

COMMONWEAL

The Juvenile Justice Program

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GOVERNOR LAUNCHES NEW PLAN TO CLOSE THE DIVISION OF JUVENILE JUSTICE

By David Steinhart

In his January 5 release of the proposed FY 12-13 budget, California Governor Jerry Brown has launched a new plan to close the state Division of Juvenile Justice (DJJ). Learning from last year—when his DJJ closure plan was shot down by county critics—the Governor has embraced a new approach that involves counties in a planning process to develop local options for DJJ youth, with a target of January 2013 for closing DJJ intake.

DJJ currently holds about 1,100 youth offenders in its four remaining state-run facilities. Seven other DJJ institutions have closed over the last ten years, due to dropping crime rates, declining juvenile court commitments and prior realignment reforms.

The phrasing used by the Governor in this new DJJ proposal is much more attentive to county concerns and youth rehabilitation needs. In his Budget Summary, Brown says that the “effort must be done thoughtfully and carefully to provide the best placement and treatment options for youth”. He recognizes that “counties need resources and support to secure appropriate placement and treatment options for additional offenders, many of whom need mental health and substance abuse treatment”.

Counties to get planning funds, relief from the “trigger” fee for commitments

As a start, the Governor proposes \$10 million in FY 11-12 funds to help counties plan for the transition. Importantly, the Governor has also cancelled, for now, the commitment fee that was lobbed without sufficient thought into last year’s budget trailer bill (SB 92). The commitment fee was a \$125,000 annual charge to counties for each youth housed in DJJ—effective on January first of 2012, when “trigger cuts” confirmed by the Department of Finance went into effect. The commitment fee was roundly condemned by counties that could not afford it and felt compelled, as a result, to recall and resentence their DJJ wards with few or no local placements available. Advocates, too, criticized the commitment fee as an incentive for prosecutors to file future DJJ-eligible cases in adult court, pushing hundreds of juveniles each year into state prisons.

If the misguided DJJ penalty fee accomplished anything, it was the uproar that persuaded the Administration to rethink its approach to youth corrections realignment. Last year, the Governor opened the budget year with a plan to close DJJ and shift its \$240 million

state cost to counties, along with the entire serious youth offender caseload. When counties condemned that plan, the Governor came back in May with a “buyback” proposal that would allow counties to repurchase DJJ space for cases they could not handle locally. Then in May, the buyback plan buckled, pulled out of the AB 109 realignment package as lawmakers grappled with the bigger issue of implementing adult corrections realignment. The only piece of DJJ realignment remaining in the 2011 budget was the DJJ trigger fee, glued quickly to the final budget package by the Administration without due legislative review of its downside impact.

In the post-session months, the Governor huddled with CPOC (Probation Chiefs), CSAC (county government), CDCR and others to review the DJJ situation. The result is the much softer and more therapeutic proposal released yesterday to wean counties away from DJJ, using a planning process that takes county and offender placement and treatment needs more fully into account. There is no doubt that the state wants to get out of the youth corrections business—out from under the cost, the litigation and the endless haggling between state administrators, courts, county agencies, union reps and reform advocates. This time around, the Governor may just have pitched it right—inviting counties and stakeholders to buy into a process that proceeds more gradually, with planning funds to help counties resolve local juvenile justice realignment concerns.

Still, the Governor's proposal is just the opening gambit in a long budget process that is beset with other worries—including the need to fill a \$9 billion deficit and predictable, political wrangling over who will suffer the deepest spending cuts. Once again, the total budget package is hinged on a Governor's plan to ask voters to approve sales and income tax hikes that would generate about \$7 billion per year over the next five years to reduce the on-going deficit.

Budget proposal protects juvenile justice grant funds

Beyond DJJ, the Governor made it clear in his budget summary that he intends to protect the public safety and corrections realignment accords reached last year. He applauds the progress made so far toward the implementation of AB 109 prison realignment. He includes plans to protect the law enforcement and public safety grants that were salvaged in 2011—including the juvenile justice dollars dedicated to the Youthful Offender Block Grant (SB 81), the Schiff Cardenas Juvenile Justice Crime Prevention Act (JJCPA) and Juvenile Probation Camp Funds (JPCF). He highlights the importance of the new Board of State and Community Corrections (BSCC)—set to take over the functions of the Corrections Standards Authority (CSA) next July—as a state planning authority for the future of community corrections partnerships in California.

The negotiation that lies ahead

While the outline of DJJ reform now offered by the Governor is promising, it is silent on important details that will need to be worked through. Two key issues are:

- *How will the closure plan discourage the conversion of the DJJ caseload into an adult prison caseload?* By definition, almost all DJJ youth are eligible for prosecutor “direct file” in adult court. If DJJ closes, prosecutors have already vowed to file these cases in adult court—unless they see viable new youth sentencing options at the local level. Lawmakers will need to consider changes in jurisdictional law to avoid an outcome that simply pushes more kids into adult court and into long, costly state prison terms. Ideas on the table include increasing the age of local juvenile justice jurisdiction (beyond age 21) and carving out some new sanctions (e.g., limited jail sentences) for juvenile offenders who might otherwise be headed for prisons.
- *How will the plan provide for expanded county placements and programs tailored to this high risk-high needs adolescent offender population?* Prison-eligible youth barred from DJJ cannot all be dumped into existing juvenile facilities that now serve adolescents under 18 with short-term confinement programs—though some conversion of existing juvenile justice space will certainly be in the discussion. Funding for new regional facilities, with a capacity to serve seriously mentally ill juvenile offenders, needs to be incorporated into the DJJ closure plan. Sharing agreements, allowing counties without facilities to send offenders to counties with excess space, may need to be authorized. As always, the new realignment plan will need to be linked to spending controls and other accountability criteria to assure that state funds passed to counties for youthful offender programs are used for that purpose.

What’s the next step here? It is probably a negotiation between key county and state players, to see if they can come to terms on a new juvenile justice realignment package that provides funds and sentencing options for counties taking over the DJJ caseload, with safeguards against pushing too many youth into adult prisons. Negotiation was the key to making SB 81 work—the 2007 realignment package that moved non-violent youth from DJJ to local control. This time, the assignment is more difficult, because the youth in question are older and more serious juvenile offenders with security, education, mental health, substance abuse treatment and re-entry needs that counties, by and large, cannot yet meet. The good news is that, from a policy perspective, there is wide agreement that it’s time to plan for the final shutdown of the costly and problem-plagued state system. The bad news is that it’s a tough challenge—involving funding and allocation formulas, jurisdictional law issues and facility configurations that will test the mettle and patience of stakeholders and advocates who enter the debate.