



# Positive Youth Justice Initiative



## Youth Justice System Advocacy Guide

Decision-Making Roles in California

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## Youth Justice System Decision-Making Roles in California

*California's youth justice system is disjointed, confusing, and complicated. There is not one system. Depending on the reforms you are trying to achieve, you may have to target different officials or elected bodies. Below is a brief overview of key systems decision makers:*

### County Board of Supervisors:



**E**ach county in California has a Board of Supervisors (Board), comprised of five elected members that each represent an equivalent share of the county population (except in the City and County of San Francisco, where there is an 11-member board). The Board serves in both legislative and executive capacities in the county, and has some quasi-judicial powers. The Board hires the Chief Probation Officer (in most counties) and the Public Defender. The Board controls the county budget, including the budgets of the District Attorney's Office and the Sheriff's Office (which includes county jail spending). Through its responsibility for the county budget, the Board ultimately solicits and procures all county services, including those related to the independently elected District Attorney and Sheriff. The Board of Supervisors also oversees all county social services, mental health, and health programs. In unincorporated areas where there is no municipal police department, the county Board of Supervisors oversees policing through the county Sheriff.

With few exceptions, Boards must hold meetings publicly; typically these meetings are held weekly. In addition, there are monthly committee or subcommittee meetings. The Board legislates through resolutions, board orders, or ordinances, with ordinances having the strongest weight as local law.

The Board is the only legally authorized entity within the county to appropriate funds. All funds spent by county agencies or grants/contracts dispersed by county agencies must be approved by a majority vote of the Board of Supervisors.

### Examples of Successful Campaigns:

- In Alameda County, when a coalition of advocates was unable to get the Community Corrections Partnership (CCP) to agree to a plan to allocate 50% of the county's AB 109/Realignment budget to community services, the coalition advocated to the Board of Supervisors who eventually passed a binding resolution requiring that half of all Realignment funds be allocated to community services.
- After many attempts by advocates to pass statewide legislation eliminating the use of solitary confinement in juvenile facilities, the Los Angeles County Board of Supervisors voted to ban the practice in all probation facilities within the county.
- In a few counties, advocates have convinced the Board to eliminate the excessive fees levied on the families of system-involved youth

### Judges (California Superior Court):



**C**alifornia Superior Court (county trial court) judges are either initially appointed by the Governor or elected, depending on the circumstances, generally to 6-year terms with no term limits. After an initial term of appointment, all judges must eventually be elected. **A very small percentage of judicial seats are actually contested each election cycle and judges are not used to receiving pressure or being subject to advocacy** regarding their decisions or political leanings during the election cycle.

Although organized along county boundaries, superior courts are state agencies and judges are state employees. In most counties, a Presiding Judge is elected among his/her peers to serve a two-

year term as “chief” judge of the entire court, including civil, criminal, family, delinquency, and dependency courts. The Presiding Judge is responsible for judicial assignment but is not the “supervisor” of judges; each judge is considered an independent constitutional officer. Individual judicial decisions are subject to review by higher courts, and judicial conduct is subject to review by the Commission on Judicial Performance. The Presiding Judge appoints the Presiding Juvenile Judge (some counties call it Presiding Family Judge). In most courts, the Presiding Juvenile Judge (PJJ) oversees operations in the juvenile delinquency and dependency courts.

Given broad latitude within the Welfare and Institution Code (WIC, juvenile penal code), judges are the ultimate authority on what happens to youth in the system. Judges determine if a youth will be detained during the adjudication process, whether a youth is considered responsible (or guilty), and most importantly, judges determine the disposition of each youth. The disposition is juvenile court language for sentence, meaning judges determine if a youth gets sent home on probation or informal probation, is sent to a county camp, is sent to an out-of-home placement, or is committed to the Department of Juvenile Justice as a consequence for being adjudicated delinquent. The judge also sets the amount of time a youth can be under probation supervision.

***Ironically, though judges arguably have the most authority in the system, the courts are often not included in advocacy efforts or reform plans***

## Chief Probation Officer (Probation Department)



**T**he Chief Probation Officer of each county is appointed either by the Board of Supervisors or the Presiding Judge. In some counties, the Chief Probation Officer is appointed by the Board but must be confirmed by the presiding judge or a majority of Superior Court Judges, or vice versa. The Chief Probation Officer oversees adult and juvenile probation, and juvenile halls and camps (San Francisco is the only county with separate adult and juvenile probation departments). The Chief Probation Officer is responsible for managing all probation staff and the budget of the department.

The Probation Department operates the county’s juvenile detention center (juvenile hall) and has the authority to decide not to detain any youth police agencies bring to the detention center. The Probation Department can send a youth arrested for delinquent acts home or to an alternative to detention until the youth’s detention hearing, where a judge will determine if the youth is to be detained during the adjudication process.

The Probation Department also provides reports and recommendations to the court on detention during adjudication and disposition. **A large percentage of the time, judges accept the Probation Department’s recommendations.**

The Probation Department can usually determine how long a youth remains in a county camp or at an out-of-home placement. The Probation Department can also decide not to actively supervise a youth, even if the court orders the youth to be on probation. In Yolo and San Joaquin Counties, the Probation Department policy is not to actively supervise youth assessed as low risk.

In California, the Probation Department has the unilateral authority to divert youth arrested for misdemeanor offenses from adjudication. Probation also has the discretion as to whether or not to file a violation of probation, which can lead to a youth being held in detention and further incarcerated. In many counties, one of the leading reasons for juvenile hall admission is a violation of probation, not a new offense.

Advocates can encourage Probation Departments to reform in a number of ways: to provide more or better detention alternatives or diversion programs; to produce court recommendations that do not include incarceration or to not recommend youth be transferred to the adult court; to have shorter lengths of probation; to not supervise low risk youth; and to provide more robust community services and supports to youth on probation.

## District Attorney:

**D**istrict Attorneys are elected public officials, generally elected to four-year terms with no term limits. The District Attorney’s office oversees all prosecutions for criminal violations of state laws or county ordinances. The office also conducts initial investigations, and decides whether or not to prosecute, which charges to pursue, and which plea deals to offer and accept. In juvenile cases, since the passage of Proposition 57 in 2016, prosecutors no longer have the power to file certain juvenile cases directly in adult court, but do still decide whether to petition the juvenile court judge to transfer a young person’s case with an eligible charge to adult court for prosecution. This is just one example of the many ways in which District Attorneys and the prosecutors they oversee wield enormous power over outcomes for youth. District Attorneys also have vast political influence over criminal and juvenile justice policies and practices at the local level.

**District Attorneys have greater authority than Probation Departments to divert youth from adjudication.** In a few California counties, District Attorney’s offices have established formal diversion programs for youth facing felony charges. Recent campaigns across the country by national funders and advocates have resulted in a wave of progressive District Attorneys being elected.

## Public Defender:



The Board of Supervisors in each county appoints the Public Defender (except in San Francisco where the Public Defender is elected). The Public Defender's office provides legal defense for all adult defendants unable to afford private counsel who are charged with any contempt or offense that a superior court may try. The Public Defender provides defense counsel to all youth facing adjudication who choose to be represented by the Public Defender; there is no income eligibility for juvenile representation.

Each county also has a form of alternative public defender or a conflict panel, for circumstances where the Public Defender's office has a conflict of interest on a case (for example, representation of a co-defendant).

There has been advocacy in some counties for the Public Defender to have greater resources in order to hire social workers to assist clients and to develop alternative disposition plans to counter punitive probation plans. In addition, several Public Defender offices have hired immigration specialists, who focus specifically on mitigating the potentially devastating immigration consequences of criminal arrests and convictions.

There is also a growing practice known as "Participatory Defense", where community members and the family of defendants directly participate in the defense of their loved one. This practice can transform traditional court power dynamics and maximizes often over-stretched Public Defender resources. More information can be found at: <https://acjusticeproject.org/>

## Board of State and Community Corrections:

The Board of State and Community Corrections (BSCC) is an independent statutory agency established in 2012 to "provide statewide leadership, coordination, and technical assistance to promote effective state and local efforts and partnerships in California's adult and juvenile criminal justice system, including addressing gang problems" (Penal Code Sec. 6024-6025). The BSCC replaced the Corrections Standard Authority, and expanded its mission to include advancing evidence-based and cost-effective strategies for rehabilitation and prevention. Much of the expanded mission is connected to overseeing and supporting the implementation of realignment.

The BSCC trains and sets standards for local corrections officials and probation officers, administers a number of State and Federal grant programs, inspects and oversees new jail construction projects for compliance with standards and state law, is tasked with reducing racial and ethnic disparities in the youth justice system, and houses a number of working groups and committees. The BSCC's decisions are informed by Executive Steering Committees.

The BSCC has 13 members and its composition is prescribed by statute. Membership includes: a chair appointed by the governor, the Secretary of the Department of Corrections and Rehabilitation, The Director of Parole for the California Department of Corrections and Rehabilitation, two county sheriffs, two probation chiefs, a county supervisor or administrator, a judge, a police chief, two community-based service providers or advocates, and a public member. Nearly all members are appointed by the Governor and confirmed by the Senate, with the exception of the judge who is appointed by the Judicial Council of California, and the community-based providers appointed by the Speaker of the Assembly and the Senate Committee on Rules. Members serve three-year staggered terms.

BSCC awards hundreds of millions of dollars in state and federal pass-through grants to counties every year.

## California Division of Juvenile Justice:

The Division of Juvenile Justice (DJJ) is housed under the California Department of Corrections and Rehabilitation (CDCR). DJJ operates and oversees state youth prisons, currently three facilities. Since juvenile realignment, only youth adjudicated of certain offenses classified as serious and violent – known as 707(b) offenses, for the part of the Welfare and Institutions code under which they are classified – can be committed to DJJ and become wards of the state. This has greatly reduced the number of youth committed to DJJ. Youth may remain in DJJ until their 23rd birthdays. The Director of the Division of Juvenile Justice is appointed by the Governor and confirmed by the Senate.

## County Juvenile Justice Delinquency Prevention Commission

Each county is required by state law to have a Juvenile Justice Commission (Commission), a body whose duty is to "inquire into the administration of the juvenile court law in the county or region in which the commission serves" (WIC Sec. 229). The Commission has broad authorization to conduct investigations and hold hearings on all aspects of the youth legal system in the county – including but not limited to Probation, Juvenile Court, Social Services, and any other relevant agency involved in the youth court system – to protect the rights and welfare of young people. The Commission is required to annually inspect all juvenile facilities including detention halls, camps, and

jails or lockups where a young person has been confined for more than 24 hours within the previous year. It may also inspect shelters and group homes. The Commission must issue an annual report with findings and recommendations. It is to regularly advocate and make recommendations to the Probation Department and the Juvenile Court.

The County Juvenile Justice Commission consists of between 7 and 15 members depending on the county. Commissioners serve 4-year terms and are generally appointed by the Presiding Judge of the Superior Court, with the concurrence of the Presiding Judge of the Juvenile Court. In some counties, other county actors may make recommendations for appointments, but ultimately the Presiding Judges of the Superior Court and Juvenile Court must approve appointments. **At least two seats on each Commission must be reserved for young people between the ages of 14 and 21.**

Each county may also establish a Delinquency Prevention Commission, tasked with overseeing and advancing prevention activities in the county. In some counties, the Juvenile Justice Commission and Delinquency Prevention Commission are combined into a single body.

Most county juvenile justice commissions are not very active, do not advocate for reform, and are ineffective in general. Organizers and advocates should seek to become commissioners, and influence systems change through the Commissions themselves. The Juvenile Justice Commission also has broad state mandated authority to conduct investigations, issue subpoenas, and secure information relating to any part of the youth court system. Individuals interested in joining the Commission should contact the Presiding Juvenile Judge and/or the Chairman of the Commission.

## California State Legislature



The California State Legislature is the elected law making body for the state. The state legislature consists of two houses or bodies: the [lower house](#), the [California State Assembly](#), with 80 members; and the [upper house](#), the [California State Senate](#), with 40 members.

Members of the Assembly are elected from 80 districts and serve two-year terms. Members of the Senate are elected from forty districts larger in area and serve four-year terms.

Advocacy groups can sponsor new legislation or bills by proposing ideas to a member of the legislature who must author the bill. A bill is a proposal to change, repeal, or add to existing state law. An Assembly Bill (AB) is one introduced in the Assembly; a Senate Bill (SB), in the Senate.

The legislative procedure, is divided into distinct stages. The procedure begins when a Senator or Assembly Member decides to author a bill. Often such bills have been proposed to the legislator by an advocacy group. A legislator sends the idea for the bill to the California Office of the Legislative Counsel, where it is drafted into bill form. The draft of the bill is returned to the legislator for introduction. A bill is introduced or read the first time when the bill number, the name of the author, and the descriptive title of the bill are read on the floor of the house. The bill is then sent to the Office of State Publishing. No bill except the Budget Bill may be acted upon until 30 days have passed from the date of its introduction.

After introduction, a bill goes to the rules committee of the house, where it is assigned to the appropriate policy committee based on its subject matter, for its first hearing. The committee then votes on whether to pass the bill out of committee, or that it be passed as amended. Bills may be amended several times. It takes a majority vote of the committee membership for a bill to be passed and sent to the next committee or to the floor. If the bill contains an appropriation or has financial implications for the state it must go to the Appropriations Committee. A bill recommended for passage by committee is read a second time on the floor of the house. A roll call vote is taken on the floor. An ordinary bill needs a majority vote to pass. If it receives a favorable vote in the first house, a bill repeats the same steps in the other house. If the second house passes the bill without changing it, it is sent to the governor's desk.

Within 30 days after receiving a bill, the governor may sign it into law, allow it to become law without his/her signature, or veto it. A vetoed bill is returned to the house of origin, where a vote may be taken to override the governor's veto; a two-thirds vote of both houses is required to override a veto. Each bill that is passed by the Legislature and approved by the Governor usually takes effect or becomes law on January 1 of the following year.

Over the past four years, several new juvenile justice reform bills have been passed and signed into law by the Governor. A few examples include:

- **SB 1143:** After several years of trying to end the detrimental practice of solitary confinement for youth in the juvenile justice system, advocates worked with the legislature to pass SB 1143 to significantly limit the use of room confinement for youth in juvenile facilities. The new law mandates that room confinement shall not be used before less restrictive options have been exhausted; and shall not be used for purposes of punishment, coercion, convenience or retaliation by staff.
- **SB 9:** Passed in 2013, this bill provides a second chance for youth who were under the age of 18 at the time of committing an offense for which they were sentenced as an adult to life in prison without the possibility of parole. It allows people in prison under such conditions to petition to be resentenced and eliminates youth from being sentenced to life without parole.

- **SB 260:** Passed by the legislature in 2014, this bill allows people incarcerated in state prisons who were convicted as adults prior to their 18th birthday to have early parole board hearings and instructs the parole board to give “great weight” to the fact that the parole applicant was a child when the offense was committed.

## Juvenile Justice Crime Prevention Act:

The JJCPA was created by the Schiff-Cárdenas Crime Prevention Act, which the California State Legislature passed in 2000. The Act is intended to provide counties with funding for prevention and intervention efforts to reduce crime and delinquency. JJCPA provides over \$100 million in funding to counties each year. Counties determine through interagency processes how to use the funds, and report to the Board of State and Community Corrections (BSCC) twice each year. This interagency process is conducted through a Juvenile Justice Coordinating Council in each county led by the Chief Probation Officer and with membership from various criminal justice, law enforcement, education and social services agencies and community-based organizations. The BSCC administers the JJCPA, produces an annual report on the use of funds statewide each year, and approves county implementation plans.

Since its inception, implementation of the JJCPA has suffered from some inconsistent practices and data collection, and much funding has stayed in Probation Departments rather than going to support community based organizations that support youth to thrive. For example, in Los Angeles, the county has largely used these funds to put youth tagged “at-risk” into a “voluntary probation program” run by the probation department. These young people are then supervised by probation, though most have never been arrested or charged with violating any law.

In 2014, the state legislature passed AB 1998, which adopted recommendations from the BSCC’s Juvenile Justice Data Working Group (JJDWG) to simplify local reporting requirements for the JJCPA by combining reporting with Youthful Offender Block Grant (YOBG) reporting, and requiring that reporting to include outcomes disaggregated by race and ethnicity.

Organizers have significant opportunity to influence the use of JJCPA funds in their county and advocate for more community services for youth.

## Youthful Offender Block Grant SB 81:

The Youthful Offender Block Grant (YOBG) transfers funding from the state to counties to oversee youth in the juvenile justice system who are adjudicated for certain non-violent, non-sexual, and non-serious offenses that before 2007 would have meant commitment to the state’s Division of Juvenile Justice (DJJ). SB 81, also known as juvenile realignment, created the YOBG in 2007. The program’s goal is to keep youth closer to home and in

their communities, and to reduce youth incarceration costs. SB 81 contributed to a large drop in the number of youth incarcerated in DJJ youth prisons – between 2007/8 and 2014/15 the number of youth in DJJ dropped from 2,439 to 521, and DJJ’s budget is now about one quarter of what it was in 2007. YOBG allocates a little over \$100 million each year total to counties. Similar to the JJCPA, nearly all of the funding allocated under the YOBG goes to the formal juvenile justice system. One report noted that only 4% of funds went to community-based organizations, despite the goal of supporting and serving youth in their communities.

## Title IV-E & Title IV-E Waiver:

Title IV-E funds are federal funds sent to states and local jurisdictions to pay for the foster care placement costs. The foster homes, group homes, and private juvenile facilities to which youth are sent are very expensive, costing more than \$115,000 annually per child. If the young person has a mental health challenge, those costs can double. Federal Title IV-W funds that pay for residential placements prohibit any of the monies being spent on the child’s natural family. Instead, these funds are sent to states and passed on to counties to make out of home placement decisions and payments.

Though sometimes referred to as group homes, youth sent to out of home placement by the juvenile justice system are usually placed in large, private, secure juvenile facilities. Hence, in effect, these youth are incarcerated. Group homes and even larger congregate care facilities to which many youth are sent have proven ineffective and even harmful.

In 2006, the federal government allocated more than \$6 billion dollars in Title IV-E funds to states for foster care placements. The next year, a promising shift took place: Los Angeles and Alameda Counties were the only two counties in California to participate in the first of its kind five-year pilot “Waiver” initiative. Under the Waiver, participating jurisdictions receive a capped allocation of Title IV-E funds (based on average annual spending over the previous three years) that could be used to pay for placements, as usual, or for services and supports that prevent placement of children outside their homes. Between July 2007 and February 2010, Los Angeles County reduced its foster care population by 23 percent. The number of children placed in group homes and other institutionalized settings declined by more than one-third during this same period. In 2007 there were 1,600 probation youth in out of home placement in Los Angeles County and in 2015 that number was cut in half, down to 800 probation youth in placement. According to a 2010 report on Title IV-E Waiver by Casey Family Programs, in the first year of the Waiver alone, the Los Angeles County Probation Department saved \$11 million by reducing the number of youth sent to out of home placements.

An extension of the Title IV-E Waiver program in California in 2015 increased the number of participating counties to nine. In addition to Alameda and LA Counties, the current counties involved in the Waiver initiative includes: Butte, Lake, Sacramento, San Diego, San Francisco, Santa Clara, and Sonoma.



## Where Youth Are in the System Statewide:

**The Positive Youth Justice Initiative** is helping communities across California transform juvenile justice practice and policy into a more just, effective system that is aligned with the developmental needs of young people. The Positive Youth Justice Initiative is funded by Sierra Health Foundation, The California Endowment, The California Wellness Foundation and the Zellerbach Family Foundation, and is managed by The Center. Learn more at [www.shfcenter.org/positive-youth-justice-initiative](http://www.shfcenter.org/positive-youth-justice-initiative).

### Probation

- As of a June 30, 2015 snapshot (most recent data) – **43,652 youth** were under probation supervision in California  
*(Source: CPOC – 2015 California Probation Summary)*

### County Youth Facilities

- As of a June 30, 2015 – **5,894 youth** were in county juvenile halls, facilities, and camps throughout the state
- Overall in 2015, **8,580 youth** were committed to a secure county facility  
*(Source: CPOC – 2015 California Probation Summary)*

### County Out-of-Home Placements

- Of the **28,447 youth** adjudged wards of the court in 2015, a total of **13,272 youth** (nearly half) were placed somewhere other than their homes or their relatives' homes in 2015. This includes DJJ commitments, halls, camps, and ranches, and other out-of-home placements *(Source: California DOJ – Juvenile Justice in California, 2015)*
- Private placements or Out of Home placements are often the bulk of such court orders. While some counties refer to such placements as group homes, they are usually large congregate care facilities resembling juvenile correctional facilities.

### DJJ Average Daily Population – 2017

- **666** – total in facilities under DJJ supervision  
*(Source: DJJ ADP Monthly Report – April 2017)*