

**TESTIMONY OF SUE BURRELL**  
**ON THE GOVERNOR'S REORGANIZATION PLAN 2:**  
**REFORMING CALIFORNIA'S YOUTH AND ADULT CORRECTIONS SYSTEM**

*Little Hoover Commission – January 27, 2005*

I am Sue Burrell, appearing as a staff attorney for Youth Law Center. We are a San Francisco-based national public interest law firm specializing in legal issues pertaining to children and youth at risk of or in institutional confinement. Thank you for the opportunity to offer feedback and suggestions as California moves forward in this momentous restructuring of its correctional system. As a participant in the California justice policy arena for more than 25 years, Youth Law Center is vitally interested in this process.

Although we welcome much of the *Governor's Reorganization Plan 2: Reforming California's Youth and Adult Correctional System*, we have grave concerns about what it means for juvenile offenders: (1) "flattening out the boxes" will place the 3,600 California Youth Authority wards in the same boxes with 164,000 adult inmates, and this will exacerbate many of the problems that have resulted in horrible conditions and practices in the Youth Authority system; (2) the restructuring plan fails to address the long term need for a State level agency to coordinate and lead statewide juvenile justice policy; and (3) the plan does not provide for a comprehensive set of standards and regular inspections of Youth Authority facilities by an outside agency.

We preface these remarks with recognition of the excellent efforts at the Youth and Adult Correctional Agency (YACA) to address Youth Authority troubles and transform our current institutional system. The sad truth is that conditions are so abysmal in the California Youth Authority, that bringing institutional standards and practices up to the level of the adult corrections system is indeed a step up. But in restructuring, we need to create a system that will address the specific needs of juvenile offenders above and beyond addressing their basic human needs, and delineate the State's responsibility to the greater juvenile justice system. However laudable the reform efforts of individuals in the current administration, the plan does not provide an ongoing institutional or systemic structure to address the needs of California juvenile offenders.

**I. THE PROPOSED RESTRUCTURING PERPETUATES THE INAPPROPRIATE “ADULTIFICATION” OF JUVENILE OFFENDERS IN YOUTH AUTHORITY**

The restructuring plan makes a great deal of sense with respect to providing YACA with more direct authority over institutional operations; centralizing various functions; improving information technology; and increasing oversight. But the plan utterly fails to recognize and address the need for distinct treatment of juvenile offenders. The thirty-page plan scarcely mentions juvenile inmates as a separate group. This is particularly disturbing given the fact that a number of the issues arising in the *Farrell v. Allen* litigation, which the State is now attempting to resolve, resulted from failure to address the rehabilitative needs of youth and inappropriately treating them like inmates in the punitive adult system.

For example, the restructuring plan proposes combining youth and adult health systems, yet the *Farrell* experts decried the fact that very few of the physicians and psychiatrists at Youth Authority are trained in pediatric or adolescent medicine specialties. The expert reports concluded that these inadequacies have affected quality of care for mental health and substance abuse problems, and contributed to a punishment model of care even in the intensive treatment programs. They also noted that the failure to provide properly qualified psychiatric staff has resulted in inappropriate psychotropic drugs being prescribed, as some of those medications affect youth differently from adults.

Similarly, the proposal to combine education, vocational and offender programs does not even mention the specific legally required academic programs for juvenile wards, or the fact that approximately a third of Youth Authority wards are eligible for special education services. These, too, are issues in the *Farrell* litigation. We anticipate that a combined system will result in an adultified program in which academic goals are more quickly abandoned and youth are steered into GED programs, instead of high school diplomas and higher education. As horrible as the educational programs deficits have been in the Youth Authority in recent years, programs in the adult system have been even worse. To our knowledge, the adult system has not developed a special educational program for eligible adult inmates; and has been consistently understaffed to the point

that only a tiny percentage of inmates who want educational services may receive them. While we understand the desire to improve the entire correctional educational system, at this point it appears that the tremendous need in the adult system would overwhelm the need of the much smaller Youth Authority population. For example, the Inspector General reports that Youth Authority is currently providing only 30-40% of required educational services to wards. In this context, the plan to lump the juvenile and adult systems together, with no specified priority for Youth Authority to draw teachers from the hiring pool, provides absolutely no benefit to Youth Authority wards.

The restructuring also proposes combining the training academies for adults and juveniles. While this might make sense for some fungible topics, such as CPR or report writing, it will inevitably result in juvenile staff being subjected to adult training in areas where there should be a different approach. Staff working with juveniles have a tremendous need for training on adolescent development, dealing with peer culture, and recognizing learning disabilities or mental health issues. Every national standards group has developed separate conditions and training standards for juvenile facilities, and the very different needs of juvenile offenders are central to those standards. The Council of Juvenile Correctional Administrators, Office of Juvenile Justice and Delinquency Prevention, American Correctional Association, American Bar Association, National Juvenile Detention Association, National Commission on Correctional Health Care, and our own Board of Corrections all utilize a separate process for developing standards and training for juvenile facility staff.

The insidious evolution of Youth Authority into a prison-like system, where staff have lost any connection with the idea the juveniles should be treated differently, is exemplified in recent use of force incidents. When the beatings at the Chaderjian facility made national television last year, people around the country were horrified to see staff in a juvenile institution armed with pepper ball guns, mace and batons. The public was similarly horrified to learn that our State system for juveniles uses cages and 23-hour lockdown, staffed by guards in flak jackets.

But until there was pressure from the outside, no one at YACA or Youth Authority spoke out against these practices or acted to change them, and this suggests a lack of clarity about the mission of the juvenile system. We are concerned that the

restructuring plan, in lumping Youth Authority with Pelican Bay and San Quentin, will do nothing to move the system back toward its rightful focus on working with troubled adolescents. What is appropriate for young people is different from what is acceptable for older inmates, and standards, training and recruitment need to address this. The restructuring plan utterly fails to recognize these different needs.

We are also concerned that the proposed organizational matrix takes the Youth Authority system in exactly the opposite direction of where YACA currently says it wants to go in terms of changing the institutional system. Over the past several months, high-level YACA and Youth Authority officials have embarked on a cross-country self-education process of visiting programs that rely less on prison-like large institutions. They have visited programs in Missouri, Texas, Florida, Colorado, Washington, and California that are characterized by much smaller size, much closer proximity to communities youth come from, richer staff ratios, family involvement, positive behavior management, and quality re-entry programs. While there is great interest in taking the best parts of those programs and adapting them to California, nothing in the restructuring plan even mentions this. We are terribly concerned that simply folding Youth Authority in to adult corrections will leave us with little ability to move in a more effective direction. In fact, the California Performance Review Independent Corrections Review Panel (Chapter 9) proposed simply moving Youth Authority wards into vacated adult prisons, and nothing in the proposed restructuring would prevent that from happening.

Nationally, the vast majority of States place responsibility for their juvenile institutions in some other entity than adult corrections. The National Center for Juvenile Justice reports that only 11 States allow a branch of the adult corrections agency to run the state's delinquency institutions. In 17 States (including the District of Columbia), authority to run state delinquency institutions rests in a social or human services agency; in 15 other States, the responsibility is given to a separate juvenile corrections agency-- often designated a "youth authority" or "youth services" department; and in 7 States, the responsibility is given to a "children and youth" agency that combines child protection and juvenile corrections functions. New Jersey is in its own category, with the authority being located in an agency under the Attorney General's direction that oversees the criminal justice system, but not adult corrections. (National Center for Juvenile Justice,

“How are state delinquency institutions administered from state to state?” (August 30, 2004), <http://www.ncjj.org/stateprofiles/overviews/faq5.asp>.)

The clear direction in other States is to keep juvenile corrections separate from the adult system. Taking this trend, and the clear evidence that “adultification” has resulted in an abusive system, it is difficult to understand the restructuring proposal to keep Youth Authority with adult corrections. The current plan does not recognize and protect the rights and needs of Youth Authority wards to be treated as juveniles, and does not move Youth Authority itself in the direction the administration professes to want. The integrity of the Youth Authority system should be maintained separate and apart from adult corrections.

## **II. THE PROPOSED RESTRUCTURING DOES NOT PROVIDE FOR A MUCH NEEDED STATE JUVENILE SERVICES AGENCY**

One positive offshoot of the recent Youth Authority crisis is that YACA and Governor Schwarzenegger’s Office convened a stakeholder group in 2004 to discuss Youth Authority and broader juvenile justice issues in California. The Governor’s Juvenile Justice Working Group tackled a range of meaty juvenile justice topics including the role of Youth Authority, parole reform, age of jurisdiction, the need for better measures of what the system does, and the need to improve county/State communication. As a result of that group, the current proposed budget (2005/2006) includes language that may lead to a shifting of parole responsibilities to the counties. Also as a result of that group, Youth Law Center procured foundation funding to enable YACA to convene stakeholders to develop accountability measures and a data system for California juvenile justice. These unprecedented activities have provided an extremely valuable forum for counties to voice the need for an ongoing juvenile justice services agency in California.

Most States have a juvenile justice agency that addresses more than just the State level institutional system. (*See* agency chart compiled from the National Juvenile Justice Center web site, at the end of these comments.) California’s past organizational structure placed some of these responsibilities in the Board of Corrections – for example, distributing grant money and developing local facility standards. However, in the absence of a broader mandate and in a fiscal climate in which the Board fights every year

to hang on to its basic functions, the Board has never been able to take on the role of a true juvenile justice agency. In fact, since the demise of Youth Authority, which once offered excellent “transfer of knowledge workshops” to improve juvenile justice practice, we have never had a State level agency whose job it is to work for system improvement, provide technical assistance, or help counties to maximize funding opportunities. As a result, California has fallen out of the national mainstream in learning about best practices and taking part in national initiatives. For example, it would have been very helpful, at the time Board of Corrections was administering federal construction grants, to have a statewide discussion about developing alternatives to detention that would decrease the number of new beds needed. Although a few counties eventually became involved in the Annie E. Casey Foundation’s Juvenile Detention Alternatives Initiative, most did not. As a result, some counties overbuilt, and now they are faced with supporting unneeded “bricks and mortar” with precious funds that could have gone to more front-end services for youth in their systems.

Similarly, until the recent Governor’s Juvenile Justice Working Group was convened, many counties had little knowledge of work done in other states on research-based cost-effective programs. Chief Probation Officers from several counties have voiced the need for an ongoing way to receive this information, instead of having each county “reinvent the wheel” to learn about research-based practices. During the Governor’s Juvenile Justice Working Group, there has also been a repeated cry for assistance from a State agency to help stabilize funding for county level juvenile services. Every year, the counties spend most of their time until July worrying about whether they will lose a substantial part of their funding, and this makes it hard to move ahead in needed program development and systems reform. Apart from their need for stable General Funds, there is a need for technical expertise to help them develop programs and services that will maximize access to other funding streams, including Medi-Cal, Title IV-E funding, and soon, Prop 63 funding. Providing this kind of support would ultimately result in savings to the State because more youth could be effectively served at the county level. And while providing this kind of leadership should be an essential State function, it is not a part of the restructuring plan. In our view, the restructuring must include a juvenile services agency.

### **III. THE RESTRUCTURING DOES NOT PROVIDE FOR YOUTH AUTHORITY STANDARDS OR REGULAR INSPECTIONS**

While the restructuring plan moves the Board of Corrections functions to a new Corrections Standards Authority, it does not specifically address the need for Youth Authority inspections. Every other kind of facility housing juveniles is inspected, including juvenile halls, shelters and foster homes. This issue was raised during the Governor's Juvenile Justice Working Group, and we can only suspect that it has been lost in the current efforts to settle *Farrell v. Allen* and adopt a corrective action plan in relation to the issues in that case.

There must be a system (beyond what will be temporarily provided in the corrective action plan for *Farrell*) for regular outside inspection of Youth Authority facilities under a comprehensive set of standards. Although the Inspector General has produced very excellent reports on specific institutions and issues, those reports investigate only "big picture" issues such as education or 23-hour lockdown. They do begin to address, nor are they designed to address the many more mundane, but still very important issues that affect daily life for Youth Authority wards: Are staff inappropriately reading the mail? Are youth getting hygiene supplies? Is the facility clean? Do youth get to go outside as required by institutional policy? Are parents being denied special visits?

These are the kinds of things that regular institutional inspections cover, that might not otherwise be addressed in "big picture" corrective action or Inspector General reports. Juvenile halls in California are inspected on such issues every two years, and every few years stakeholders are convened to review and update the set of facility standards considered in those inspections. Although our juvenile halls are far from problem-free, these inspections and the corrective action system that goes with them provide an ongoing system of feedback that has been instrumental in helping counties to justify funding needs and protecting them against the kind of long-term slide experienced by Youth Authority.

During the last Youth Authority crisis in 2000, the Board of Corrections convened a group of stakeholders to review and develop revisions to Youth Authority policies, but

this work was never systematically implemented or developed into regulations. We believe it is important for updated standards and regulations to be completed in conjunction with the corrective action in the *Farrell* litigation, and the redesign of the Youth Authority system. Moreover, the restructuring plan must include a permanent system of regular inspections by an outside agency, according to that comprehensive set of standards and regulations. This might be an appropriate role for the Inspector General's office, given their recent in-depth work on targeted issues, but it would be essential that they have the needed enforcement power to assure that needed changes are made.

Again, we are very gratified with the spirit of reform at YACA, and the Governor's desire to improve the structure of California government. Thank you for your consideration.

**STATE AGENCIES RESPONSIBLE FOR STATE TRAINING SCHOOLS  
OR JUVENILE CORRECTIONAL FACILITIES**

[Derived from National Center for Juvenile Justice web site: <http://www.ncjj.org/stateprofiles/>]

<b>STATE</b>	<b>DEPARTMENT OF CORRECTIONS</b>	<b>OTHER AGENCIES</b>
Alabama		Department of Youth Services
Alaska		Department of Health and Social Services Division of Juvenile Justice
Arizona		Department of Juvenile Corrections
Arkansas		Department of Human Services Division of Youth Services
California	Youth & Adult Correctional Agency, California Youth Authority	
Colorado		Department of Human Services Division of Youth Corrections
Connecticut		Department of Children and Families
Delaware		Department of Services for Children, Youth and Their Families Division of Youth Rehabilitative Services
Florida		Department of Juvenile Justice
Georgia		Department of Juvenile Justice
Hawaii		Department of Human Services Office of Youth Services
Idaho		Department of Juvenile Corrections
Illinois	Department of Corrections Juvenile Division	
Indiana	Department of Corrections Juvenile Services Division	
Iowa		Department of Human Services
Kansas		Juvenile Justice Authority
Kentucky		Department of Juvenile Justice
Louisiana	Department of Public Safety and Corrections Office of Youth Development Division of Youth Services	
Maine	Department of Corrections Division of Juvenile Services	
Massachusetts		Department of Youth Services
Maryland		Department of Juvenile Services
Michigan		Family Independence Agency Bureau of Juvenile Justice
Minnesota	Department of Corrections Division of Community and Juvenile Services	

<b>STATE</b>	<b>DEPARTMENT OF CORRECTIONS</b>	<b>OTHER AGENCIES</b>
Mississippi		Department of Human Services Division of Youth Services
Missouri		Department of Social Services Division of Youth Services
Montana	Department of Corrections Juvenile Division	
Nebraska		Department of Health and Human Services Office of Juvenile Services Protection and Safety Division
Nevada		Department of Human Resources Division of Children and Family Youth Correctional Services
New Hampshire		Department of Health and Human Services Division for Juvenile Justice Services
New Jersey		Department of Law & Public Safety
New Mexico		New Mexico Children, Youth & Families Department Juvenile Justice Division
New York		Department of Family Assistance Office of Children & Family Services
North Carolina		Department of Juvenile Justice & Delinquency Prevention
North Dakota	Department of Corrections & Rehabilitation Division of Youth Services	
Ohio		Department of Youth Services
Oklahoma		Office of Juvenile Affairs Department of Juvenile Justice
Oregon		Human Services Oregon Youth Authority
Pennsylvania		Department of Public Welfare Office of Children, Youth, & Families
Rhode Island		Department of Children, Youth & Families Division of Juvenile Correctional Services
South Carolina		Department of Juvenile Justice Rehabilitative Services Division
South Dakota	Department of Corrections	
Tennessee		Department of Children's Services
Texas		Texas Youth Commission
Utah		Department of Human Services Division of Youth Corrections

<b>STATE</b>	<b>DEPARTMENT OF CORRECTIONS</b>	<b>OTHER AGENCIES</b>
Vermont		Agency of Human Services Department of Social & Rehabilitation Services
Virginia		Department of Juvenile Justice
Washington		Department of Social & Health Services Juvenile Rehabilitation Division
West Virginia	Department of Military Affairs & Public Safety Division of Juvenile Services	
Wisconsin	Department of Corrections Division of Juvenile Corrections	
Wyoming		Department of Family Services Division of Juvenile Services