



**Santa Clara County Juvenile Justice Commission
Recommendation to Separate Juvenile and Adult Probation Services
January 4, 2011**

The Juvenile Justice Commission (JJC) is established through the provisions of Article 2, commencing with Section 225 of Chapter 2 of Part 1 of Division 2 of the California State Welfare and Institutions (W&I) Code. One of the charges of the JJC is “To inquire into the administration of juvenile justice in a broad sense, including, but not limited to, operations of the Juvenile Court, Probation Department, Social Services Agency and any other agencies involved with juvenile justice or dependency.” (W&I Code 229)

The JJC has recently learned that there have been multiple discussions taking place in Santa Clara County regarding formally separating Juvenile Probation services from Adult Probation services. After discussion and investigation the JJC makes the following recommendations:

Recommendation One: Create Separate Adult Probation and Juvenile Probation departments. To accomplish this, make changes in the following function areas:

- a. Administrative Structure
- b. Budget
- c. Qualifications for Hiring, Training, and Promotion of Staff
- d. Mission Statements
- e. Accountability and Reporting to the Board of Supervisors

Recommendation Two: Integrate Juvenile Probation Services and Juvenile Probation Facilities. Currently there are two Deputy Chiefs, each responsible for one of these functions. The JJC recommends that these two functions be combined into a single division.

We believe that it is possible to implement these recommendations with little or no financial impact to the County. The following document provides support for these recommendations. This document also describes two models for creating separate Adult and Juvenile Probation Departments.

I. History and Background

Report by the County Executive to the Board of Supervisors:

At the May 6, 2010 meeting of the Public Safety and Justice Committee of the Board of Supervisors (“PSJC”), County Executive Jeffrey V. Smith provided a Report Back on “Juvenile and Adult Probation Services, Separation into Two Departments.” In this

Report Back, the County Executive concluded that “separating Adult and Juvenile Probation would not lead to any cost savings or benefits.” The Report Back transmittal also states that separating Probation into two departments “would require 24 additional FTEs and a budgetary increase of about \$3 million, plus relocation and office space costs.” Additionally, the report states, “providing for the needs of youth in the Department’s Juvenile Divisions and their families, who are often served in the Department’s Adult Division, requires staff to collaborate and combine resources to provide a holistic approach to effective services and community supervision.”¹

At the May 6 meeting, the PSJC Chairperson & Member accepted the report, but asked that the discussion regarding this issue be revisited in the Fall of 2010 in order to “explore options relating to the creation of a new probation model.”²

Since the May 6, 2010 meeting, groups such as the Silicon Valley Council of Non-profits and La Raza Roundtable have led conversations on this issue, but PSJC has not revisited the issue.

II. Developmental Issues and The Impact of Trauma on Juveniles

There are Significant Differences between Adult and Juvenile Offenders

Developmentally, juveniles and adults are very different, particularly when it comes to abstract thinking and decision-making. The decision-making differences of adolescents include:

- Less likely to perceive risks/less risk-adverse than adults
- Lack of “future-orientation”
- Less impulse control
- Less ability to regulate moods
- Higher valuation of peer-approval/susceptibility to peer-pressure

In a recent study, it was found that when adolescents were treated with a more sanction-oriented approach, as opposed to a teaching/rehabilitative approach, “youth who had been involved in juvenile justice system were 7 times more likely to have adult criminal records than youth with the same backgrounds and self-reported delinquency, but no juvenile court record.” The study found that “the more restrictive and more intense the

¹ Smith, Jeffrey V., Report Back: Juvenile and Adult Probations Services, Separation into Two Departments. May 6, 2010. Retrieved on Dec. 27, 2010 at <http://www.sccgov.org/portal/site/scc/boardagenda?contentId=397037c9abb48210VgnVCM10000048dc4a92&agendaType=Committee%20Agenda>

² Santa Clara County Board of Supervisors, Public Safety and Justice Committee Minutes from the May 6, 2010. Retrieved on Dec. 27, 2010 at <http://www.sccgov.org/keyboard/attachments/Committee%20Agenda/2010/June%203,%202010/202897817/TMPKeyboard203100261.pdf>

justice system intervention was, the greater was its negative impact.”³ One explanation for this is that youth generally have fluid, or unformed, personal identities, identities to be shaped by social contact and experience. If treated as criminals and confined or associated with other anti-social peers, it becomes more likely that the identity formed will be that of a hardened, dangerous criminal, rather than that of a productive citizen with an imperfect past.⁴

Crossover of the Child Welfare, Delinquency and Mental Health Systems in Santa Clara County:

In Santa Clara County, low-income children who have experienced trauma or suffer from behavioral health issues are often identified and provided with services at a young age. If they are identified early, they receive support and services from the Department of Family and Children’s Services or the Mental Health Department. However, if they are not identified early or do not receive appropriate support and services, they may wind up in the Juvenile Justice system.

In her December 2005 report, “Continuum of Services,” Bobby Huskey found that minors confined in the County’s Juvenile Hall (JH) and Ranches exhibit the same characteristics that national research shows contribute to delinquent behavior. For example, Huskey’s report concluded:

- More than 60 percent of the youth admitted to JH in 2004 were identified as having a brain disorder as identified by the MAYSI (the Massachusetts Youth Screening Instrument is used upon entry into JH to identify bipolar, attention deficit, non-verbal learning disorder, conduct disorder).
- 69.4 percent of the minors reported high levels of alcohol and drug problems. Nearly two-thirds smoked marijuana in the previous 30 days and 45 percent reported daily use of marijuana. Forty-three percent ingested some form of methamphetamine.
- More than 78 percent of the youth reported high levels of trauma leading to post-traumatic stress.
- One third of the minors reported having a serious thought disturbance which may be linked to childhood developmental traumas and deficits that impair critical thinking skills.
- Youth in the County’s Juvenile Hall and Ranches are between 3 and 5 grades behind in their reading and math competencies.⁵

³ Mendel, Dick, “In Juvenile Justice Care, Boys get Worse.” Published March 5, 2010 in Youth Today. Retrieved December 21, 2010 from: <http://www.burnsinstitute.org/article.php?id=195&printsafe=1>

⁴ Scott, Elizabeth S., and Steinberg, Laurence, “Adolescent Development and the Regulation of Youth Crime.” *The Future of Children: Princeton-Brookings: Juvenile Justice* Vol. 18 No. 2 Fall 2008

⁵ Huskey & Associates, “Final Report to the Santa Clara County Probation Dept. – Continuum of Services,” December 5, 2006, page 2.

Trauma-Exposed Youth in the Juvenile Justice System

As described in the previous section, more than 78 percent of the youth in Juvenile Hall reported high levels of trauma leading to post-traumatic stress. In recent years, there has been a growing understanding of the impact that exposure to violence and other trauma can have on a child's development and well-being. Studies such as the Adverse Childhood Experiences Study (termed Adverse Childhood Experiences—or ACEs) show “that stressful or traumatic childhood experiences such as abuse, neglect, witnessing domestic violence, or growing up with alcohol or other substance abuse, mental illness, parental discord, or crime in the home, are a common pathway to social, emotional, and cognitive impairments that lead to increased risk of unhealthy behaviors, risk of violence or re-victimization, disease, disability and premature mortality.”⁶

Youth who have experienced trauma are often more sensitive to hostile cues and are often more likely to interpret other people's behavior as having hostile intent. They underestimate their own aggressiveness, expect aggression to produce tangible rewards, and often identify their own internal arousal as anger. They have a limited repertoire of problem solving skills, and often have attention deficit issues and low levels of empathy for the victims of their offenses. Adults working with these children and youth in educational, child welfare ,and juvenile justice settings may presume that negative behaviors are intentional and willful, when in fact such behaviors are often a consequence of neurobiological factors and prior adaptation to dangerous circumstances. Punitive and shaming interventions (rather than respectful adult redirection and maintaining environments conducive to accountability) often will exacerbate negative behaviors and alienate children from those who are trying to help them. These negative behaviors, including bullying, gang-related violence, and substance abuse, reflect or mask underlying trauma-related issues that need to be addressed.⁷

III. Discussion: Juvenile Justice Commission Recommendations

Recommendation One: Create Separate Adult Probation and Juvenile Probation Departments: To accomplish this, changes should be made in the following function areas:

- a. Administrative Structure;
- b. Budget;
- c. Qualifications for Hiring, Training, and Promotion of Staff;
- d. Mission Statements;
- e. Accountability and Reporting to the Board of Supervisors.

⁶ Adverse Childhood Experiences Study website. Retrieved 12/30/2010 at <http://acestudy.org/>

⁷ [Profile of Incarcerated Juveniles: Comparison of Male and Female Offenders](http://goliath.ecnext.com/coms2/gi_0199-9655728/Profile-of-incarcerated-juveniles-comparison.html). Retrieved 12/30/2010 at http://goliath.ecnext.com/coms2/gi_0199-9655728/Profile-of-incarcerated-juveniles-comparison.html

a. Administrative Structure:

As discussed in the background section of this paper, County Executive Jeffrey V. Smith stated in his May 6, 2010 report to the PSJC that the current system of a single Probation Department provides “for the needs of youth in the Department’s Juvenile Divisions and their families, who are often served in the Department’s Adult Division, requires staff to collaborate and combine resources to provide a holistic approach to effective services and community supervision.”

However, over the years, the Juvenile Justice Commission has reviewed many case files of juveniles engaged in the juvenile justice system in the County, and has conducted annual inspections of all juvenile facilities in the County. After these reviews, it is not apparent to the Commission there has been collaboration between the adult and juvenile systems that would be put at risk with a more formal separation of the two systems. Furthermore, the JJC believes it would be possible to create a more formal separation of the two systems without creating a duplicative administrative infrastructure.

Below are two possible models for a bifurcated system:

1. A system modeled after the City and County of San Francisco’s system, where there is a Chief of Adult Probation and a Chief of Juvenile Probation. This system could still have shared infrastructure functions such as human resource support, training and data collection, and management of information systems.
2. A system that creates a Probation Department with two divisions set up similar to the County’s Social Services Agency, which has several divisions reporting to a single Director. In this system there would be one Chief of Probation and two Deputy Chiefs: Deputy Chief of Adult Probation and Deputy Chief of Juvenile Probation. Oversight of the juvenile facilities would fall within the Deputy Chief of Juvenile Probation’s core responsibilities. This system also could have shared infrastructure functions such as human resource support, training and data collection, and management of information systems.

The JJC believes that either of these models could be implemented with little or no financial impact to the County. In both scenarios, it should be possible to share many of the infrastructure functions such as human resources, training, data collection and management of information systems. It would not be necessary to duplicate these functions.

b. Budget:

Currently, there is one budget for the Santa Clara County Probation Department. The Juvenile Justice Commission believes that juveniles would be better served in a system that has separate budgets for Adult and Juvenile Probation functions. In a time of shrinking resources and competing demands on the system, it is important that all stakeholders fully understand the impact of budget cuts. A separate Juvenile Probation Department Budget would allow:

1. Clear funding streams and transparent investments in strategies, services, and programs that specifically serve juveniles.
2. Stronger link between investment of funds and outcomes for youth
3. Better protection of funds for programs serving juveniles

In August, 2010, four Juvenile Justice Commissioners participated in a site visit to San Francisco's Juvenile Probation Dept. During this visit, the Juvenile Probation Chief stated that having a separate budget was an important aspect of his system. With a separate budget, it was easier to understand the impact of budget investments and have a meaningful discussion about the impact of budget cuts to juvenile justice programming.

c. Hiring, Training and Retention of Qualified Staff Focused on Juvenile Rehabilitation and Social Supports

The JJC believes it is important for the Juvenile Probation System to hire probation officers who *want to work with youth* and whose training and education has an emphasis on the following:

1. Youth development and developmental assets
2. Rehabilitative approaches that take into account the impact of trauma, substance use, and behavioral health issues
3. Effective utilization of community based organizations to work with families benefiting from wrap-around services and other evidenced-based practices
4. Utilization of culturally-sensitive interventions such as Family Effectiveness Training and Positive Adolescent Choices

The job descriptions for positions in the Probation Department reviewed by the JJC, assume similar backgrounds are necessary to be an Adult or Juvenile Probation staff member/Officer. These descriptions do not address the different education, training, and experience that are actually necessary to be effective when working with adults or children, two very distinct populations. Our recommendation, to create a distinct department for juvenile probation services, would allow for the recruitment of individuals with the skills, educational background, and desire necessary to work effectively with minors in the juvenile justice system. The current job descriptions do not specifically prevent hiring individuals with youth-centered training and background. But they also do not provide overt support for this type of hiring. Additionally, in terms of retention, once hired, there is fluidity that allows free movement between the adult and juvenile probation arenas each year during the annual bidding on jobs and positions. In fact, because there is not a promotion system that is self-contained within Juvenile Probation, there seems to be an incentive to switch between the two systems, both at the line staff level as well as the supervisory and management level, in order to obtain more lucrative positions that might be available in Adult Probation.

Finally, one of the major training systems for staff who want to work in the County's Probation Department—San Jose State University's Criminal Studies Program—offers only one elective course in juvenile justice. Unless an intentional focus is placed on hiring staff who want to work with juveniles with a social work, developmental

psychology, or other similar background, many of those who come into the Adult/Juvenile Probation Department will be woefully under-prepared to work with at-risk adolescents.

d. Mission Statement

The Juvenile Justice Commission believes that a mission statement that focuses on juveniles can help further the goals of Probation Department leadership and ultimately lead to better outcomes for the adolescents in the system.

Currently, the Probation Department is led by people who are committed and focused on improving outcomes for the juveniles engaged in the system. As a result of this leadership, there have been improvements in the number of youth being detained and placed in the County's detention facilities. However, when the JJC has reviewed case files or spoken with justice-engaged youth, we have encountered stories about minors' interactions with Probation Officers, Counselors, and other staff that indicate that some of these staff members have not yet embraced the vision of the Probation Department's leadership. One way to get people on board with the Leadership's vision is through a clearly stated "mission" that creates an identity for people doing the work, and demonstrates the direction in which the department is moving. Below is the mission of the Santa Clara County Probation Department:

The mission of the Santa Clara County Probation Department is to reduce crime and protect the community through prevention, investigation and supervision services and safe custodial care for adults and juveniles.

An integral part of the justice system, the Department is committed to building partnerships with the community and restoring losses to victims of crime through innovative programs that stress offender accountability and development of competency skills.⁸

In San Francisco, by contrast, the Juvenile Probation Department has adopted the following mission statement:

It is the mission of the San Francisco Juvenile Probation Department to serve the needs of youth and families who are brought to our attention with care and compassion; to identify and respond to individual risks and needs presented by each youth, to engage fiscally sound and culturally competent strategies that promote the best interests of the youth; to provide victims with opportunities for restoration; to identify and utilize the least restrictive interventions and placements that do not compromise public safety; to hold youth accountable for their actions while providing them with opportunities and assisting them to develop new skills and competencies; and contribute to the overall

⁸ Santa Clara County Probation Department Annual Report FY 2007-2008. Retrieved 12/30/2010 from http://www.sccgov.org/portal/site/probation/agencyarticle?path=%2Fv7%2FProbation%20Department%20%28DEP%29%2Fsite_level_content&contentId=35b0d1d9b4ecb010VgnVCM2200049dc4a92_____

*quality of life for the citizens of San Francisco within the sound framework of public safety as outlined in the Welfare & Institutions Code.*⁹

In Santa Clara County's mission statement, there is only a short reference to juveniles and a heavy emphasis on reducing crime and protecting the community. The San Francisco mission, while still having a discussion about public safety and accountability, leads with and emphasizes that its goal is to serve the needs of youth and families with care and compassion. The San Francisco mission statement clearly delineates what youth need to be successful, while the Santa Clara County mission suggests adults and juveniles should be treated in a similar manner.

e. Reporting to the Board of Supervisors

In Santa Clara County, the Board of Supervisors serve on sub-committees that oversee the activities of the various County departments. Currently, the Probation Department reports to the Public Safety and Justice Committee. The Public Defender, the District Attorney, the Sheriff, and the Corrections Department also report to this committee.

There may be times when it is important for Juvenile Probation to report to the Public Safety and Justice Committee. However, because of the mental health, social service, and education needs of the youth who come into the justice systems, the JJC believes Juvenile Probation oversight properly belongs in the Children, Seniors and Families Committee. This committee addresses the social service needs of children and the stresses placed on families. Like the Juvenile Justice system, the child welfare system is also dealing with the issue of disproportionate minority representation. A large number of youth who come into contact with the juvenile justice system are youth who have also been engaged in the child welfare system. Additionally, many of the community-based services are operating in both systems, and frequently serving many of the same youth.

Reporting to Children, Seniors and Families, would allow better integration of services and a better understanding of outcomes related to juveniles in our systems. Many issues cut across the child welfare and juvenile justice systems such as the need for trauma-informed services and disproportionate minority representation. It is better to address these issues in a way that acknowledges the common roots of these problems, and encourages integrative solutions. Having Juvenile Probation report to the Children, Seniors and Families Committee supports better integration of our efforts to help these youth and is another way to change the lens through which we view youth within the system.

Recommendation Two: Integrate Juvenile Probation and Juvenile Probation Facilities Oversight.

Currently there are two Deputy Chiefs, one responsible for oversight of Juvenile Probation and one responsible for oversight of Probation Facilities. The JJC believes

⁹ The County & City of San Francisco Juvenile Probation Department website, retrieved 12/30/2010 at <http://sfgov3.org/index.aspx?page=2262>

these two programs should be fully integrated into a single line of authority and reporting structure. We believe that this separation has led to a lack of continuity between the goals of the rehabilitative approach of some of the institutions such as the James and Wright Ranches and the “aftercare” support provided by probation officers working with juveniles.

In a recent study of recidivism within the Enhanced Ranch Programs, commissioned by the Probation Department, the National Council on Crime and Delinquency found that “evidence exists of a disconnect between staff that work at the ranches and probation officers that work in other areas.” According to the study, this resulted in “probation officers making decisions regarding ranch minors that are often counterproductive and at odds with ongoing practice at the ranches.”¹⁰ Staffing changes in the last year, with the movement of Ranch Management Leadership to key management positions in the Probation Department and to Juvenile Hall, may help address this issue. However, the JJC believes an overall structural change would facilitate this change at a faster pace. Additionally, such a change could provide a better advancement and promotion system, as recommended earlier in this report.

Conclusion:

The JJC has sought data that demonstrates that separating Juvenile from Adult Probation would make an impact on outcomes for youth engaged in the justice system. Unfortunately, it is difficult to find such data. Successful systems in other states are not good for comparison because many of their laws and regulations that provide oversight to juvenile probation are very different from California’s. For example, in Missouri, where there has been success in decreasing recidivism and penetration into the adult system, the juvenile justice system does not fall within the criminal justice system under state law, but instead falls within the social services system.

In California, there is only one county – San Francisco - that has a system that separates Adult from Juvenile Probation. This separate system was established almost 20 years ago, when crime rates were much higher and community demographics were very different. A statistical comparison of the “before” and “after” of the San Francisco system would not be meaningful. A similar problem exists in Santa Clara County, where we had a separate system prior to 1981. The demographics of Santa Clara County and the nature of juvenile crime were different in 1981, so a comparison would not be well-grounded.

For the past 10 years, Santa Clara County has placed significant focus on improving our juvenile justice system and ending disproportionate minority representation in the system and its detention facilities. While many improvements have been made to the number of youth being institutionalized, disproportionate minority representation has not been impacted by these efforts. Additionally, it does not appear that we have been successful in keeping youth from re-entering the system. Quantitative data on recidivism and the

¹⁰ Aftercare Study Enhanced Ranch Program” from the National Council on Crime and Delinquency, commissioned by the Probation Department

success of different interventions has not been collected systematically nor shared with the JJC. However our inspections, case reviews and interviews with youth indicate recidivism continues to be an issue.

In August 2010, four Juvenile Justice Commissioners participated in a site visit to San Francisco and came away impressed with the commitment to helping youth that was expressed by Probation staff. At this visit, the representative from the Center on Juvenile and Criminal Justice, who was involved in San Francisco's juvenile justice system before and after the separate Juvenile Probation Department was created, stated without reservation that the current system in San Francisco serves the youth better.

Sometimes a Big “Switch” is Needed to Make Big Change:

In their book *Switch – How to Change Things When Change is Hard*, Dan and Chip Heath write, “[f]or things to change, somebody somewhere has to start acting differently.” One method they discuss as being effective in getting people to start acting differently is to “cultivate a sense of identity.”¹¹

Having a separate Juvenile Probation Department will make it easier to create a “social worker” sense of identity for the Probation Officers working with juveniles. There are some juveniles being served in the Probation Department who have committed crimes that put the community at risk and who may need a more sanction-oriented approach. However, a significant number of youth in our system have not committed this type of crime, and may be better served by a Department focused on youth development, developmental assets and a trauma-informed approach. Places like Missouri, where the evidenced-based “Missouri Model” has had great success, show it is possible to hold youth accountable while focusing on their strengths and needs, and linking them with community resources. This type of authoritative approach (as opposed to authoritarian) as practiced in Missouri, can lead to better outcomes for the youth and may actually make the community safer.

By creating a separate Juvenile Probation Department, we would create a structural system that places more emphasis on rehabilitation than sanctions. Those who decide to work for the “Juvenile Probation Department” will choose to be there because they want to work with youth and believe that youth can, with help, be successful. In the “Juvenile Probation Department,” staff will identify themselves as helpers more than enforcers and as having the patience and tenacity to draw out the best in youth. Their vision of themselves would include a commitment to keeping youth in the least restrictive environment.

Sometimes a big “systems” change is needed to create change that will impact outcomes for youth. Last year, we saw the impact of such a systems change when Santa Clara County passed a policy that declared children twelve-years-old and younger should not spend time in Juvenile Hall. Prior to the passage of this policy, every month, 2 to 3 pre-

¹¹ Heath, Chip & Heath, Dan. *Switch: How to Change Things When Change is Hard*. Crown Publishing Group, New York, 2010.

teens spent time in juvenile hall. In spite of good intentions - most system leaders agreed that children younger than 13 did not belong in Juvenile Hall - it took this new policy to change practice. Since the policy's passage in April, only one youth younger than 13 has stayed in Juvenile Hall.

The Juvenile Justice Commission wants to see improved outcomes for youth engaged in the juvenile justice system and the end to disproportionate minority representation in this system. The Juvenile Justice Commission believes a "switch" in the system – separating adult probation from juvenile probation - is our best hope of achieving these goals.