of Children, 6:3 THE FUTURE OF CHILDREN: THE JUVENILE COURT (Richard E. Behrman M.D., ed. 1996).
260. *Juvenile Justice in California*, *supra* note 40.
261. See *Final Report of the California Task Force to Review Juvenile Crime and the Juvenile Justice Response* (September 1996). The Task Force, directed by Riverside District Attorney Grover Trask II, released a 140-page report which includes 48 recommendations. The report strikes a balance between harsher punishment and prevention investment. A central recommendation is the creation of a statewide agency to coordinate all prevention efforts, which are currently divided between the Department of Education, Department of Corrections, CYA, and other agencies. It also recommends that only juvenile court judges, not referees or pro tem judges, preside over delinquency proceedings, and suggests a stronger role for crime victims in proceedings.
262. See, e.g., *Summary of Public Hearings*, *supra* note 232.
263. *Surgeon General 2001*, *supra* note 170.
264. Little Hoover Commission, *Never Too Early, Never Too Late—To Prevent Youth Crime and Violence* (Sacramento, CA; June 2001).
265. See, e.g., Edward J. Humes, NO MATTER HOW LOUD I SHOUT (Simon and Schuster; March 1996). Mr. Humes is a Pulitzer Prize-winning journalist who explores the contrasting cases of Perez and Trevino. In one case, a troubled teen commits initial criminal acts without effective response; he is returned to his parents, and violates his terms of probation with impunity and without system response. He inexorably ratchets his crimes upward to murder. The latter represents an abused youth who is transferred from dependency court to the delinquency side based on acts of those with whom he is associating. The new bright-line categorizations preclude his treatment as a separate person, and do not recognize brilliant indications of rehabilitative promise. Instead, he is lost in a morass of fragmented bureaucracies—and emerges from the system with a 12-year prison sentence instead of a likely contributive life.