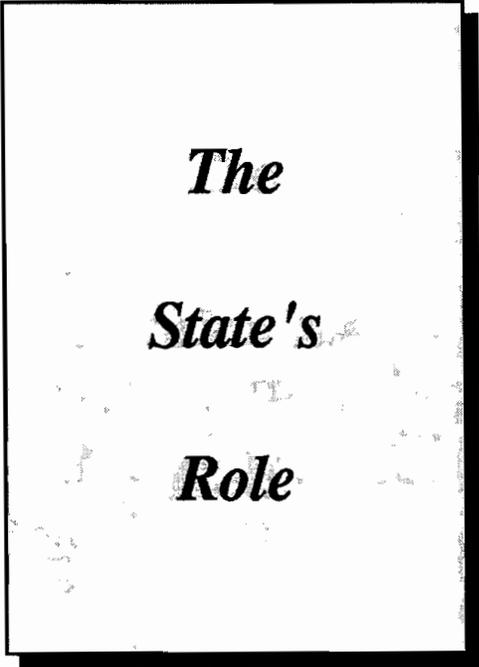


Executive Summary



*The
State's
Role*

Issue 1: While crime is local in nature and impact, the State must provide meaningful leadership in shaping juvenile anti-violence and crime prevention efforts.

While the many components that feed a rising violent juvenile crime rate are beyond the control of state government, there are functions the State can perform to empower local communities and governments to mount aggressive anti-crime campaigns. In addition, there are steps the

State can take to encourage a societal shift in attitudes about violence and its pervasive use to settle conflicts. While in the past some state programs focused on prevention activities, today there is no effective centralized point of authority and accountability for anti-crime efforts -- despite the existence of several bodies purportedly dedicated to that purpose.

Recommendation 1: The Governor and the Legislature should consolidate juvenile anti-crime efforts in a single agency to provide strong leadership and accountability for results.

The specific mandated duties should include:

- Leadership to highlight issues and concerns for the public, to set standards for local anti-crime activities, and to propose and promote legislation to further delinquency prevention.
- A clearinghouse function that would provide centralized assessment and evaluation of programs, promotion of models that work, and technical assistance for local governments and communities.
- A data gathering and assessment function that would provide reliable statistics on a statewide basis about trends in crime, results of programs and funds expended. The current lack of data on costs across jurisdictional levels, case outcomes and comprehensive recidivism tracking makes it difficult to make informed and rational policy decisions.
- Standardization of training for those connected with juvenile justice, including judges, district attorneys, probation officers, parole officials and public defenders.
- The identification of and dissemination of information about available sources of federal, state and private funding. When appropriate, the point of control for funding flow to local agencies and communities and the central point for accountability for the successful use of funding.
- Targeted information campaigns to bring about behavioral changes, on the part of both individuals at risk and businesses that unwittingly glorify violence and crime.

Recommendation 2: The Governor and the Legislature should adopt legislation directing the Board of

Education in conjunction with the Department of Education to evaluate and promote the use of effective conflict resolution curricula in public schools.

Providing an outcome-based assessment of various programs would give schools the option of including conflict resolution materials in their curricula that would be suited to their specific needs.

Recommendation 3: Law enforcement officials at all levels of government should increase their emphasis on enforcing existing laws regarding firearms and alcohol.

Continuing fiscal crises at all levels of government make it impossible to fully fund all programs at desirable levels. But because of the huge long-range cost of juvenile crime and the clear links between guns, alcohol and juvenile violence, policy makers should place a priority on enforcing existing laws that keep guns out of the hands of juveniles and existing laws that prohibit alcoholic consumption by juveniles.

Issue 2: As the nature of juvenile crime has changed, public support for a separate juvenile justice system has eroded and goals for the system have become unclear.

While the juvenile justice system was established with the underlying concept that most children can be salvaged and turned from a life of crime and thus should be handled differently than adult criminals, there is steady pressure to blur the distinction between juvenile and adult court. Some of the pressure has come from court decisions that have brought increasing due-process protection to juveniles. Other pressure comes from the public, where the reality of increasingly violent crime perpetrated by juveniles has created a groundswell for treating children as adults. Still other pressure comes from those who work within the juvenile justice system and see that it has lost its ability to clearly link consequences to actions. Since the system involves the discretionary action of many of the parties involved (police officers, probation officers, judges and district attorneys), an overarching policy statement that resolves

conflicting pressures and philosophies is critical to achieving consistency and equity.

Recommendation 4: The Governor and the Legislature should direct the new juvenile crime prevention agency to draft a clear statement of philosophy, purpose and function that focuses on deterrence as the cornerstone for the juvenile criminal justice system.

Setting aside the polarizing debate over whether rehabilitation or retribution should have the premier role in the juvenile justice system, the State's policy should be outcome-based. Society's primary goal in dealing with troubled juveniles is to deter repeat offenders and act to deter non-offenders from entering the system as first-time offenders. The State's policy, therefore, should focus on the most effective way to achieve deterrence and recognize that, in each case, a sophisticated analysis is required to determine the appropriate balance of treatment and punishment. The concepts that should be stated in the policy include:

- The reiteration that the basic premise of the present separate system still holds true, especially for status offenders and minor criminals: that generally children are salvageable and extra efforts should be made, by the State in place of their families when necessary, to influence their lives in positive, non-crime directions.
- The overriding need to ensure public safety and the right of the public to an open accountable system.
- A system that reinforces accountability for actions, personal responsibility for decisions made and consequences linked to deeds.
- The importance of individual assessment upon which to base appropriate treatment and/or punishment.
- In pursuit of deterrence, an appropriate balance between rehabilitation (treatment, training and education) and punishment, with competency development that can

reasonably be expected to lead to productive citizenship as a key goal.

- Sensitivity to the needs, concerns and perspectives of victims.
- Family preservation when possible or beneficial.

Issue 3: Funding cutbacks have disproportionately impacted the programs with the highest potential for success in diverting juveniles from crime.

Despite the universal belief among experts that the only hope of halting or diminishing juvenile crime is in taking appropriate steps before a youth is entrenched in a delinquency pattern, early-intervention programs have all but disappeared as fiscally strapped county and state departments have made selective budget cuts in the past decade. Front-line workers decry their inability to cope with the minor juvenile delinquent because of the pressing demands on their time and resources by chronic, violent offenders. This situation is especially distressing since these worst-case juveniles not only soak up resources because of the high cost of their treatment but also are the least likely to be deterred from a life of crime regardless of the treatment options undertaken. Placing a high priority on "front-end" programs is difficult without new funding but is critical to any successful crime prevention effort.

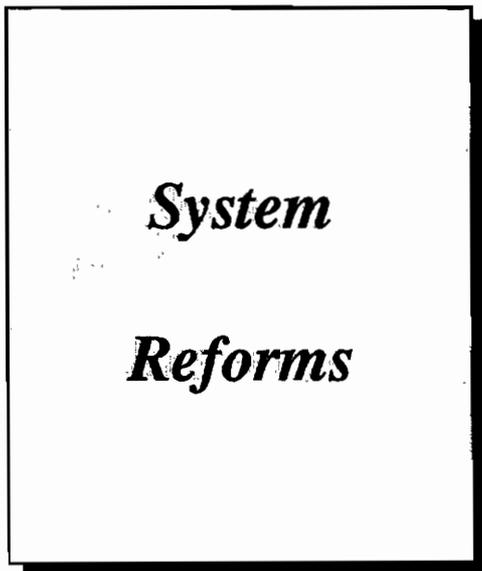
Recommendation 5: **The Governor and the Legislature should direct all state agencies involved in anti-crime efforts to make early intervention and prevention programs a top priority.**

Early identification, assessment and intervention is essential if at-risk children are going to be helped and diverted from criminal activity. Funding constraints and traditional divisions of turf should not be allowed to preclude local intra-agency, multi-disciplinary efforts among the key juvenile justice system players: law enforcement, probation, social services, schools, juvenile courts, public defenders, district attorneys and community leaders. Key elements of any model can be expected to include:

- A structure that is multi-disciplinary and intra-agency.
- A focus that is neighborhood or community-based.
- Multiple points of entry (i.e., children can be referred by schools, parents, organizations, social services, etc.)
- An emphasis on attacking truancy, often a first sign of movement toward delinquency.
- A mechanism for providing access to parenting skills resources since delinquency often arises in homes with poor parenting practices.
- A system that is sensitive to cultural diversity without altering the expectations of society about the standard of required behavior. This includes the availability of appropriate services with culturally targeted accessibility.

Recommendation 6: The Governor and the Legislature should adopt legislation that eliminates barriers to inter- and intra-agency sharing of information that is necessary for early identification of and intervention with at-risk children.

Current state statutes that are designed to protect the privacy of families and children are too restrictive to allow early identification and assessment of people in need of services.



Issue 4: Personal accountability and timely, appropriate consequences for actions are elements that should be reinforced by the juvenile justice system.

The message that individuals are responsible for the decisions they make and that illegal actions are accompanied

by consequences is often lost in today's juvenile justice system. A child may face little more than a lecture for the first half-dozen offenses, tactics that are the hallmark of the adult system are employed to get the youth "off the hook," and long delays separate deed from outcome. The stark reality of the impact of the juveniles' actions on their victims and other members of society is also lost in a system that has little room for victim input.

In addition, appropriate consequences are not always achieved because of the way the juvenile justice system approaches chronological age. The disturbing trend for younger and younger juveniles to commit violent and heinous crimes without receiving the perceived harsher treatment accorded adults with similar records has brought the juvenile system's age specifications under scrutiny by policy makers. At the same time, age restrictions on juvenile jurisdiction force the release of wards from state facilities even when they are evaluated as still being a threat to society -- with no parole oversight and no ability of a court to order further treatment or confinement. In both cases, simple solutions that merely address changing age limits will not necessarily ensure the results that juvenile justice experts believe are warranted and that the public wants.

Recommendation 7: Working together, the State and the counties should ensure that a continuum of options exist so that a range of consequences addresses misconduct by juveniles at all levels of severity.

From the point of first contact with the juvenile justice system, a youth should be made aware that he is accountable for his actions and that illegal activity brings consequences. For each juvenile who comes in contact with the juvenile justice system, the first step should be a thorough assessment of his needs for treatment and services. Options after the assessment will fall into one of three categories: 1) diversion; 2) local treatment; and 3) state incarceration. Diversion out of the system for youths with low-level needs and non-serious crimes can provide consequences through enforced participation in community or teen court programs. At the other end of the spectrum, juveniles who have committed multiple and serious

crimes and who have intensive-treatment needs should be sent to the California Youth Authority. Community-based treatment programs, including day treatment, intensive supervision and residential care when needed, should provide appropriate consequences for the mid-range of offenders.

Recommendation 8: The Governor and the Legislature should adopt legislation that allows victims or affected family members to present testimony during the juvenile adjudication process.

In criminal court, victims or their relatives may offer testimony about the impact of the crime on their lives during penalty phases of trials. No such input is provided for in the juvenile system. In addition to acknowledging the needs of victims for a voice in the system, providing a role for victims in the juvenile court process would confront juveniles with the reality of their actions and the consequences to others.

Recommendation 9: The Governor and the Legislature should adopt legislation that restructures the remand process to maximize judicial flexibility to make appropriate dispositions of juvenile cases.

The current remand process should be restructured in two ways: 1) The criteria on which judges base their decision to send juveniles to adult court should be revised and better defined; and 2) a narrow and procedurally difficult process should be established for addressing the rare, very young offender who is beyond hope of rehabilitation or whose crime is so severe that the balance of consequences, even while focused on deterrence, favors a severe penalty.

Recommendation 10: The Governor and the Legislature should adopt legislation that returns a juvenile to juvenile court jurisdiction if an adult criminal court trial results in a conviction of a crime that is not listed in Welfare and Institutions Code Section 707b.

Under existing law, a juvenile may be remanded to adult court for any of the many serious and violent crimes listed in Section 707b. Once in adult court, however, his case may be plea-bargained down to a lesser offense or he may be found guilty by a jury of a lesser offense. Although the outcome in these cases indicates he should not be handled as an adult, there is no mechanism currently for returning him to the jurisdiction of the juvenile court for sentencing or disposition. Creating such a mechanism would provide for more appropriate treatment and/or incarceration.

Recommendation 11: The Governor and the Legislature should adopt legislation that creates a system that allows judicial scrutiny and new disposition of cases where juveniles reach the maximum age in state custody and are still considered to be a threat to society based on their commitment offense, their conduct while incarcerated and the nature and circumstances of their crime.

Under existing law, a juvenile who "maxes out" in a CYA facility at age 21 or 25 (depending on the crime and situation under which the juvenile was sent to CYA) may not be retained or placed on probation but must simply be released. The sole, narrow exception allows the State to seek further confinement based on the argument that treatable physical or mental damage exists. A trial can then be held if the juvenile does not voluntarily agree to the extension of incarceration and treatment.

A similar mechanism should be created for those wards who are sentenced to CYA but refuse to take advantage of the opportunity for reform and rehabilitation because they know they will be set free at a certain age regardless of their actions. While the Commission is concerned about constitutional issues, including double jeopardy, the need to protect the public from dangerous criminals is strong; therefore, the creation of a system to address these small numbers of offenders should be considered.

Issue 5: The desire to shield juveniles from publicity to enhance the chances of rehabilitation in many cases should not outweigh the public's right to know about juvenile crime.

Specific policies that were adopted to shield juveniles from public exposure for youthful mistakes and to enhance prospects for rehabilitation have weakened the credibility of the entire system in the eyes of the public and ignore the need of the public to be aware of community occurrences. In addition, the normal checks and balances provided by having openness in a judicial system are non-existent in the juvenile system.

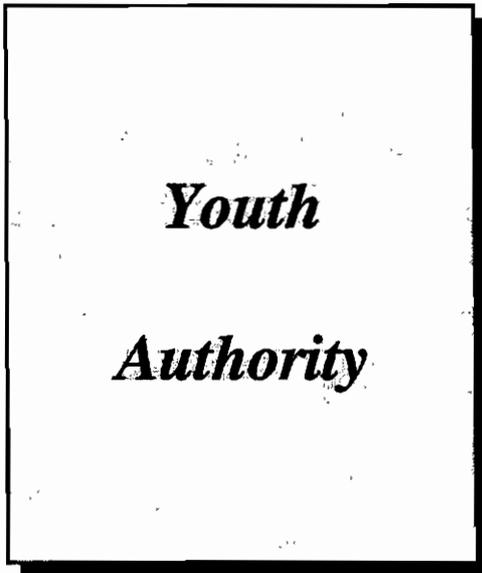
Recommendation 12: The Governor and the Legislature should adopt legislation to eliminate confidentiality for all juvenile adjudication and disposition processes involving serious crimes for those 14 and older.

The desire to shield youths from the public spotlight when they have committed petty crimes or are extremely young can be met by continuing to hold arrest, adjudication and disposition records confidential for those under 14 whose offenses are minor. But both the adjudication and disposition processes for serious crimes -- which represents stages that are reached only after the evidence has been weighed and formal charges have been filed -- would benefit from public scrutiny and the sunshine of openness.

Recommendation 13: The Governor and the Legislature should adopt legislation to reform and restrict the present sealed record laws when those who are 14 and older have committed serious crimes.

While there may be a compelling public interest in allowing a productive young adult to put his juvenile record behind him, the present laws are too broad and allow protective cover for too many youths who later continue a life of crime. In particular, laws should be modified to make the record sealing a justifiable decision rather than the default mode and to forbid sealing in cases where death was the result of the crime, predatory sexual

abuse is involved and when an insufficient amount of time has passed to establish a crime-free pattern of life.



Issue 6: The California Youth Authority can be most effective and productive as the last-resort, intensive treatment option for serious and chronic juvenile criminals.

While the structure of the California Youth Authority -- both in physical dimension and in internal workings -- is criticized by juvenile advocates, the CYA system has many of the attributes that have been

recommended by the Little Hoover Commission as important reforms for the state prison system, including rehabilitative programs and case-by-case scrutiny before release. Problems do plague the CYA, however, and almost all of them are related to budgetary issues. Among the areas of concern are:

- The CYA has long waiting lists for programs that wards must complete before the Youthful Offender Parole Board will consider them for parole. When wards cannot enter and complete a required program within their original commitment time frame, their sentence is increased. As a result, some juveniles serve -- at a high state cost -- time that is non-productive (while waiting for a program) or unnecessarily long.
- The CYA accepts youths from counties that have few treatment resources even though the juveniles may not be in need of the costly and intensive treatment option provided by CYA. The result is a higher-than-necessary cost to the State and the undesirable exposure of unsophisticated youths to more criminally mature individuals.
- The physical design of and overcrowding at CYA institutions contribute to violence and threaten ward and

staff safety. In addition to hampering the State's ability to meet its obligation to provide a violence-free environment, the costly result is longer periods of incarceration due to penalties for incidents and non-productive lockdown periods when rehabilitation efforts are minimal.

Recommendation 14: The Governor and the Legislature should resist efforts to create a determinate sentencing structure for juveniles or to remove ward assessment and release authorization from an independent body.

Were it not for the particular policies of recent Youthful Offender Parole Boards that have lengthened commitment times, it is difficult to believe that juvenile advocates -- who push individualized assessment and understand the need to deal with juvenile rehabilitation on a case-by-case basis -- would prefer a system that simply sets a date and releases a ward regardless of his progress. While the Little Hoover Commission rarely takes a stance against specific proposals, its perspective of determinate sentencing structures and their negative affect as seen in the adult criminal sentencing system is one of firm disapproval. While specific policies may come and go as the membership of the Youthful Offender Parole Board changes, the structure that it represents is a rational one in light of the rehabilitative goals of the juvenile justice system.

Recommendation 15: The Governor and the Legislature should link increased funding for CYA juvenile treatment programs to the adoption of legislation precluding the Youthful Offender Parole Board from adding time to a ward's commitment stay solely because programming has been unavailable.

If a ward's misbehavior or refusal to cooperate keeps him from completing Board-ordered programming, then it is a rational consequence to extend the time the ward must stay in CYA facilities. The present system is not only irrational but also inherently unfair when a ward, through no fault of his own, is required to remain in state custody simply because he has not

been able to move to the head of the long waiting lists for some required programs. Clearly the programs should be expanded, or alternative treatment that satisfies Board requirements should be developed and offered to the ward. After these steps are taken, if the problem of wards not being able to get into required programs persists, then the State should simply concede it must release the ward unrehabilitated because it does not have the resources to meet the needs rather than continuing the expensive and inequitable practice of retaining the wards in CYA facilities.

Recommendation 16: The Governor and the Legislature should adopt legislation that provides the California Youth Authority with mechanisms for more aggressively screening -- and rejecting when appropriate -- admissions to state facilities.

When the sole reason a ward ends up in the California Youth Authority is that he lives in a county with few treatment options, no one benefits. State law should be modified so that CYA examines and assesses a youth not only to determine if the youth can benefit from the placement but also to determine if other options available in more juvenile-service-oriented counties might be more appropriate. Funds saved by diverting commitments should be used in two ways: to increase services to existing wards and to stimulate the development of local options, as outlined in Recommendation 17 below.

Recommendation 17: The Governor and the Legislature should create a new mechanism to reward and underwrite the efforts of counties that develop alternative options that reduce commitments to the California Youth Authority.

The State's efforts to divert commitments through financial incentives have worked in the past, improving local options and providing more suitable treatment for less serious offenders. Such a system should be created again, particularly targeting counties that now have few options and encouraging the

formation of regional alternatives where rural counties are unable to support programs unilaterally.

Recommendation 18: The California Youth Authority should continue to focus its efforts on reducing violence and injuries in its facilities.

CYA's ability to run violence-free institutions is constrained by several factors, including type of youths dealt with, chronic overcrowded conditions and the physical design of aging buildings. But the State has a special obligation to provide a safe environment when it legitimately deprives an individual of freedom.